

**Draft Rules of HPHC for Empanelment of Arbitrators in accordance with
Arbitration & Conciliation (Amendment) Act 2015 (3 of 2016)**

1. Short Title and application:-

This Rules may be called the Empanelment of Arbitrators in HPHC Rules 2018 and shall apply to cases which were referred to Arbitrators by virtue of Arbitration clause in Agreement, or with the consent of the parties to the agreement, or with the orders of the competent authority, or with orders of the Court of Competent Jurisdiction for Empanelment of the Arbitrator and for fee payable to arbitrators for HPHC cases. These Rules will become applicable with immediate effect.

2. Definition:-

(1) In these Rules, unless the context otherwise requires, the word and phrases will be understood and interpreted as per the definitions provided under Arbitration and Conciliation Act, 1996 (as amended upto date) and / or General clauses Act, 1897.

3. Empanelment of Arbitrators:-

The Eligibility condition for fresh empanelment is as following:

4. Eligibility:-

4.1 a. The applicant should be retired officer of CE/SE level or above from Haryana Govt./PSE on date of application.

Or

b. The applicant should be a retired Senior Administrative Grade (SAG) level officer or above from other Haryana government departments/PSEs.

Or

c- The applicant should be a retired Supreme Court or High Court judges/District & Session Judge an eminent lawyer. In case of lawyer, he should have at least 20 years of active practice to his credit and at least 10 years experience in Arbitration cases as an Advocate or as an Arbitrator.

4.2 Applicant will give declaration that no vigilance case is pending against him/her as on date of submission of application.

4.3 The applicants should not be employed on regular/contract basis with any Govt. or Private Organization. An undertaking regarding this shall be submitted with the application.

4.4 The applicant should be below the age of 80 years.

Format of application is appended as Annexure I along with declaration as required by amended act as Annexure II.

4.5 MD, HPHC is the final and Competent Authority for the purpose of appointment of Arbitrator.

5. **Methodology for Empanelment:-**

HPHC will call for application from eligible candidates through advertisement in at least two prominent Daily Newspapers, one in Hindi and one in English. The candidate who wishes to get empanelled should submit his/her application in the prescribed format (Annexure –I and Annexure - II) for empanelment of Arbitrators.

There will be only one Screening Committee at HPHC (HQ)
Empanelment:-

(1) Chairman will be Chief Engineer, HPHC (HQ)

(2) Member (1) Superintending Engineer, HPHC

(3) ADO

5.1 For empanelment of Arbitrator in HPHC application may be sent MD HPHC, Plot No.C-10, Sector 6, Panchkula, Haryana.

5.2 As and when an application is received from the candidate, Vigilance Clearance and Verification of Service particulars will be obtained from the concerned authorities by the candidate(s) themselves. Subsequently the application will be submitted to the Screening Committee on a monthly/quarterly basis.

5.4 The Screening Committee will recommend empanelment of the applicant as an arbitrator. The recommendation of the committee will be approved by MD, HPHC (HQ) Panchkula.

5.5. The names of the approved candidates shall be included in the panel of Arbitrators in the HPHC (HQ). A register containing the names of the Arbitrators shall be maintained by Office Superintendent HPHC at HQ level only.

6. Terms & Conditions for empanelment.

6.1 Initial empanelment will be done for a period of 3 (Three) years from the date of empanelment and can be extended with the approval of MD, HPHC only for further three years.

Note:- Renewal will be made on the basis of performance in the cases handled by the arbitrator.

6.2 An arbitrator will continue to handle the ongoing cases in hand till the age of 80 years. After attaining age of 80 years extension in the period to conclude in hand arbitration cases, will be given in slabs of 03 months, not exceeding 06 months in any case. However new cases will not be assigned to an arbitrator after he/she attains age of 79 years.

6.3 Empanelled arbitrator is required to submit a certificate every year in the month of December to the effect he/she is not employment

7 Terms & Conditions regarding award:

7.1 The arbitral tribunal shall make and publish the award within time stipulated asunder:

Amount of Claims and Counter claims	Period for making and publishing of the award (counted from the date the arbitral tribunal enters upon the reference)
Upto Rs.5 crores	Within 6 months (Fast Track procedure)
Above Rs. 5 crores	Within 12 months

7.2 However, the above time limit can be extended by the Arbitrator for reasons to be recorded in writing with the consent of parties and in terms of provisions of the Arbitration Act 2014?

- 7.3 The venue of arbitration shall be normally HPHC (HQ) Panchkula and/or concerned District Office. However if can be any of both rates & HPHC.
- 7.4 The number of cases referred to each empanelled arbitrator for arbitration shall be restricted to a maximum of four (3) at a time subject to the provisions of Arbitration and Conciliation Act, 2014.
- 7.5 The Arbitrator will be at liberty to adopt the procedure for conducting Arbitration proceedings, however, the procedure should be in consonance with the natural principle of justice, giving proper and equal opportunity of hearing and following equitable principles of law. The Arbitrator may, to the extent possible, should adopt the procedure as given in **Appendix 'A'**.
- 8.0 **Appointment of arbitrator in a case:**
- 8.1 For all the disputes arising after the implementation of the present Rules the powers to appoint arbitrator lies with MD, HPHC.
- from one of the candidate whose name is included in the HPHC panel.
- 8.2 The panel of arbitrators shall be maintained at HPHC (HQ) and all efforts shall be made to appoint the Arbitrator from the same city where the dispute has arisen. Unless in special circumstances, normally cases shall be entrusted to those Arbitrators whose residence is the nearest to the circle/unit where the dispute has arisen. Further, before appointing the Arbitrator from panel, a declaration in writing has to be obtained from the Arbitrator as prescribed in Annexure-II hereto.
- 8.4 Aforesaid guidelines with terms & conditions shall be applicable to the panel of arbitrators and for the cases allotted on or after the date of issuance of these Rules as well as to ongoing non-finalized arbitration cases where award is to be given.

This panel will be applicable to all kinds of arbitration cases pertaining to any contractual dispute.

9.0 **Fees payable to Arbitrators:-**

Arbitration fee for HPHC empanelled arbitrator may prescribe the following fee under Section 31(A) of the Arbitration and Conciliation Act, 2014.

Sum in dispute	Proposed fee
Above Rs. 5,00,000 and upto Rs. 20,00,000/-	Rs. 45,000/-
Above Rs. 20,00,000 - and upto Rs. 1,00,00,000	Rs. 97,500/-
Above Rs. 1,00,00,000 and upto Rs. 10,00,00,000	Rs. 3,37,500/-
Above Rs. 10,00,00,000 - and upto Rs. 20,00,00,000	Rs. 12,37,500/-
Above Rs. 20,00,00,000	Rs. 19,87,500/-

Note:- The above schedule of fee is subject to orders of Hon'ble Courts or any further amendment.

This fee will be shared equally by both the parties to the arbitration. Each party shall pay its share of arbitrator's fees in stages as under:-

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- (i) 20% of the fees on filing of reply to the statement of claim.
- (ii) 40% of the fees on completion of pleadings.
- (iii) 20% of the fees on conclusion of the final hearing.
- (iv) 20% at the time when award is given to the parties.

9.1 **Arbitrator's Fees for disputes (Fasttrack procedure)**

For the fast track arbitration, arbitration fee which the Arbitrators may agree for fees under Section 29B (6) which will be as following:

Amount of Claims and Counter Claims (excluding counter claims)	Lump sum fees (including fees for steady of pleadings, case material, writing of the award, secretarial charges, etc.) payable to each arbitrator
Upto Rs. 50 lakhs	2.7% of the claim amount subject to a minimum of Rs. 45,000/-
Above Rs. 50 lakhs to Rs. 1 crore	Rs.335000/- plus Rs. 1,800/- per lakh or a part thereof for the claim amount above Rs. 50 lakhs.
Above Rs, 1 crore and upto Rs.5 crores	Rs.2.25 000/- plus Rs.33,750 per crore or a. part thereof for the claim amount above Rs.1 crore.

This fee will be shared equally by both the parties. Each party shall pay its share of arbitrator's fees in stages as under:

- (i) 25% of the fees on filing of reply to the statement of claim.
- (ii) 25% of the fees on completion of pleadings.
- (iii) 50% at the time when award is given to the parties.

Encl: Application pro-forma for empanelment of Arbitrators (5 pages)

(Chief Engineer)

HARYANA POLICE HOUSING CORPORATION
(A Govt. of Haryana Enterprise)
(APPLICATION FOR EMPANELMENT AS AN ARBITRATOR IN HPHC
DISTRICT LEVEL (NAME OF THE DISTRICT))

1. Name:

Mr. /Ms/- _____

(In Block letters)

2. Address -

(i) Phones Office.- _____ Resi _____ (Mobile)_____.

Fax_____.

(ii)Email _____.

2-A Qualifications _____

3. Date of Birth_____ Age_____ Nationality_____

4. Grade/Pay scale at the time of Superannuation & Date of Retirement/
Superannuation.

5. Last Post held

6. Place of Superannuation & PPONo

7. Experience for last 10 years since the year of Superannuation :

S.No.	Post Held	Employer's Name	Address	Period	Nature of work
1					
2					
3					
4					
5					

8. Date of Enrolment as Advocate & Area of practice (If applicable)

9. Additional information, if any _____

10. Details of Demand Draft of Rs.5000/- only in favour of MD, HPHC, payable at Panchkula

Demand Draft No. _____ Dated _____

Amount _____ Payable at _____.

Signature of the Applicant.

(10) Undertakings: -

(i) I have superannuated from _____ (name of Circle/Unit/Place) on /... / ... (date) normally i.e. with due Vigilance Clearance.

(ii) I confirm that during last 5 years prior to my superannuation and as on date neither any vigilance charge sheet has been served to me, nor any vigilance proceeding initiated against me.

(iii) Presently I am not employed anywhere.

(iv) I agree to the fee structure and other terms & conditions of appointment of arbitrators as per rules amended from time to time, even if I am appointed arbitrator by any court or otherwise. Further I also agree to fix/charge/Prescribe said fees & terms under Section 31A of Arbitration Act 2014.

(v) In case, I am appointee as an arbitrator and I wish to take any job/employment elsewhere. I will intimate MD HPHC HQ or concerned SE/XEN the District at least one month before taking such employment including rendering of resignation as arbitrator.

- (vi) I shall take up and complete the arbitration cases referred to me with utmost care, diligence and try to complete the proceedings in fast track and or otherwise in a time bound manner not exceeding 06/12 months as the case may be.
- (vii) I declare that I have not been removed as arbitrator in circumstances involving moral turpitude or incompetence.
- (viii) I note that my name will be deleted from the Panel as soon as I attain 80 years of age and will ensure conclusion of ongoing arbitration cases referred to me within 03 months of my attaining age of 80 years.
- (ix) I declare that above particulars furnished are true & correct.

Date:

Place:

Signature of the Applicant

Staff No.

General Procedure be followed while conducting Arbitration proceedings

1. Appearances: - Vide separate attendance sheet.
2. The Arbitrator declared that I have no interest in nor I have anything to do with the matter under arbitration much less pecuniary or other interest in the subject matter disputes or the outcome of the proceedings.
3. None of the parties expressed any objection as to the constitution of the present arbitral tribunal or objection as to the arbitration clause or arbitrability of the matter by this Arbitrator.
4. The learned counsel for the claimant and the respondent appearing in person or either side, briefly appraised the Arbitrator about nature of dispute in the matter between parties.
5. In consultation with the party's/representatives and the Learned counsel present for the respective parties and with their concurrence, the following directions are issued:
 - a. The claimant will file the statement of claim, with the supporting documents therefore on or before _____ after serving them on the respondent.
 - b. The respondent will file reply/defense to the statement of claims along with counter claim, if any, the supporting documents therefore on or before _____ after serving them on the claimant's counsel.
 - c. The claimant will file rejoinder with supporting documents therefore on or before _____ after serving them on the respondent's counsel.
 - d. The respondent will file Rejoinder to the claimant's reply to the counter claim on or before _____.

- e. The parties will mutually arrange for discovery and inspection of documents interse, if need be, on or before _____ and the parties shall file affidavit of admission/denial of documents on that day.
 - f. Draft issues or the issues mutually agreed upon by both the parties will be filed after mutually exchanging them or before the _____. The same will be taken up for consideration and issues will be settled/framed in the next open sitting of the Tribunal on _____ at 11.00 A.M.
6. With the consent of the parties and the Learned Counsel appearing on either side, the fee of the Arbitrator and the expenses in relation to the conduct of the proceedings are fixed as under:-
- a. The Arbitrator shall be paid
 - b. The Arbitrator fee shall be shared equally between the parties (subject to TDS).
 - c. Secretarial assistance and out of pocket expenses per sitting shall be shared equally between the parties.
7. Sitting arrangements shall be made by the parties alternatively.
8. Documents produced by the claimant shall be marked as "C-Series" and the documents produced by the respondent shall be marked as "R-Series".
9. The language to be used in the Arbitral Proceedings shall be English. The documents produced in the proceedings in any other language other than English shall be accompanied by English version of the same.
10. The sitting of the Tribunal shall be at _____ unless the parties and the Arbitrator agree.

11. It is agreed to by and between the parties that services of pleadings/application and all proceedings shall be sufficient if effected on _____.

A. For the Claimant

B. For the Respondent:

C. The correspondence can be either by speed post/courier as may be possible and communication so made by an electronic device shall be substituted with hard copies by next sitting for purposes of record.

Public Notice

Applications are invited for Empanelment as Arbitrator in Haryana Police Housing Corporation (HPHC), Plot No.C-10, Sector 6, Panchkula. The following persons would be eligible to make application:-

- a. The applicant should be retired officer of CE/SE level or above from Haryana Govt./PSE on date of application.

Or

- b. The applicant should be a retired Senior Administrative Grade (SAG) level officer or above from Haryana government, GOI & other departments PSEs.

Or

- c. The applicant should be a retired judge of High/Supreme Court or an eminent jurist/lawyer. In case of lawyer, he should have at least 20 years of active practice to his credit and at least 10 years experience in Arbitration cases as an Advocate or as an Arbitrator.
- d. Applicant will give declaration that no vigilance case is pending against him/her as on date of submission of application.
- e. The applicants should not be in time employment on regular/contract basis. An undertaking regarding shall be submitted with the application.
- f. The applicant should be below 80 years of age.

Method of application:-

1. The detailed rules of empanelment alongwith terms and conditions are available on the website of HPHC www.hphc.org.in
2. The application form alongwith declaration are available and can be downloaded from the website of HPHC www.hphc.org.in
3. The duly filled application forms alongwith necessary documents as per Rules with declaration Annexure II be sent to Haryana Police

Housing Corporation, Plot No.C-10, Sector 6, Panchkula on or before 19.09.2018 within working hours i.e upto 5:00 PM.

4. The application form and undertaking should be accompanied by the processing/empanelment onetime fee of Rs.5000/- (nonrefundable). The fee should be remitted through a Demand Draft in favour of Managing Director Haryana Police Housing Corporation payable at Panchkula.
5. For further enquiry, contact Manager Works HPHC Mob. No.9815985510, e-mail dbpanchkula@yahoo.com.

Chief Engineer
HPHC, Panchkula