

# **RMM LAW COLLEGE SAHARSA**

## **ADMINISTRATIVE LAW**

### **IIIrd Part**

### **Paper -VII**

**TOPIC-** Administrative tribunal in India

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**Date:- 12/10/2020**

## **Introduction**

In Administrative law, the term 'tribunal' is used in a significant sense and refers to only the adjudicatory bodies which lie outside the sphere of the ordinary judicial system. Technically in India, the judicial powers are vested in the Courts which aims to safeguard the rights of the individuals and promotes justice. Therefore, to institute an effective system of the judiciary with fewer complexities, the judicial powers are delegated to the administrative authorities, thus, giving rise to administrative tribunals or administrative adjudicatory bodies which holds quasi-judicial features.

## **History of Tribunalisation**

The concept of tribunalisation came into existence in India with the establishment of the Income Tax Appellate Tribunal before the independence of the country. After independence, a need was being felt for resolving administrative disputes with flexibility and speed. The core objective of tribunalisation was to provide specialised and speedy justice to the people.

After the drafting of the Indian Constitution, several rights for the welfare of the individuals were guaranteed by the Constitution. People have the right to

speedy trials and of specialised quality which cannot be delivered by the prevailing judicial system due to the overburden of cases and appeals, technicalities in procedure etc.

Hence, the need for the inception of the administrative tribunals couldn't be ignored.

## **Growth of Administrative Tribunals**

The [42nd Amendment](#) to the Constitution introduced [Part XIV-A](#) which included Article 323A and 323B providing for constitution of tribunals dealing with administrative matters and other issues. According to these provisions of the Constitution, tribunals are to be organized and established in such a manner that they do not violate the integrity of the judicial system given in the Constitution which forms the basic structure of the Constitution.

The introduction of Article 323A and 323B was done with the primary objective of excluding the jurisdiction of the High Courts under Article 226 and 227, except the jurisdiction of the Supreme Court under Article 136 and for originating an efficacious alternative institutional mechanism or authority for specific judicial cases.

The purpose of establishing tribunals to the exclusion of the jurisdiction of the High Courts was done to reduce the pendency and lower the burden of cases. Therefore, tribunals are organised as a part of civil and criminal court system under the supremacy of the Supreme Court of India.

From a functional point of view, an administrative tribunal is neither an exclusively judicial body nor an absolute administrative body but is somewhere between the two. That is why an administrative tribunal is also called 'quasi-judicial' body.

## **Characteristics of Administrative Tribunals**

The following are the few attributes of the administrative tribunals which make them quite disparate from the ordinary courts:

1. Administrative tribunals must have statutory origin i.e. they must be created by any statute.
2. They must have some features of the ordinary courts but not all.
3. An administrative tribunal performs the quasi-judicial and judicial functions and is bound to act judicially in every circumstance.
4. They are not adhered by strict rules of evidence and procedure.
5. Administrative tribunals are independent and not subject to any administrative interference in the discharge of judicial or quasi-judicial functions.
6. In the procedural matters, an administrative tribunal possesses the powers of a court to summon witnesses, to administer oaths and to compel the production of documents, etc.
7. These tribunals are bound to abide by the principle of natural justice.
8. A fair, open and impartial act is the indispensable requisite of the administrative tribunals.
9. The prerogative writs of certiorari and prohibition are available against the decisions of administrative tribunals.

## **Categories of Administrative Tribunals**

### **Administrative Tribunals for service matter [Article 323A]**

Article 323A provides the establishment of administrative tribunals by law made by Parliament for the adjudication of disputes and complaints related to the recruitment and conditions of service of Government servants under the Central Government and the State Government. It includes the employees of any local or other authority within the territory of India or under the control of

the Government of India or of a corporation owned or controlled by the Government.

The establishment of such tribunals must be at the centre and state level separately for each state or for two or more states. The law must incorporate the provisions for the jurisdiction, power and authority to be exercised by tribunals; the procedure to be followed by tribunals; the exclusion of the jurisdiction of all other courts except the Supreme Court of India.

## Tribunals for other matters [Article 323B]

Article 323B empowers the Parliament and the State Legislature to establish tribunals for the adjudication of any dispute or complaint with respect to the matters specified under clause (2) of Article 323B. Some of the matters given under clause (2) are a levy, assessment, collection and enforcement of any tax; foreign exchange and export; industrial and labour disputes; production, procurement, supply and distribution of foodstuffs; rent and its regulation and control and tenancy issues etc. Such a law must define the jurisdiction, powers of such tribunals and lays down the procedure to be followed.

In the landmark case of [L. Chandra Kumar v. Union of India\[1\]](#), the court reached various conclusions as to jurisdictional powers of the tribunal constituted under Articles 323A and 323B. The Supreme Court struck down clause 2(d) of Article 323A and clause 3(d) of Article 323B on the ground that they excluded the jurisdiction of the High Courts and the Supreme Court under Article 226/227 and 32 respectively.

The SC ruled that the tribunals created under Article 323A and 323B would continue to be the courts of the first instance in their respective areas for which they are constituted. The litigants are not allowed to approach the High Courts directly by overlooking the jurisdiction of the concerned tribunal.

No appeal for the decision of the tribunal would lie directly before the Supreme Court under Article 136 but instead, the aggrieved party would be entitled to move the High Court under Article 226 and 227 and after the decision of the

Division Bench of the High Court, the party may approach the Apex Court under Article 136.