

RMM LAW COLLEGE SAHARSA

ADMINISTRATIVE LAW

IIIrd Part

Paper -VII

TOPIC- Administrative tribunal in India

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Distinction between Courts and Tribunals

Courts	Administrative Tribunal
A Court of law is a part of the traditional judicial system.	The administrative tribunal is an agency created by a statute endowed with judicial powers.
A Court of law is vested with general jurisdiction over all the matters.	It deals with service matters and is vested with limited jurisdiction to decide a particular issue.
It is strictly bound by all the rules of evidence and by the procedure of the Code of Civil Procedure.	It is not bound by the rules of the Evidence Act and the CPC unless the statute which creates the tribunal imposes such an obligation.

It is presided over by an officer expert in the law.	It is not mandatory in every case that the members need to be trained and experts in law.
The decision of the court is objective in nature primarily based on the evidence and materials produced before the court.	The decision is subjective i.e. at times it may decide the matters taking into account the policy and expediency.
It is bound by precedents, the principle of res judicata and the principle of natural justice.	It is not obligatory to follow precedents and principle of res judicata but the principle of natural justice must be followed.
It can decide the validity of legislation.	It cannot decide the validity of legislation.
The courts do not follow investigatory or inquisition functions rather it decides the case on the basis of evidence.	Many tribunals perform investigatory functions as well along with its quasi-judicial functions.

The Administrative Tribunals Act, 1985

In pursuance of the provisions in Article 323A, Parliament passed the Administrative Tribunal Act, 1985, providing for all the matters falling within the [clause\(1\) of Article 323-A](#).

According to this Act, there must be a Central Administrative Tribunal (CAT) at the centre and a State Administrative Tribunal (SAT) at the state level for every state.

The tribunal is competent to declare the constitutionality of the relevant laws and statutes. The Act extends to, in so far as it is related to the Central Administrative Tribunal, to the whole of India and in relation to the

Administrative tribunals for states, it is applicable to the whole of India except the State of Jammu and Kashmir ([Section 1](#)).

Objective for the establishment of Administrative Tribunals

The main purpose of the introduction of this act was :

1. To relieve congestion in courts or to lower the burden of cases in courts.
2. To provide for speedier disposal of disputes relating to the service matters.

Applicability of the Act

According to [Section 2](#) of the Administrative Tribunals Act, 1985, the act applies to all Central Government employees except –

- The members of the naval, military or air force or any other armed forces of the Union
- Any officer or servant of the Supreme Court or any High Courts
- Any person appointed to the secretariat staff of either House of the Parliament.

Composition of the Tribunals and Bench

[Section 4](#) of this Act describes the composition of the tribunals and bench. Each tribunal shall consist of a Chairman, Vice Chairman, Judicial and Administrative members. Every bench must include at least one judicial and one administrative member. The benches of the Central Tribunal shall ordinarily sit at New Delhi, Allahabad, Calcutta, Madras, Bombay and such other place as the Central Government specifies. The Chairman may transfer the Vice Chairman or other members from one bench to another bench.

Qualification and Appointment of Members

[Section 6](#) of the Administrative Tribunals Act, 1985, lays the provisions specifying the qualifications and appointment of the members of tribunals.

Chairman: To be appointed as a chairman, a person must have the following qualifications-

- He is or has been a judge of a High Court or
- He has held the office of Vice Chairman for two years or
- He has held the post of secretary to the Government of India or
- He has held any other post carrying the scale pay of secretary.

Vice-Chairman: A person is qualified for the post of Vice-Chairman if he-

- Is or has been a judge of the High Court or
- Has for 2 years held the post of Secretary to the Government or holding any other post carrying the same pay scale under the Central or State Governments or
- Has held for 5 years the post of an Additional Secretary to the Government of India or any other post carrying the scales of pay of Additional Secretary.

Judicial Member: A person to be appointed as a judicial member must-

- Be or have been a judge of the High Court or
- Have been a member of Indian Legal Service and has held a post in Grade I of the service for at least 3 years.

Administrative Member: A person to be appointed as an Administrative member must-

- Have held the post of an Additional Secretary to the Government of India or another equivalent post for at least 2 years, or
- Have held the post of a Joint Secretary to the Government of India or other equivalent post, or

- Have adequate administrative experience.

The Chairman, Vice-Chairman and other members shall be appointed by the President. The Judicial Members shall be appointed by the President with the consultation of the Chief Justice of India. The Chairman, Vice-Chairman and other members of the State Tribunal shall be appointed by the President after consultation with the Governor of the concerned state.

Term of Office

According to [Section 8](#) of the Act, the Chairman, Vice-Chairman and other members of the tribunal shall hold the office for a term of 5 years or until he attains-

1. Age of 65 years, in the case of the Chairman or Vice-Chairman
2. Age of 62 years in the case of other members

Resignation and Removal

[Section 9](#) of the Act prescribes the procedure of resignation by any member and removal of any member.

The Chairman, Vice-Chairman or other members may resign from his post by writing to the President.

They shall be removed from their office only by an order made by the President on the ground of proved misbehaviour or incapacity after an enquiry made by a judge of the Supreme Court. They shall have the right to be informed of the charges against them and shall be given a reasonable opportunity of hearing. The Central Government may make rules to regulate the procedure for the investigation of the charges against them.