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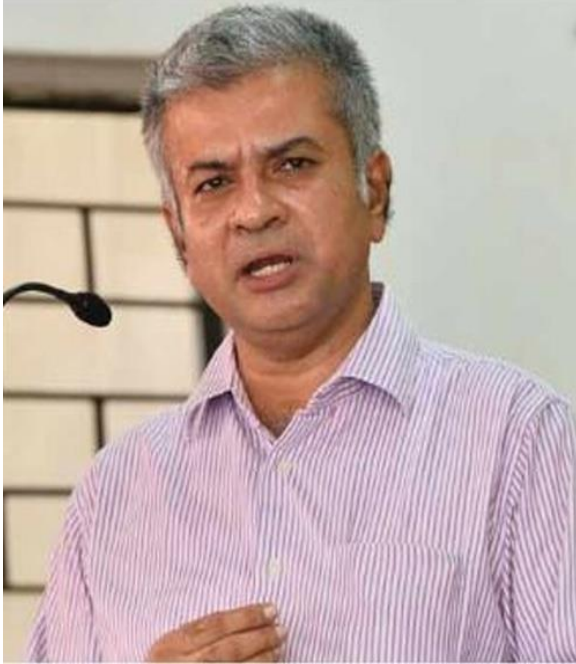
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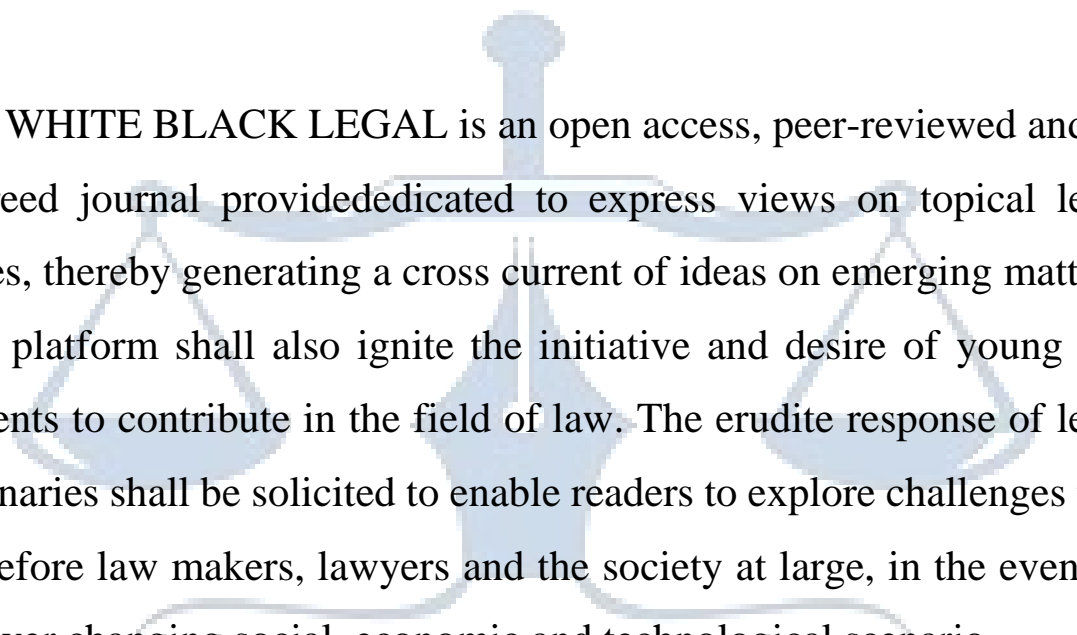
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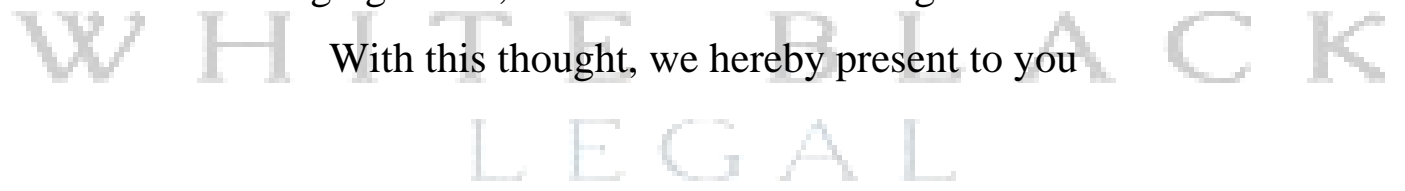
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With this thought, we hereby present to you



ADMINISTRATIVE TRIBUNALS IN INDIA

AUTHORED BY - HANSHIKA MANKU

Abstract

In India, administrative tribunals function as quasi-judicial forums with the primary goal of resolving conflicts involving public sector employment, taxes, and administration. Tribunals, which get their name from the "Tribunes" of the Classical Roman Republic, are now specialized adjudicatory bodies that operate independently of the conventional court system. Their formation seeks to provide administrative topic knowledge, decrease judicial backlog, and improve efficiency. The 42nd Amendment Act of 1976, which amended the Indian Constitution to include Articles 323A and 323B and permitted the establishment of tribunals for a variety of uses, established the idea of administrative tribunals in a formal manner. Their function was further cemented by the Administrative Tribunals Act, 1985, which gave the federal and state governments the right to create these organizations.

Government workers' service-related issues are handled by tribunals such as the State Administrative Tribunals (SATs) and Central Administrative Tribunal (CAT). The Armed Forces Tribunal, the Income Tax Appellate Tribunal, and the National Green Tribunal (NGT) for environmental issues are a few other examples. Tribunals' post-independence relevance as means to resolve administrative problems and accelerate justice is shown by their historical history. The necessity for specialized tribunals was emphasized in several committees' key recommendations, including those from the Law Commission, the Administrative Reforms Commission, and the Swaran Singh Committee.

Tribunals have benefits, but they can have drawbacks such as jurisdictional problems and concerns about their independence. In order to provide judicial review and preserve the balance of power, the Supreme Court and the High Courts have a supervisory role over tribunal rulings, as established by the seminal case of *L. Chandra Kumar v. Union of India*.

This paper highlights the essential function, background, legal structure, and day-to-day operations

of administrative tribunals in India, emphasizing both their continued difficulties and importance.

KEYWORDS: Administrative Tribunal, Quasi- judicial, Disputes, Procedure

Introduction

Tribunal is a quasi-judicial body that was established to handle issues like settling tax or administrative disputes. It carries out several tasks, including settling conflicts, establishing rights between disputing parties, and creating an administrative choice, examining an administrative decision, and so on. The word "Tribunes," which comes from "Magistrates of the Classical Roman Republic," is the source of the name "Tribunal". The term "tribunal" refers to the office of the "Tribunes," a Roman official serving as a guardian of the citizenry against the arbitrary actions of aristocratic magistrates in both monarchy and republic. Generally speaking, a tribunal is any individual or organization that has the power to decide, render judgment on, or settle claims or disputes, regardless of whether the title specifically refers to a tribunal.¹

The term "tribunal" is employed in a major way in administrative law, and it exclusively refers to the adjudicatory bodies that operate outside the normal court system. In India, the courts are technically endowed with the authority to uphold the rights of individuals and advance justice. Consequently, the judicial functions are transferred to the administrative authorities in order to establish an efficient legal system with fewer complications, giving rise to administrative tribunals or adjudicatory organizations. Tribunals were established by the 42nd Amendment Act of 1976; they were not initially included in the constitution.

History of tribunals

Administrative adjudications were increasingly significant after independence and were regarded as a useful instrument for problem-solving. Obtaining justice shouldn't be limited to the courtroom. The idea of an administrative tribunal was first presented in the Law Commission XIV report in 1958. The report recommended the establishment of an administrative tribunal that would follow natural justice principles and function within a legal and procedural framework.² The Administrative Reform

¹ Tribunals, Drishtias, (last visited on May 15, 2024), <https://www.drishtias.com/pdf/tribunals-1.pdf>

² Darshit Vora, Conclusive research on the administrative tribunal, Iblogpleaders, Oct 11, 2020, <https://blog.ipleaders.in/conclusive-research-administrative-tribunal/>

Commission was established to gather information, look at issues, and make recommendations for improvements. In certain places, they recommended the establishment of administrative tribunals. These sectors are included in report 1 as income tax, sales, central excise, and civil service. The next year saw the submission of Report II, which included additional recommendations for the creation of administrative tribunals in a number of fields, including insurance motor vehicle accidents and property acquisition.

The Wanchoo Committee, established in 1970, recommended the creation of an income tax commission as a substitute mechanism for resolving disputes pertaining to income taxes. A direct tax settlement tribunal was also suggested. The government established a report by the High Court Arrears Committee in 1972 with the intention of establishing a different tribunal to handle the case of the government workers. In its 58th report, the Law Commission recommended that tribunals be established and that commission litigation be used as a last option to settle court arrears. In 1976, the Swaran Singh committee recommended the creation of an administrative tribunal. Additionally, it recommended that the Supreme Court and the High Court examine the tribunal's decision. The 42nd amendment was adopted in 1976, adding articles 323A and 323B to the constitution that dealt with the formation of tribunals for different purposes. Additionally, the administrative tribunal act of 1985 was put into effect by parliament, granting the federal and state governments the authority to create tribunals.³

In accordance with Article 323A, Parliament may create administrative tribunals by legislation to settle disagreements and grievances about the hiring practices and working conditions of public employees employed by both the federal government and state governments. It covers workers employed by any local or other authority operating within Indian territory, by the Indian government, or by a company that the government owns or controls. Such tribunals must be established individually for each state or for two or more states at the federal and state levels. The legislation should include provisions regarding the jurisdiction, power, and authority that tribunals will have; the process that tribunals would adhere to; and the exclusion of all other courts' jurisdiction from the Supreme Court of India.

³ Neha Gururani, Administrative Tribunals in India, Iblogpleaders, June 20, 2019, <https://blog.ipleaders.in/administrative-tribunals-in-india/>

Article 323B gives the Parliament and State Legislature the authority to set up tribunals to decide any disagreement or grievance pertaining to the subjects listed in Article 323B clause (2). A few of the topics covered under clause (2) are the assessment, collection, and enforcement of any taxes, foreign exchange and export, labour and industrial conflicts, the production, purchase, distribution, and supply of food, rent regulation and control, and tenancy concerns, among other things. Such a statute must specify the authority and jurisdiction of such tribunals as well as the steps that must be taken. Regarding the jurisdictional authority of the tribunal established under Articles 323A and 323B, the court reached different judgments in the landmark case of L. Chandra Kumar v. Union of India. Clauses 2(d) of Article 323A and 3(d) of Article 323B were invalidated by the Supreme Court on the grounds that they precluded the High Courts' and the Supreme Court's jurisdiction under Articles 226/227 and 32, respectively.

The Supreme Court decided that the tribunals established under Articles 323A and 323B would remain the primary courts in the various domains for which they were established. Litigants are prohibited from bypassing the relevant tribunal's jurisdiction and immediately addressing the High Courts. The aggrieved party would be entitled to move the High Court under Articles 226 and 227, and after the Division Bench of the High Court made its decision, the party may approach the Apex Court under Article 136. However, there would be no direct appeal for the tribunal's decision under Article 136 before the Supreme Court.

Need for tribunals

- The court was overflowing with cases, the cases-to-judges ratio was high, and there was a delay from the time a case was filed and the verdict was delivered.
- An alternative mechanism that will resolve matters quickly, successfully, and affordably has to be established because formal courts take ages to issue a single ruling.
- Experts are needed because judges typically lack technical understanding of administrative affairs.
- Establish a different venue for disagreements between residents and government entities.⁴

⁴ Adv. Sagnik, Administrative Tribunals in India, LegalServicesIndia, last visited on May 1, 2024, <https://www.legalserviceindia.com/legal/article-4249-administrative-tribunals-in-india.html>

Characteristics of Tribunals

1. Statutory origin, or being established by a legislation, is a requirement for administrative tribunals.
2. They must have some, but not all, of the characteristics of regular courts.
3. An administrative tribunal is required to act judicially in all situations and carries out both quasi-judicial and judicial duties.
4. Strict guidelines for evidence and process are not followed.
5. Administrative tribunals are free to carry out judicial or quasi-judicial duties without intervention from the executive branch.
6. An administrative tribunal has the same legal authority as a court in procedural areas, including the ability to call witnesses, administer oaths, and require the production of documents.
7. The natural justice principle must be followed by these tribunals.
8. An act that is unbiased, transparent, and fair is a necessary need for administrative tribunals.
9. Administrative tribunal rulings may be challenged using the prerogative writs of certiorari and prohibition.

Types of tribunals

- Central Administrative Tribunal

It is empowered to handle service-related complaints pertaining to workers employed by the Central Government, any Union Territory, Local Government, or any other Central Government, including corporations under the Central Government's ownership or control.

- State Administrative Tribunal

Both the Parliament and the Central Government may create these tribunals. In a same vein, the State Legislature is empowered under Article 323 B to deal with a variety of issues, including the levy, assessment, collection, and enforcement of any taxes related to the land reforms covered under Article 31 A.

- Joint Administrative Tribunal

When two or more states jointly exercise administrative authority over two or more states, this might

be formed at their request. For example, there are several tribunals, including:

- Administrative Tribunal

Article 323 A of the Constitution established administrative tribunals, which were established by the Administrative Tribunals Act, 1985. They function as specialized quasi-judicial authorities entrusted with resolving complaints and disputes pertaining to the selection process and employment conditions of candidates for public office under Union and State government. These tribunals consist of the Central Administrative Tribunal (CAT), combined tribunals for many states, and state-specific tribunals upon request.

- Water Dispute Tribunal

For the purpose of resolving disputes pertaining to the waters of interstate rivers and their river valleys, the Parliament passed the Inter-State River Water Disputes (ISRWD) Act, 1956, which established many Water Disputes Tribunals.

Separate Tribunal: The Inter-State River Water Disputes (Amendment) Bill, 2019 was approved by Parliament in order to change the current ISRWD Act, 1956 and do away with the necessity of establishing a separate Tribunal for every water dispute, which is a procedure that is always laborious.

- Armed Forces Tribunal

It's an Indian military tribunal. It was founded in accordance with the 2007, Armed Forces Tribunal Act. It has given AFT the authority to decide cases involving commissions, appointments, enrolments, and terms of service for individuals covered by the Army Act of 1950, the Navy Act of 1957, and the Air Force Act of 1950, or to try cases involving these issues. The Judges are no longer in office. Judge Advocate Generals (JAG) who have held their appointments for a minimum of one year are also eligible to be appointed as Administrative Members. High Court Judges and Administrative Members are retired members of the Armed Forces who have held the rank of Major General or equivalent or above for a period of three years or more.

- National Green Tribunal

It is created by the National Green Tribunal Act of 2010, the NGT is a body tasked with expeditiously settling environmental disputes. It expedites proceedings concerning compensation for damages and

natural conservation since its members include judges and environmental professionals.⁵

- Income Tax Appellate Tribunal

In order to carry out the powers and duties granted to the Tribunal by the Act, the Central Government must establish an Appellate Tribunal with as many judicial and accountant members as it deems appropriate, according to Section 252 of the Income Tax Act, 1961.

Procedure and Powers of Tribunals

The power and procedure of tribunals are outlined in Section 22 of the Administrative Tribunals Act, 1985, and are addressed below:

1. A tribunal is not required to adhere to the 1908 Code of Civil Procedure's guidelines. It must follow the natural justice concept even if it has the authority to control its own processes.
2. A tribunal will make decisions on applications and cases submitted before it as soon as feasible. Each application will be considered after a thorough review of all supporting documentation and written submissions, as well as after hearing oral arguments.
3. When hearing a lawsuit, tribunals have the same authority granted to civil courts by the Code of Civil Procedure, 1908, regarding the following topics:
 - Summoning someone, making them appear, and having them testify under oath;
 - Creation of documentation;
 - Obtaining evidence via affidavits;
 - Request any public record or document from any office in accordance with Indian Evidence Act, 1872, Sections 123 and 124;
 - Granting commissions to examine documents and witnesses;
 - Reviewing its decisions;
 - Deciding the case ex parte;
 - Overturning any ex parte orders it has issued;
 - Handling any other issue the Central Government specific.

⁵Tribunal, Drishtias, Dec 26, 2023, <https://www.drishtias.com/daily-updates/daily-news-analysis/tribunals-8>

Relevant Case Laws

- S.P. Sampath Kumar vs Union of India⁶

Facts: The Administrative Tribunal Act's constitutional validity was contested in this case before the Supreme Court on the grounds that it violates the idea of judicial review.

The verdict: The Supreme Court's five-judge panel ruled that the legislation is lawful overall, with the exception of S. 6(1), which gave the government unfettered authority to choose the chairman, vice chairman, and other tribunal members every five years. It was decided that this section of the Act was invalid.

- Union of India vs R Gandhi⁷

Facts: The validity of NCLT and NCLAT was contested in this case before the Supreme Court for a number of reasons, including:

1. The rule of law is violated by the transfer of jurisdiction from the High Court to the tribunal.
2. The separation of powers clause in the constitution is violated by provisions 1B and 1C.

Judgment: The Court decided that Parliament can create tribunals and that these tribunals are not in violation of the rule of law and the separation of powers. Rather, it lessens the workload placed on the courts. It decided that the NCLT and NCLAT tribunals are legally recognized.

- Sambamurthy vs State of Andhra Pradesh⁸

Facts: In this case, the court heard a challenge to the legality of provision 371D, arguing that the provision was unconstitutional since it granted the state government the authority to change the administrative tribunal's ruling.

Judgment: The statute was declared unconstitutional by the court, which was using the Administrative Tribunal as a stand-in for the High Court.

- L Chandra Shekhar vs Union of India⁹

Facts: The Supreme Court addressed a number of questions in this case, including whether the Union

⁶ AIR (1987) 1 SCC 124

⁷ AIR 1989 MAD 205

⁸ AIR 1987 (1) SCC 362

⁹ W.P.(C) 10065/2016

or a state has the authority to exclude all courts other than the Supreme Court under Article 323A and 323 B, and whether the tribunal is effectively serving as the High Court's replacement.

The verdict: The Supreme Court ruled that the higher judiciary had the authority to conduct judicial reviews. The effective replacements of the upper judiciary cannot be provided by the lower courts. It may serve to enhance the authority of the higher judiciary. ¹⁰

Conclusion¹¹

In India, administrative tribunals have become integral parts of the legal system, with the purpose of effectively and competently resolving specialized issues. In order to alleviate the increasing complexity of administrative cases and lessen the load on traditional courts, the 42nd Amendment Act and the Administrative Tribunals Act of 1985 established them. This specialized approach is best demonstrated by tribunals such as the National Green Tribunal (NGT) and the Central Administrative Tribunal (CAT), which provide an informed and efficient adjudication procedure.

However, issues including preserving procedural fairness, resolving jurisdictional overlaps, and guaranteeing these tribunals' independence limit their efficacy. In order to preserve the ideals of natural justice, tribunal rulings must be subject to review by higher courts, as demonstrated by the seminal ruling in *L. Chandra Kumar v. Union of India*. Reforms must be continual if they are to improve their position. These include enhancing the appointment procedure to guarantee objectivity, honing procedural rules to remove any doubts, and bolstering the qualifications of tribunal members. Moreover, raising public knowledge of the tribunal system can help to reinforce its efficacy.

In conclusion, even though administrative tribunals have greatly enhanced India's ability to resolve administrative conflicts, ongoing development and careful monitoring are still essential. These tribunals may maintain their critical role in the effective and equitable administration of justice by addressing current issues and promoting an open and impartial adjudication process.

¹⁰ Harmanjot Kaur Kang, All you need to know about administrative tribunals, Iblogpleaders, Nov 28, 2021, <https://blog.iplayers.in/all-you-need-to-know-about-administrative-tribunals/>

¹¹ The Tribunal System in India, PRS Legislative Research, July 24, 2021, https://prsindia.org/files/bills_acts/bills_parliament/2021/Note%20-%20Tribunal%20system%20in%20India.pdf