LEX SCRIPTA MAGAZINE OF LAW AND POLICY

ISSN- 2583-8725

VOLUME-2 ISSUE-2
YEAR: 2023

EDITED BY:

LEX SCRIPTA MAGAZINE OF LAW AND POLICY

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ADMINISTRATIVE TRIBUNALS IN INDIA

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ABSTRACT

The extent of the government's power is set by administrative law. These are inferred rules, or they are stated in a statute. A tribunal is an entity established by the state to address different categories of issues. The Supreme Court defines a tribunal as an adjudicating body that has the trappings of a court, decides disputes between parties, and has judicial powers that are separate and apart from judicial functions. The administrative tribunal is a body that makes decisions by applying applicable laws and handles public administration issues. It is a combination of the executive and judicial branches of government. It is an organisation that collaborates with the court to resolve disputes on a range of topics quickly and fairly.

KEYWORDS: Administrative, Disputes, Tribunal, Court, Organisation, Decisions

INTRODUCTION

The Indian Constitution's Preamble affirms that India is a sovereign, socialist, secular, democratic republic. These elements were necessary, in the view of our Constitution's framers, to create an equitable society and a state that bases itself based on welfarism's principles. The welfare state phenomenon is centred on the application of the law and the management of justice. Through the Preamble, the Indian Constitution clearly states that "justice"—that is, not only social justice but also economic and political fairness—is guaranteed to all of the nation's citizens. In order for political, social, and economic fairness to triumph, it is imperative that:

1. The "Justice Delivery System" be capable, strong, and efficient;
2. There is the prompt resolution of cases; trials ought to proceed quickly while still ensuring that the cases are judged in accordance with the law;
3. The "rule of law" must be followed. (In its ideological context, the term "rule of law" refers to a set of moral principles that govern the use of state authority and whose cornerstones are accountability, freedom, and equality);
4. The three age-old tenets of natural justice must be followed:

a. The Fair Hearing Rule, or Audi alteram partem

b. The Rule against Bias, Nemo Judex In Causa Sua

c. Reasoned Order: When resolving a dispute, the adjudicating body shall provide the relevant justification.

5. Justice is the goal; law is the means to that end. In a system of democracy in order for justice to triumph, all laws must adhere to the principle that "Salus Populi est Suprema Lex," or that "people's welfare is the highest law." "Law in accordance with Justice" is distinct from "Justice according to Law," where welfarism flows.[1]

The old "police state" has evolved into a "welfare state," abandoning the conventional ideology of "laissez faire." As a result of this profound shift in the conception of the state's duty, the state now performs more functions. These days, it involves not just in addition to its sovereign duties, this progressive democratic state aims to protect the social welfare and security of the general populace. It governs labour relations, maintains production control, and supports businesses. The problems that result from it go beyond only legal ones. Regular legal tribunals are ill-equipped to handle all of these socioeconomic issues. For instance, it's imperative that labour issues between employees and management are resolved quickly.

It serves the interests of society as a whole as well as the disputing parties. A typical court of law, however, is not able to resolve these conflicts quickly due to some inherent constraints in their operations. However, it is imperative that decisions regarding these disagreements be made in a way that is neither arbitrary nor despotic. Therefore, administrative tribunals are set up to make decisions on a range of quasi-judicial matters that, if decided upon by regular courts of law, would not yield a decision that is efficient in terms of time or money.

As a product of the welfare state ideology, the Indian Constitution had to acknowledge the presence of tribunals. The establishment of tribunals is intended to facilitate prompt case resolution, so alleviating the burden regarding the Civil Courts. Previously, a tribunal like this is constituted, the Civil Court's ability to consider cases that come under the purview of tribunals is precluded. The High Court proceedings' protracted duration is one of the primary factors supporting its establishment. The desire for specialist forums for dispute resolution that would be relatively cheaper, faster, and less reliant on technical procedures—forums with some expertise and policy commitment—led to the creation of tribunals. Tribunals emerged as an alternative to courts when resolving conflicts required less formality, more quickness, and superior ability. English and Indian lawyers harboured prejudices against tribunals as a result

[1] C.K. Takwani, Lectures on Administrative Law, Eastern Book Company, Fourth Edition, Lecture VIIAdministrative Tribunals, p.228

of Professor Dicey's Rule of Law lecture. For historical reasons, India developed a unitary system were in contrast to France, the regular courts superintendence over the tribunals.

As a result, Articles 136 and 227 of the proposed Constitution included mentioned tribunals. The Supreme Court has the authority to consider an appeal with exceptional consideration under Article 136 leave of appeals panels, and the High Court has the authority to superintend over tribunals and courts in accordance with Article 227. Such judicial oversight is favoured in India over the independent administrative court structure that is present in France. This is evident due to the fact that, despite the word "tribunal" being removed The courts interpreted the phrase "courts" in Article 227 of the Constitution (42nd Amendment) Act of 1976 to include tribunals for the purposes of the Article's judicial superintendence; consequently, the word "tribunal" was reinstated in that a section by the Constitution (44th Amendment) Act of 1978. The Constitution (42nd Amendment) Act of 1976 added Articles 323-A and 323-B. These Articles give the relevant legislatures and Parliament the authority to establish "the adjudication or trial by tribunals" for the kinds of cases that are specified. The tribunals established under to 323-A and 323-B are identical standing as the High Court because, in accordance with Article 136, appeals from these authorities may be taken straight to the highest court in the land.[2]

BACKGROUND OF THE ADMINISTRATIVE TRIBUNALS ACT 1985

The Indian Constitution's wise authors granted the several High Courts and the SC the authority to conduct judicial reviews by adopting the document's Articles 32, 136, 226 and 227. Following the adoption of the Constitution's Articles 12, 14, 15, 16, and 311. As a result, a quantity of service issues requiring the resolution of disputes regarding the hiring and working circumstances of governance employees as well as those in other public employment fields began to appear prior to the different High Courts, having jurisdiction for Judicial review was employed in order to in question by the resentful employees. The increase in the number of public personnel combined with the High Courts' contribution field and the numerous issues that arose regarding their hiring and working conditions, as well as their unspoken belief that the High Courts are the unwavering defenders of their dignity and rights, gradually increased the number of cases pending in the High Courts. Consequently, brought the issue of locating a workable substitute institutional framework for the resolution of such specialised concerns to the attention of the Union Government. Under the direction of Mr. Justice J.C. Shah, a

[2] S.P. Sathe, Administrative Law, fifth edition, 1994

committee appointed by the Union Government in 1969 made recommendations for the creation creating a separate tribunal to decide service cases that were pending before the Supreme Court and the High Courts.

In its 124th Report, the Law Commission of India advocated the creation of an appellate tribunal or tribunals to hear appeals from state and federal government agencies. These tribunals would be headed by a Chairman who is legally qualified, with seasoned civil professionals serving as Members employees of the government regarding disciplinary in addition to actions taken against them.

Additionally, the Commission for Initial Administrative Changes had suggested that Civil Services Tribunals be established in order to handle government employee appeals of disciplinary measures. Following that, several state legislatures passed legislation creating tribunals to hear cases of this nature. Articles 323-A and 323-B, which make up Part XIV-A of the Indian Constitution, were also added by the 42nd Constitutional Amendment Bill, 1976, and went into effect on the third of January of the year, 1977.

Among other things, Article 323-A gave Parliament the authority to enact laws establishing Administrative Tribunals for resolving grievances and issues pertaining to hiring practices and working conditions for specific job classifications in the public employment, such as government employees, and to ensure the limitation of all courts' jurisdiction, with the exception Under the Article 136 of the Supreme Court's, concerning disagreements or grievances of that kind. However, no quick action was done in that direction of passing legislation to establish Administrative Tribunals, as proposed by the aforementioned article. In the end, the Administrative Tribunals Act, 1985 was passed by Parliament and signed into law by the President on February 27, 1985. According to the Act's requirements, the Administrative Tribunals established possess initial jurisdiction under it over of employee service problems that fall under the Act's purview.

SIGNIFICANCE OF THE ADMINISTRATIVE TRIBUNALS ACT 1985

A new era in the administration of justice for resentful government employees in service disputes was initiated with the passing under the 1985 Administrative Tribunals Act.[3] The Central Board of Directors and the State are to be established by the Act. These Tribunals were established with the understanding that, because to their particular knowledge, specialised bodies made up of both experienced judges and skilled administrators would be better

[3] Dr. Ranbir Singh & Dr. A Laskhminath, Constitutional Law, LexisNexis Butterworths 2006, Chapter VI – Tribunals, p.63

competent to dispense justice in a timely and effective manner. It was anticipated that this goal would be best served by a sensible combination of judicial members and those with practical expertise.

Regarding their authority and workings, the Administrative Tribunals can be distinguished from regular courts. They only have authority over concerns pertaining to the services of The parties who are sued under the Act. They are also unencumbered by the restrictions imposed by several formalities seen in regular courts. The fact that the harmed party may appear in person before the Act indicates how straightforward its procedural requirements are. The government may also use departmental representatives or solicitors to make its case. Furthermore, the litigant need only pay a minimal charge of Rs. 50 to file an application with the Tribunal. Therefore, the Tribunal's goal is to give the litigants quick, affordable justice.

Despite the complex web of laws and regulations which govern government operations, the creation of Administrative Tribunals was a positive step towards offering government employees who feel wronged by their judgements an effective alternative authority oversees personnel management, judicial review over service problems, and all other tribunals, such as High Courts that are not the Supreme Court, in order to lessen the workload on these Courts and ensure the prompt resolution of such cases.

VALIDITY OF THE ADMINISTRATIVE TRIBUNALS ACT OF 1985 UNDER THE CONSTITUTION

The Administrative Tribunals Act, 1985 was passed by Parliament in the utilisation of the authority granted by Article 323-A of the Constitution. The Act's Section 28 limited the authority of judicial review performed in service cases by the High Courts in accordance with Articles 226 and 227. Insofar as the authority of the Supreme Court pursuant to Article 136 of the Constitution remains intact, it hasn't completely eliminated judicial review.

In the landmark case of ***S.P. Sampath Kumar v. UOI***[4], the Supreme Court heard arguments against the Act's constitutionality. Indeed, the inquiry posed had broad implications. The Administrative Tribunals Act of 1985 was affirmed as legitimate by the Constitution Bench. "We have already seen that judicial review by this Court is left wholly unaffected and thus there is a forum where matters of importance and grave injustice can be brought for determination or rectification," said then-judge Ranganath Misra, J., speaking for the majority.

[4] 1987 SCR (3) 233 1987 SCC Supl.

Therefore, judicial review is not entirely precluded by the High Courts' exclusion of their jurisdiction. It is feasible to replace the High Court with a different organisation that would provide judicial examination In the framework of the legal system's administration, the Tribunal has been considered as an alternative to the High Court rather than as a supplement. Nonetheless, it is imperative to remember that the Tribunal ought to function as a true stand-in for the High Court, not just in terms of structure and de facto, however also in terms of substance and de facto. All of the Court's authority with respect to the matters mentioned in Sections 14 and 15 of the Act rests with the Tribunal, which may be Central or State. Consequently, The High Court's Tribunal is its stand-in and has the authority to use its functions.[5]

In the case of ***L. Chandra Kumar v. UOI***[6], the Apex Court examined the Administrative Tribunals Act, 1985's constitutionality in its whole once more. In this case, the court decided that Sampath Kumar's decision was made in light of the fact that the High Courts' lawsuit had erupted in a way never seen before, necessitating the use of an alternate inquisitional procedure to resolve the issue. However, it is a well-known and clear fact that tribunals have not operated well; as a result, severe steps were required to improve their calibre by guaranteeing that they withstand constitutional examination. Furthermore, the court determined that due to the constitutional protections that guarantee the impartiality of the SC and High Court judges are not accessible to the tribunal members, therefore they cannot be regarded as a complete and reliable replacement for the higher judiciary in carrying out the constitutional interpretation role.

In light of this, the court determined that Administrative Tribunals could only serve as supplemental to the High Court and could not replace it. Consequently, A provision in the Administrative Tribunals Act of 1985, Section 28 pertaining to the "exclusion of jurisdiction," was deemed not in accordance with the Constitution, as was Article 323-A, Clause (2) (d), and Article 323-B, Clause (3) (d), both of which limit the authority of the SC and the High Courts in relation to Articles 226, 227, and 32 of the Constitution.

FACTORS CONTRIBUTING TO THE EXPANSION OF ADMINISTRATIVE TRIBUNALS AND THEIR ATTRIBUTES

As per Dicey's idea of the rule of regular law courts are required to administer the common law of the land. The creation of administrative tribunals was opposed by him. Conventional legal

[5] XIV REPORT OF REFORM OF JUDICIAL ADMINISTRATION, (1958)
[6] 1995 AIR 1151, 1995 SCC (1) 400, JT 1995 (1) 454, and 1994 Scale (5) 72.

theory and the notion of separation of powers held that ordinary courts of law had the authority to resolve conflicts between parties. Nevertheless, as experience has shown, governmental activities have grown, and regular courts of law are ill-equipped to handle the complicated issues that arise in the altered socioeconomic environment.[7]

The following are the reasons behind the establishment of administrative tribunals:

1. It was discovered that the conventional legal system was insufficient to decide and settle every dispute that needed to be resolved. It was formalistic, complicated, expensive, inexperienced, and slow. It was already overworked, therefore it was unrealistic to anticipate that even really significant issues—such as disagreements between employers and employees, lockouts, strikes, etc.—would be resolved quickly. These pressing issues cannot be resolved by applying a literal interpretation of any laws; rather, a number of other variables must be taken into account, which the legal system is unable to provide. As a result, labour courts and industrial tribunals were established, with the knowledge and experience to deal with these difficult issues.

2. Technicalities can be avoided by the administrative authorities. Instead of a functional approach, they a juridical and theoretical perspective. The judiciary in the past was strict, conservative, and technical. Legal tribunals are unable to render decisions on matters without using formalities and technicalities. Administrative tribunals, on the other hand, are exempt from the standards of evidence and procedure and are free to decide complex issues by applying a practical perspective.

3. Preventative actions, such as licencing and rate-fixing, can be taken by administrative authorities. They do not have to hold off until parties bringing issues before them, in contrast to conventional courts of law. These preventive measures frequently have the potential to be more beneficial and effective than penalising someone after they have broken the law.

4. Administrative authorities has the ability to implement efficacious actions for enforcing the previously mentioned preventive measures, such as licence cancellation, revocation, or suspension, destruction of contaminated items, etc., that are not often accessible through the regular legal tribunals.

5. In regular courts of law, judgements are rendered following the parties' hearings and using the evidence that is on file. When administrative authorities have broad discretion and may

[7] REPORT ON PERSONNEL ADMINISTRATION, 1969

base their conclusions on departmental policy as well as other pertinent considerations, this process is inappropriate for making decisions.

6. Disputed issues can occasionally be of a technical character, making it unreasonable to expect the traditional judiciary to understand and resolve them. However, administrative bodies are typically staffed by specialists capable of handling and resolving certain issues, such as those involving electricity, gas, atomic energy, etc.

7. To summarise, Robson states that administrative tribunals are able to complete tasks "more quickly, more affordably, more successfully than regular courts... have more technical expertise and fewer biases against the Government... pay more attention to the social interests involved... resolve disputes with a deliberate effort to further social policy embodied in the legislation."

FEATURES THAT MAKE ADMINISTRATIVE TRIBUNALS UNIQUE

The qualities of an administrative tribunal are as follows:

1. Since an administrative tribunal is established by statute, it has a statutory source.

2. It lacks some but not all of the accoutrements of a court.

3. The State's judicial functions are vested in an administrative tribunal, therefore carries out judicial and quasi-judicial duties, as opposed to pure functions, whether they be executive or administrative, and must take judicial action.

4. An administrative tribunal has authority over procedural matters as well of a court; for instance, calling witnesses, taking an oath, or compelling creation of records, etc.

5. Administering tribunals are not constrained by rigorous standards of the methodology and the evidence.

6. Since the tribunals must record factual findings objectively and impose the law on them without implementing presidential order into account, they are actually more judicial than administrative. Despite being granted discretion, they must use it in a judicially and objective manner.

7. The majority of administrative tribunals, such as the Industrial, Rent, and Election Tribunals, resolve conflicts between private parties in addition to situations in which the government is a party. On the other hand, disagreements between the Government and the Assessors are always resolved by the Income Tax Tribunal.

8. Administrative tribunals are free to carry out their judicial or quasi-judicial duties without intervention from the executive branch.

9. Administrative tribunal rulings may be challenged using the prerogative writs of certiorari and prohibition.

ADMINISTRATIVE TRIBUNALS: EVIDENCE AND PROCEDURE GUIDELINES AND NATURAL JUSTICE PRINCIPLES

Administrative tribunals are naturally empowered to control their own processes under the legal prerequisites. Generally speaking, these tribunals have the same authority over witness summons and attendance enforcement, discovery and inspection, document production, and other matters as courts for civil cases under the 1908 Code of Civil Procedure. In accordance with 1973's Code of Criminal Procedure Sections 345 and 346, as well as Sections 193, 195, and 228 of the Indian Penal Code, 1860, administrative tribunal procedures are considered judicial proceedings. However, as long as they adhere to the concepts of natural justice and "fair play," these courts are not constrained by rigorous rules of evidence or procedure. Consequently, Their procedures are not subject to the technical standards of evidence, therefore they are free to rely on hearsay testimony or use their discretion to determine the admissibility of documents, the burden of proof, and other issues.

The Supreme Court ruled in ***Dhakeswari Cotton Mills Ltd. v. CIT***[8] that the Income Tax Officer might act on documents that possibly not acceptable in a court of law as evidence and was unrestricted by technical standards of evidence and pleadings.

In the case of ***State of Mysore v. Shivabasappa***[9]***,*** the Supreme Court made the following observation: "Since tribunals performing Quasi-judicial authorities are not the same as courts required to adhere to the rigorous guidelines of proof. Unlike courts, they are not constrained by the rules and procedures that control court processes and can access all relevant information for the issues they are investigating from all sources and through all channels. The only duty imposed by law is that they must give the person against whom the information is intended to be used a fair chance to refute any information they may receive before acting upon it. Each case's unique facts and circumstances will determine what constitutes a fair opportunity, but if one has been granted, the proceedings cannot be contested on the grounds that the inquiry was not carried out in line with the rules of evidence in courts.

[8] 1955 AIR 65 | 1955 SCR (1) 941.

[9] *(1964)ILLJ693KANT, (1964)1MYSLJ*

ADMINISTRATIVE TRIBUNALS: ARE THEY SUBJECT TO SUPREME COURT AND HIGH COURT RULINGS?

The Constitution states in Article 141 that "the law declared by the Supreme Court shall be the supreme law" enforceable by all courts operating inside India. Article 141 covers both administrative tribunals and regular courts, giving it a very broad application. Article 141 is not matched by any provision in relation to a High Court's declared law. Therefore, the question of whether a High Court's declaration of law has the same binding force over all regional subordinate courts and tribunals over which it exercises authority arises. In general, the same concept applies to decisions made by a High Authority even in the lack of particular regulations. Once more, the High Court is the highest court in the State, just as the Supreme Court is the highest court in the nation. In addition, the High Court, like the Supreme Court, has supervisory jurisdiction over all lower courts and tribunals within the regions under which it exercises its authority, in addition to its writ jurisdiction. Thus, in the event that an administrative tribunal operates outside of its jurisdiction, overreaches its authority, or attempts to violate the law established by the High Court, the High Court has the right to intervene and influence those actions.[10]

The Supreme Court was explicitly presented with this issue in the ***East India Commercial Co. Ltd. v. Collector of Customs***[11] case. The Court held: "Therefore, we maintain that the statute announced by the Authorities or tribunals under the State's highest court are obligated by it and cannot disregard it when ruling on the rights involved in a procedure or when starting one. The method is strongly unacceptable when the tribunal takes notice of a Supreme Court ruling and attempts to differentiate it without providing any unique characteristics. A wilful attempt to disobey a superior court ruling may be considered contempt of court.

CONCLUSION

The primary goal of attending court is to resolve cases in an effective and timely manner. It is the administrative tribunal that carries out those duties. It is an addition to the old courts. In India, the idea of an administrative tribunal has gained traction for a number of reasons, including a lack of cases and costly, inept government oversight. Additionally, the tribunal court's ruling becomes harder to appeal, which facilitates the expeditious resolution of disputes.

[10] Durga Das Basu, Commentary on the Constitution of India, Lexis Nexis Butterworths Wadhwa Nagpur, 8th Edition 2011, Vol. 9, Part XIV-A: Tribunals, p.2085- 2086.
[11] *1963 AIR 1124, 1963 SCR SUPL*.

However, in order to make improvements and satisfy the victims, some adjustments must be made to the tribunal system as it currently exists.