
Introduction

Tribunals are judicial or quasi-judicial institutions established by law. They intend to provide a platform for faster adjudication as compared to traditional courts, as well as expertise on certain subject matters. Pendency of cases in courts is one of the key challenges faced by the judicial system. The 42nd Amendment Act of 1976 added a new Part XIV-A to the Constitution. This part is entitled as 'Tribunals' and consists of only two Articles—Article 323 A dealing with administrative tribunals and Article 323 B dealing with tribunals for other matters.

Characteristics of Administrative Tribunals

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

- ❑ Administrative tribunals must have statutory origin i.e., they must be created by any statute.
- ❑ They must have some features of the ordinary courts but not all.
- ❑ An administrative tribunal performs the quasi-judicial and judicial functions and is bound to act judicially in every circumstance.
- ❑ They are not adhered by strict rules of evidence and procedure.
- ❑ Administrative tribunals are independent and not subject to any administrative interference in the discharge of judicial or quasi-judicial functions.
- ❑ 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.
- ❑ These tribunals are bound to abide by the principle of natural justice.
- ❑ A fair, open and impartial act is the indispensable requisite of the administrative tribunals.
- ❑ The prerogative writs of certiorari and prohibition are available against the decisions of administrative

tribunals.

Categories of Administrative Tribunals

There are diverse forms of tribunals which are governed by the statutes, rules and regulations by the central government as well as the state government.

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 Chandra Kumar case, 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 Supreme Court 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 Court's 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.

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. The Act has prescribed for following types of tribunals:

Central Administrative Tribunal (CAT)

It has the jurisdiction to deal with the service matters about the employees of Central Government, any Union Territory, Local Government or any other Central Government, corporate-owned or controlled by the Central Government.

State Administrative Tribunals (SAT)

These tribunals can be established by the Central Government and the Parliament.

Like the CAT, the SATs exercise original jurisdiction in relation to recruitment and all service matters of state government employees. Similarly, we see the State Legislature under Article 323 B for various matters like levy, assessment, collection and enforcement of any tax matters connected with the land reforms covered under Article 31 A.

So far, the SATs have been set up in the nine states of Andhra Pradesh, Himachal Pradesh, Odisha, Karnataka, Madhya Pradesh, Maharashtra, Tamil Nadu, West Bengal and Kerala. However, the Madhya Pradesh, Tamil Nadu and Himachal Pradesh Tribunals have since been

abolished.

Joint Administrative Tribunals (JAT)

This can be established on the request of two or more states collectively, which exercise administrative control over two or more states. For instance, there are various tribunals such as:

- ❑ National Green Tribunal (NGT)
- ❑ Income Tax Appellate Tribunal (ITAT)
- ❑ Water Dispute Tribunal

Objective for the establishment of Administrative Tribunals

The main purpose of the introduction of this act was:

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

Applicability of the Act

According to the Administrative Tribunals Act, 1985, the act applies to all Central Government employees except

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- ❑ 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

- ❑ 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

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.
- ❑ The chairman and members of a Joint Administrative Tribunal are appointed by the President after consultation with the Governors of the concerned states

Term of Office

According to 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-

- ❑ Age of 65 years, in the case of the Chairman or Vice-Chairman
- ❑ Age of 62 years in the case of other members

Resignation and Removal

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.

Jurisdiction of Central Tribunal

The Act states that, the Central Tribunal from the day of the appointment shall exercise all the jurisdiction, powers and authority in relation to the following matters which were within the jurisdiction of other courts (except the Supreme Court) before the enactment of this Act:

- ❑ Recruitment of any civil service of Union or All India service or civil post under the Union or civilian employees of defence services;
- ❑ All service matters of the above-mentioned employees, and also of employees of any local or other authority within the territory of India or under the control of the Government of India or any corporation or society owned or controlled by the Government;

- All service matters of such persons whose services have been placed by the State Government or any local or other authority or any corporation at the disposal of the Central Government.

Procedure and Powers of Tribunals

The Administrative Tribunals Act, 1985 lays down the powers and procedure of tribunals discussed below-

- A tribunal is not bound to follow the procedure laid down by the Civil Procedure Code, 1908. It has the power to regulate its own procedure but must abide by the principle of natural justice.
- A tribunal shall decide the applications and cases made to it as rapidly as possible and every application shall be decided after scrutinizing the documents and written submissions and perceiving the oral arguments.
- Tribunals have the same powers as vested by the civil courts under the Code of Civil Procedure, 1908, while trying a suit, with regard to the following subject-matter-
 - Summoning and enforcing the attendance of any person and examining him on oath;
 - Production of documents;
 - Receiving evidence on affidavits;
 - Ask for any public record or document from any office
 - Issuing commissions for the examination of witnesses and documents;
 - Reviewing its decisions;
 - Deciding the case ex-parte;
 - Setting aside any order passed by it;
 - Any other matter prescribed by the Central Government;
 - Leading Case Laws

Advantages of Administrative Tribunals

The concept of administrative tribunals was introduced because it has certain advantages over ordinary courts. Few of them are mentioned below-

- **Flexibility:** The introduction of administrative tribunals engendered flexibility and versatility in the judicial system of India. Unlike the procedures of the ordinary court which are stringent and inflexible, the administrative tribunals have a quite

informal and easy-going procedure.

- **Speedy Justice:** The core objective of the administrative tribunal is to deliver quick and quality justice. Since the procedure here is not so complex, so, it is easy to decide the matters quickly and efficiently.
- **Less Expensive:** The Administrative Tribunals take less time to solve the cases as compared to the ordinary courts. As a result, the expenses are reduced. On the other hand, the ordinary courts have cumbersome and slow-going, thus, making the litigation costly. Therefore, the administrative tribunals are cheaper than ordinary courts.
- **Quality Justice:** Considering the present scenario, the administrative tribunals are the best and the most effective method of providing adequate and quality justice in less time.
- **Relief to Courts:** The system of administrative adjudication has lowered down the burden of the cases on the ordinary courts.

Drawbacks of Administrative Tribunals

Although, administrative tribunals play a very crucial role in the welfare of modern society, yet it has some defects in it. Some of the criticisms of the administrative tribunal are discussed below-

- **Against the Rule of Law:** It can be observed that the establishment of the administrative tribunals has repudiated the concept of rule of law. Rule of law was propounded to promote equality before the law and supremacy of ordinary law over the arbitrary functioning of the government. The Administrative Tribunals somewhere restrict the ambit of the rule of law by providing separate laws and procedures for certain matters.
- **Lack of specified procedure:** The administrative adjudicatory bodies do not have any rigid set of rules and procedures. Thus, there is a chance of violation of the principle of natural justice.
- **No prediction of future decisions:** Since the Administrative Tribunals do not follow precedents, it is not possible to predict future decisions.
- **Scope of Arbitrariness:** The civil and criminal courts work on a uniform code of procedure as prescribed under Civil Procedure Code and Criminal Procedure

Code respectively. But the administrative tribunals have no such stringent procedure. They are allowed to make their own procedure which may lead to arbitrariness in the functioning of these tribunals.

- ❑ **Absence of legal expertise:** It is not necessary that the members of the administrative tribunals must belong to a legal background. They may be the experts of different fields but not essentially trained in judicial work. Therefore, they may lack the required legal expertise which is an indispensable part of resolving disputes.

National Green Tribunal

Article 323(B) of the constitution the Indian Constitution provides for the establishment of tribunals in the country. The National Green Tribunal is not bound by either the Civil Procedure code or the Evidence Act but works on the principles of natural justice.

The working of the NGT is guided by two basic principles-

- ❑ 'The polluter pays' principle and
- ❑ 'Sustainable development' principle.

The National Green tribunal was established on 18 October 2010 through National Green Tribunal Act, 2010.

Objectives

The NGT was formed with the objective of a special focus on environmental related incidents including the protection of forest and natural resources. Following are the major objectives of the tribunal:

- ❑ To ensure that environment related laws are obeyed and act as a watchdog in case of any violations.
- ❑ To ensure the safety and conservation of forest and forest animals.
- ❑ To prevent the harm caused to the environment due to government or private actions.
- ❑ To ensure proper implementation of environmental related laws as listed in Schedule I of NGT Act
- ❑ To provide compensation to those who are victims of environmental degradation and who have suffered damages as a result of it.
- ❑ To work towards spreading awareness about various environment related laws and the issues prevalent in the society.

Composition of the Tribunal

The tribunal shall consist of the following:

- ❑ An eligible chairperson as per defined in the National Green Tribunal Bill, 2009 which should be a full-time Chairperson
- ❑ Ten to Twelve full-time judicial members or as per the Central government notification
- ❑ The Chairperson has the power of calling the specialised person who has a particular experience to the tribunal for assistance.
- ❑ The Central Government can notify about the territorial jurisdiction falling under a particular place of sitting.
- ❑ The central government with the consultation of Chairperson, can make rules and regulations in relation to the Tribunal.

Qualifications of the members

- ❑ The Chairperson should be qualified as a judge of the supreme court or the Chief Justice of the High Court.
- ❑ The member of the tribunal should have a qualification in relation to the judge of High Court as a judicial expert.
- ❑ As the non-judicial expert, one should have the degree of masters in science or doctorate degree or with a master's degree in engineering.

Appointment of Chairperson, Judicial Member and Expert member

- ❑ The manner of appointment in which the Chairperson and other members including Judicial members and Experts are given in the Act.
- ❑ The Chairperson, Judicial members and Expert members of the Tribunal shall be appointed by the Central Government. The Chairperson shall be appointed by the Central Government after consulting with the Chief Justice of India. The Judicial members and Experts of the Tribunal shall be appointed by the Selection Committee in the manner as may be prescribed.

Resignation

The manner of resigning from the Tribunal is given in the Act.

- ❑ In order to resign from their office, the Chairperson,

Judicial Member and Expert member can give a notice in writing addressing the Central Government.

Salaries & Allowances

The salaries and other allowances to the members of the tribunal are given in the Act.

- ❑ The salaries and allowances payable to the Chairperson, Judicial Member and Expert Member of the Tribunal and other terms and conditions which include pension, gratuity and other benefits, shall be such as may be prescribed.
- ❑ Neither the salary and allowances nor the other terms and conditions shall be varied to their disadvantage after the appointments.

Removal and Suspension

The process of removal and suspension of the Chairperson, Judicial Member and Expert is mentioned in the Act.

The Central Government, in consultation with the Chief Justice of India, can remove a member from the office of the Chairperson, Judicial Member and Expert Member of the Tribunal if:

- ❑ He is an insolvent; or
- ❑ He has been convicted for anything which involves moral turpitude.
- ❑ He has become mentally or physically incapable.
- ❑ He has acquired a financial interest or any other interest which is likely to affect his functions prejudicially.
- ❑ He has abused his position as to render his continuance to the public interest prejudicially.

No member can be removed from his office without an order made by the Central Government after an inquiry by a Judge of the Supreme Court related to the ground on which he is getting removed from his position. Such a person must be informed of the charges against him and should be given a reasonable chance of being heard in respect of the charges against him.

Vacancy

The provisions regarding vacancy are given in the Act.

In the case of any vacancy in the Office of the Chairperson of the Tribunal by reason of his death

or resignation, a Judicial Member of the Tribunal as the Central Government may think fit to act on the Chairperson's behalf, shall be appointed as the acting Chairperson until a new Chairperson is appointed according to the provisions mentioned under the Act.

Application to the Tribunal

An application to the Tribunal can be filed by anyone who:

- ❑ Has sustained the injury
- ❑ Is the owner of the property damaged?
- ❑ Is the legal representative of the deceased person
- ❑ Is an agent authorized by the person affected?
- ❑ Is a person aggrieved and it also includes a representative body or an organization?
- ❑ The Government/ CPCB /SPCBs /PCCs or any other environmental authority constituted under the Environment Act.

The application or appeal has to be decided quickly after hearing both the parties which a period of 6 months from the date of filing that appeal or application.

Jurisdiction of the Tribunal

The National Green Tribunal has the power to hear all civil cases relating to environment that are linked to the implementation of all the laws listed in Schedule I of the Act. These are mentioned below:

- ❑ The Water (Prevention and Control of Pollution) Act,1974
- ❑ The Water (Prevention and Control of Pollution) Cess Act,1977
- ❑ Forest Conservation Act, 1980
- ❑ The Air (Prevention and Control of Pollution) Act,1981
- ❑ Environment Protection Act, 1986
- ❑ The Public Liability Insurance Act, 1991
- ❑ Biological Diversity Act, 2002

Powers of the Tribunal

The Tribunal shall have the power that would be required to regulate its own procedure. The powers of the tribunal are as follows:

- ❑ Power to relief by issuing the compensation to the aggrieved person after analysing the matter

in a scientific manner with a properly researched report.

- ❑ Issuance of the commission for witnessing the documents.
- ❑ Reviewing the decision of a particular case.
- ❑ It has a power of dismissing the application if it is considered to have defaulted or it's decided to be ex parte.
- ❑ Granting the interim orders are considered as a power to the tribunal and it can be done after hearing both the parties.
- ❑ Power to give an order regarding the prevention of a person from further committing or violating the enactments specified in the Schedule I.
- ❑ The tribunal has the power to pass any order or award in relation to the substantial development.
- ❑ Decisions which are taken by the majority of the members in the tribunal are considered as binding on the aggrieved parties.

Difference 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.
'Res Judicata' means a case or suit involving a particular issue between two or more parties already decided by a court.	