

## **ADMINISTRATIVE TRIBUNALS IN INDIA THE LIGHTS OF THE DECIDED CASES-IN CONSTITUTIONAL ANALYSIS**

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### **ABSTRACT**

Administrative tribunals are constituted with alteration to Articles 323A and 323B of the Indian Constitution. These are constituted to only manage service matters of the common workers. Be that as it may, Administrative Tribunal is a substitute to High Court. These tribunals are semi legal in nature yet doled out with mediate the matters alluded before them. And this paper talks about the Administrative Tribunal in India of the constitutional analysis and Firstly, it gives the Introduction of the administrative tribunal in India the lights of the decided cases – In constitutional Analysis and Secondly it gives the Objectives, hypothesis ,materials and methods and also the review of literature. Thirandly it deals with the Chapterization and the first chapter deals with the Background and Significance Of the Administrative Tribunals Act,1985 and second chapters deals with the Constitutional Validity of the Administrative Tribunal act,1985 and the Third Chapter deals with the Administrative Tribunal and the court distinction, Administrative Tribunal and the Executive Authority and the Fourth chapter deals with the case laws on administrative Tribunals in India . Fourthly it deals with the conclusions on the administrative tribunals in India the lights of the Decided cases- In Constitutional Analysis.The main strict limitation forced on them is to take after Principles of Natural Justice, yet the tribunals began to give their own development to decipher the Principles of Natural Justice. This

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is on the grounds that there are no settled positive standards to state these are the crucial standards of Natural Justice.

**KEYWORDS:** Administrative Tribunal act 1985 ,Principle of Natural justices,court and executive authority, Constitutional, Service Matters of the Constitution.

### **INTRODUCTION**

To reduce the over-crowding the pending cases piling up in different high court and in other courts in the country. The parliament passed the administrative tribunals act,1985 and which will be coming into existence from July 1985 and the administrative tribunals were established November 1985 at the Delhi, Mumbai, Calcutta and Allahabad. These tribunals have been formed to give formal judgement on the matters of the disputes in recruitment and the conditions of services of the persons appointed to the public service and both in connection with the affairs of the union or local authorities within the borders of India or under the government of India. But the above act doesn't apply on people of armed force, paramilitary, if you are employed in the Supreme court, or to people who work in parliament or state legislatures. In addition to certain government has found another 45 organisations to bring them under the administrative tribunal. The central administrative tribunal is headed by a chairman who might be sitting high court judge or a retired high court judge.

After this constitution of the tribunal in 1985, it received almost 14,000 cases as transfer from High Court the subordinate court which was pending there until 2006 the tribunal has disposed 94% of the cases over 90% of their judgements has been upheld in the Delhi high court who had petitioned it. So looking at it if the Administrative tribunal court has relatively performed well. ("Scribd - Read Books, Audiobooks, and More" n.d). The employees of the central Administrative Tribunal are required to work under the general Superintendence of the chairman the pay rates and allowances and condition of service of the officers and other employees of the tribunal are specified by the central government and there are almost 1300 posts under 36 categories for helping the tribunal in disclosing its functions. (NIC n.d., n.d.)

**Aim of the study:**

To identify the problems faced by the administrative tribunals and also about the evolution of the tribunal system in India and there will be some measures which will be improving the administration in tribunal.

**HYPOTHESIS**

**H0:-** Administrative tribunal does not address the citizen grievances

**Ha:-** Administrative tribunal address citizen grievances

**MATERIALS AND METHODS**

The study is doctrinal and the information is collected from some books and publications and the various websites and which gave importance to the study of administrative tribunal In India the lights of the Decided cases - in the constitutional Analysis

**RESEARCH QUESTION**

Whether the administrative tribunal in India can they deliver the justices ?

- Purposes:- The litigation and restrictions faced between the individuals and authorities
- Invention:- How the government under the doctrine of separation of powers intervenes with the administration tribunals in India?
- Comparison:- Administration Tribunal between India and the United Kingdom
- Outcome:- Welfare measures made by the administrative tribunals in India.

**REVIEW OF LITERATURE**

1. Welfare nature of the government is the transformative objective of presumably every sort of government nowadays in the contemporary world. a thorough research was finished utilizing auxiliary sources from books articles and over the internet. This has

been directed to more litigation limitations on the flexibility of the people and consistent grindings amongst them and the authority.(Jha 2012)

2. The essential question of the administrative law is to keep forces of the Government inside their legal bounds in order to secure the subjects against their manhandle. the status of such court are perceived in the constitution of India.(Samanta 2007)
3. The governance of law is the traditional standard of the administrative law of the Dicey's administer of law and it will be the incongruity additionally is that the control of law is currently a vital piece of present day administrative law it is gone about as hindrance improvement of administrative law.the standards of the Dicey's manage of law and present day administrative law.(Ranjan 2010)
4. Inquirers who come to administrative tribunal in Canada .this paper investigates the structure and methods of reasoning behind onatorio's new tribunal groups and contrasts these and the change models in australia and U.K. the creators contend that tribunal groups offer an adaptable approach and as the nature of basic leadership.(Sossin and Baxter 2012)
5. This paper investigates how much administrative Tribunals in the U.K. which are embracing the tribunals hearings as recognized from conventional ill-disposed methodology and it will likewise and it will also examine 2 particular tribunal system social security and immigration to be in a specific tribunal frameworks and this paper will recommends that the UK Tribunal framework.(Thomas 2012)
6. The enactment of administrative Tribunals act 1985 of the article 323-A of the Indian constitution of the administrative Tribunals should lie before the division seat of the High court and the target of tribunal is to accommodate the quick and cheap equity to the disputants.(“Website” n.d.);<https://www.archive.India.gov.in>)
7. Administrative Tribunals which are being particular by the legislature and actualized authoritative approach additionally the forces of the choice making.No particular arrangement of Tenets which is unwritten tribunal strategy or practice which is customary law procedural standards and the regular equity which is the Fairness.(“Lexology” n.d.)
8. Administrative tribunal is the 42nd correction act,1976 of the part XIV - An Article 323-A, And Article 323-B and the administrative Tribunal is having an advisory group called Swaran Singh Board of trustees and Article 323-An arrangements both Parliament and

State Council can make laws on the issues of Article 323-B which is Liable to their authoritative capability. (“Prepare IAS Coaching Gontinagar Lucknow” n.d.)

9. The SC watched that however the tribunals are clad in numerous things of the trappings of the court which isn't undeniable court and which will choose the discussions between the gatherings practices legal forces is having a portion of the trappings of a court yet not all. (Thakker and Thakker 2017) lectures on administrative law).
10. The high court held that the tribunal had suggested the power to concede such help when it is immovably settled standards a communicated allow and it will be a statutory power conveys. it is ramifications of the authority is utilized for all authority to utilize all the reasonableness intends to make a such concede viable. (Thakker and Thakker 2017)7 lectures on administrative law)
11. The inquiry was whether the central administration tribunal has the purview when it cases of the respondents on the easygoing premise in the workplace of the central railroad whose administrations were ended the cure of the respondents was before the tribunal and not the High court which has the ward which has been taken. (Thakker and Thakker 2017) lectures on administrative law.
12. A division seat of the Supreme court communicated the view that the choice rendered by a 5 judge constitution seat and in the light of the assessment of the division seat on the issue which is put before a bigger seat of the 7 judges. (Thakker and Thakker 2017) lectures on administrative law).
13. An administrative capacities which have been expanded by the conventional hypothesis to the debate in the selective ward in the customary courtrooms in the truth and it the same number of legal elements of the financial and it as different semi - legal issues in the place of normal official courtrooms. (Thakker and Thakker 2017) lectures on administrative law).
14. 2 judge seat of the preeminent court which has been held that can be administrative tribunal which can be separated from everyone else it isn't skillful to hear the chosen cases. (“Website” n.d.): <https://www.shodhgana.inflibet.ac.in>)
15. The apex court which as been watched that any of the issue including inquiry of law and the interpretation of the protected arrangements that ought to be appointed to a 2 member bench. (“Website” n.d.): <https://www.shodhgana.inflibet.ac.in>)

16. One of the Manifold purposes for the foundation of the administrative tribunal is the agreement of the justice which is the time compelling and furthermore the practical way in the great degree which is to maintain a strategic distance from the procedural simplicity and adjudicate it is the fundamental principles of the natural principles. ("Website" n.d.):<https://www.researchgate.net>)
17. The real impacts which is coordinated by the creator which is towards by the understanding the administrative tribunals act,1985 in the length of the creator talks about the protected legitimacy of a similar it will tries to clarify the working of the administrative tribunal which will be adjudicated upon the focal administrative tribunal.(Massey 2008):administrative law)
18. The development of Tribunal framework in Australia which is the tribunal framework in australia it is unduly compelled by the lawful ideal models of the developmental years of the administrative interests tribunals of the lawful strategy versus official technique.(Corporatename=australian Capital Territory et al. 2016)
19. A typical element of the commitments which is to the writing on tribunals watching the term tribunals on the AAT Which isn't the court on the linguistic flimsiness in portrayals of the AAT which is Significant.(Thomas 2011))
20. The protected and administrative law which oversee that the issues of the state because of absences of its clearness on the administrative demonstration whether the statutory or the non-statutory on the administrative law in the nation like the USA or India. ("Law Teacher | LawTeacher.net" n.d.)

## **BACKGROUND AND SIGNIFICANCE OF THE ADMINISTRATIVE TRIBUNALS**

### **ACT,1985**

The constitution framers of India as pervaded the Supreme court and the High(Thakker and Thakker 2017) court and with the authority of the Judicial review which is definitely enacting the Articles 32,136,226 and 227 of the constitution of India. With the enactment of the Articles 12, 14,16,309 and 311 of the constitution where there are large number of the service matters

which is calling for the disputes for the recruitment and the condition of the service of the government servants.

The benefaction by the High Courts coupled with the Extension with the number of the workers and all the problems will be multiple it will be the surface in the surroundings of the newcomer and the conditions of their services and which will unstated their faith and belief in the High-Courts and it will be reliable protector of the members rights and honour will be led to moderate increase in the organisation or the pendency of service matters in the courts.

### **OBJECTIVES**

The statement of objects and the reasons are: “To reduce the mounting arrears in the High courts and to secure the Speedy disposal of the service matters”.

The enactment of the administrative tribunals act,1985 opened a new chapter in the sphere of administering justice to be aggrieved Government Servants in Service matters. The Initial getting up of Tribunals is formed on the premise that special body comprising both Qualified administrators and those of the judicial experience.

The administrative tribunal are different from the ordinary Courts with regard to their jurisdiction and process, they are also free from shackles of many of the technicalities of the ordinary courts and the procedural Simplicity of the can be appreciated from the fact that may be aggrieved person can also appear before it personally.

### **REASONS**

1. The traditional judicial system of high courts and local courts proved inadequate to decide and settle all the disputes. It was slow, high in costs, very complex and more formal and it as already been overburdened and it was not possible to spread up important matters. Therefore industrial tribunals and labour courts were formed, which had the expertise to handle complex Issues.

2. The administrative tribunal authorities can avoid technicalities and they take a functional and practical approach and it will be theoretical and legalistic approach because of the theoretical and legalistic approach, it is not possible for courts to decide on the court.
3. Administrative tribunals can take preventive measures and for example licensing, rate-fixing etc., unlike regulate courts of law, they don't need to wait for union or groups to come before them with disputes. In most cases these preventive actions have become more effective.
4. Administrative authorities can take effective steps for enforcing preventive measures (eg) suspension, revocation or cancellation of license, destruction of contaminated articles, etc., which are not generally available through the court of law.
5. In Normal courts, the decisions are made after hearing evidence this practice is not appropriate in deciding matters by the administrative authorities. Where wide the discretion is conferred as them and the decisions may be given on the basis of the departmental policy and other relevant factors.
6. The problems of the technical issues can be heard to solve by the traditional judiciary and may take longer. But administrative authorities are usually made by the experts who can deal with it and solve those problems examples like the problems relating to automotive or the electrical Industry.
7. overall , administrative tribunals do their work more rapidly, more cheaply and more effectively, than the normal courts.

### **CHARACTERISTICS**

The characteristics of the administrative tribunals are:-

1. An administrative tribunals has a statutory origin
2. It has some similarities of a normal court but not all
3. An administrative tribunal is entrusted with the judicial power of the state performs judiciary functions



4. With regards to procedures for cases, it possess the powers of a court like summoning a witness or to compel producing documents
5. An administrative tribunal is not bound by the strict rules of evidence and procedures.
6. The decisions of the administrative tribunals are in facts of the judicial rather than the administrative.
7. Most of the administrative Tribunals are not concerned and within the cases in which government is a party.
8. Administrative tribunals are independent and they are not subject to any administrative interference in the discharge of their judicial or the quasi judicial functions
9. The prerogative writs of certiorari and prohibition which are available against the decisions of administrative tribunals, (“Website” n.d., “ResearchGate | Share and Discover Research” n.d.)

#### **CONSTITUTIONAL VALIDITY OF THE ADMINISTRATIVE TRIBUNALS ACT,1985**

This new section was added to the constitution by the constitution 42nd amendment act 1976. It comprises of two articles - articles 323-A and 323- B. Article 323-A accommodates the foundation of administrative tribunals by a parliamentary law for deciding debate identifying with enrollment and state of administration of governments under the union government and state government .Article 323-B accommodates the formation of tribunals for the assurance of disputes, complaints and offenses identifying with assess matters, exports and imports, labour, and mechanical question, benefit matters, supply of fundamental wares, the decision to parliament and state lawmaking bodies. (Pandey and Central Law Agency 1986)

#### **ADMINISTRATIVE TRIBUNALS FOR SERVICE MATTER- ARTICLE 323-A -**

Article 323-A accommodates the establishment of the administrative Tribunals by a parliament law for the adjudication or trial of question and complaints relating to the enrollment and the states of administration of government servants under the central government and the state government including the workers of any local or other authority inside the region of India or under the control of the government of India or of a corporation claimed or controlled by the

government. Such law may accommodate the establishment of a tribunal for the union and separate tribunals for each state or for at least two states. Such law will also make arrangements for-

(1) Parliament may, by law, provide for the mediation or trial by administrative tribunals of debate and objections with respect to recruitment and states of service of persons delegated to open services and posts regarding the affairs of the Union or of any State or of any neighborhood or other authority inside the territory of India or under the control of the Government of India or of any corporation claimed or controlled by the Government.

(2) A law made under statement may—

(a) provide for the foundation of an administrative tribunal for the Union and a separate administrative tribunal for each State or for two or more States;

(b) determine the jurisdiction, powers (counting the power to rebuff for disdain) and authority which might be exercised by each of the said tribunals;

(c) provide for the procedure (counting provisions as to confinement and rules of confirmation) to be trailed by the said tribunals;

(d) avoid the jurisdiction of all courts, aside from the jurisdiction of the Supreme Court under article 136, with respect to the debate or grievances

(e) provide for the transfer to each such administrative tribunal of any cases pending before any court or other authority quickly before the foundation of such tribunal as would have been inside the jurisdiction of such tribunal if the reasons for action on which such suits or proceedings are based had arisen after such foundation;

(f) repeal or amend any order made by the President under proviso (3) of article 371D., (“Website” n.d., “Website” n.d.)[www.lawsonline.com/indianconstitution](http://www.lawsonline.com/indianconstitution))

**ARTICLE -323B. Tribunals for other matters**

(1) The appropriate Legislature may, by law, provide for the arbitration or trial by tribunals of any question, objections, or offenses with respect to all or any of the matters indicated in provision with respect to which such Legislature has power to make laws

(2) The matters referred to in statement are the accompanying, in particular:(an) impose, appraisal, accumulation and enforcement of any assessment;

(b) foreign trade, import and export across traditions frontiers;

(c) industrial and labor debate;

(d) land reforms by method for securing by the State of any estate as characterized in Article 31A or of any rights therein or the extinguishment or change of any such rights or by method for roof on agricultural land or in some other way;

(e) roof on urban property;

(f) races to either House of Parliament or the House or either House of the Legislature of a State, yet barring the matters referred to in Article 329 and Article 329A;

(g) production, procurement, supply and distribution of foodstuffs (counting consumable oilseeds and oils) and such other merchandise as the President may, by open notice, declare to be fundamental products for the purpose of this article and control of prices of such merchandise.

(h) offenses against laws with respect to any of the matters determined in sub statement (a) to (g) and expenses in respect of any of those matters;

(I) any matter accidental to any of the matters indicated in sub proviso (a) to (h)(“Website” n.d.);<https://www.indiankanoon.org>)

**ADMINISTRATIVE TRIBUNAL AND COURT DISTINCTION****ADMINISTRATIVE TRIBUNAL AND EXECUTIVE AUTHORITY DISTINCTION****ADMINISTRATIVE TRIBUNAL AND COURT DISTINCTION**

An Administrative Tribunal is similar to a court in certain Areas and the date of then are constituted by the State and invested with a judicial powers and have a permanent existence. At the same time,it must not be forgotten that an administrative tribunal is not a court.

A tribunal has some characteristics of a court, but not all and in the below paragraphs is discussed:-

1. A court is a part of the normal judicial system where powers are derived from the state and the body deals with the king justice called “court”. But the administrative tribunal is an agency created by a statute and invested with the judicial powers.
2. Ordinary civil courts have judicial power in dealing with all civil matters, but in a tribunal they have power to try cases in special matters of civil cases.
3. Judges of the ordinary courts are independent of their tenure, terms and conditions of service, but administrative tribunals are entirely in the hand of government in respect of those matters.
4. A judge is an important arbiter he cannot decide a matter on his own in a court of Law. but is an Administrative Tribunal they may be party to the dispute to the decided by it.
5. A court of law follows and tied to all the evidence and procedure but an administrative tribunal is not bound by those procedure unless the relevant act imposes such an obligation.
6. The mere lack of the general jurisdiction to try all the cases of a civil nature does not necessarily lead to an inference that the forum is a tribunal and not a court.
7. A court of law is generally presided over by an officer trained in law, but the president or a member of a tribunal may not be trained as well in law.
8. A court must decide all the questions objectively on the basis of the evidence and materials produced before it, but an administrative tribunal may decide the questions taking into account the departmental policy or expediency and in that sense, the decisions may be subjective rather than the objective
9. A court law can decide the vires of a legislation, while an administrative tribunal cannot do so.

10. While a court of law is bound by the precedents, principles of res judicata and estoppel, an administrative tribunal is not strictly bound by them (“Master Your Classes™ | Course Hero” n.d.)

### **ADMINISTRATIVE TRIBUNAL AND EXECUTIVE AUTHORITY**

An administrative Tribunal is not an executive body and it is bound to act Judicially It must record finding facts apply legal regulations to them fairly and give its decisions. The functions entrusted to and the powers conferred on an administrative tribunal are quasi- judicial and not purely administrative in Nature. It cannot delegate its quasi- judicial functions to any other authority or official. An administrative tribunal is bound to act judicially. Even when the discretion is conferred on it, the same must be exercised judicially and in accordance with well-established principles of Law. The prerogative writs of certiorari and prohibition are against the decisions of administrative tribunals. (Thakker and Thakker 2017) lectures on administrative law.)

### **CASES LAWS ON THE ADMINISTRATIVE TRIBUNAL**

#### **DURGA SHANKAR MEHTA VS RAGHURAJ SINGH**

The Supreme Court defined “tribunal in the following words: The expression ‘tribunal’ as used in the article 136 does not mean the same thing as ‘court’ but Includes, within its ambit, all adjudicating bodies, provided they are constituted by the state and are invested with the judicial as distinguished from administrative or executive functions. (Thakker and Thakker 2017)7 lectures on administrative law)

#### **JASWANT SUGAR MILLS LTD VS LAKSHMI CHAND**

In this case this has been held that the Basic tests of the tribunal within the meaning of article 136 or 227 of the constitution is that “it is an adjudicating authority vested with the judicial power of the State under a statute or a statutory rule”. (Thakker and Thakker 2017) lectures on administrative law)

**ASSOCIATED CEMENTS COMPANIES LTD VS P.N.SHARMA**

In this case it as been held that “the Basics of the fundamental feature which is common to both the courts and the tribunals is that they discharge the judicial function and exercise the judicial powers which inherently vests in a Sovereign State”.(Thakker and Thakker 2017) lectures on administrative law)

**DHULABHAI VS STATE OF MADHYA PRADESH**

In this case it as been held that the court of law can decide the vires of the legislation, while an administrative tribunal cannot do so.(Thakker and Thakker 2017) lectures on administrative law)

**LLOYDS BANK LTD VS INDIAN STAFF ASSN.,**

In this case it as been held that they should prevent unfair labour practices and victimisation and restore industrial peace by ensuring the salutary principle of collective bargaining.(Thakker and Thakker 2017) lectures on administrative law)

**BENGAL CHEMICAL AND PHARMACEUTICAL WORKS LTD VS EMPLOYEES**

In this case it has been held that the function of the tribunal is to adjudicate on the industrial disputes, it as only some of the trappings of the court, but not all. It is not bound by the strict rules of procedures and can take decisions by the exercising discretion also. Since it is the object is to do the social justices, “to a large extent”it is free from the restrictions of technical considerations imposed on the ordinary law courts.(Thakker and Thakker 2017) lectures on administrative law)

**J.K.IRON AND STEEL CO.LTD VS MAZDOOR UNION**

In this case it has been held that within the limits of the Industrial disputes act, the social Justices is divorced from the legal principles applicable to the case on the which is not permissible.(Thakker and Thakker 2017) lectures on administrative law)

**S.P.SAMPATH KUMAR VS UNION OF INDIA**

The constitutional validity of the administrative tribunal act,1985 was mainly challenged on the ground that the impugned act by excluding the jurisdiction of the High Courts under articles 226 and 227 in the service matters which had been destroyed the judicial review which has an essential feature of the constitution.(Pandey and Central Law Agency 1986)

**STATE OF ORISSA VS BHAGABAN SARANGI**

The supreme court has held that a tribunal (orissa state administrative tribunal) which is bound by the decision of the High court.(Pandey and Central Law Agency 1986) 1986

**CONCLUSIONS**

Need to list the councils working under different establishments and the authoritative courts seat of the Supreme court in every High court to hear claims under workmanship 136 which might be constituted. The consistently expanding pendency of prosecution in courts and councils the nation over has involved worry over the most recent couple of decades. As a result of the expanding populace and furthermore a concurrent increment in the mindfulness among nationals with respect to legitimate rights, the pendency in the courts has been expanding. It is common that pendency of cases in the courts, councils and additionally High Courts would bring about the expanding pendency of cases in the Supreme Court. In such conditions, it is being proposed that is special leave petitions under article 136 ought to be limited by appropriate rules. There is additionally a view that the Supreme Court under article 136 should just focus on issues of protected significance. Non engaging of the exceptional leave request of in non-constitutional matters will conflict the very soul of the constitution .These inquiries are pivotal with respect to extraordinary leave petitions emerging straightforwardly from requests of councils. It is high time that the issue is legitimately examined in public.The pinnacle court however on edge to do equity in suitable cases, knows about the increasing build-up of cases. In a significant number of the circumstances the Court held that it was never intended to be a customary court of request against orders made by courts and councils.

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