

## **CLASS – B.A. LL.B. VIIIITH SEMESTER**

### **SUBJECT- ADMINISTRATIVE LAW**

#### **TOPIC: ADMINISTRATIVE TRIBUNALS**

Administrative tribunals are specialized governmental agencies established under federal or provincial legislation to implement legislative policy. Some public boards and public decision makers also have powers of decision making conferred upon them by statute. Such powers of decision making are conferred upon administrative tribunals, boards or other decision makers in order to provide a more expeditious, less formal and sometimes less expensive method (than the courts) for resolving certain types of disputes or issues. Administrative tribunals also provide a forum in which complex issues can be decided by adjudicators with expertise in the particular field.

#### **MEANING AND DEFINITION –**

The dictionary meaning of the word “Tribunal” is seat of the Judge. According to **I.P. Massey** in Administrative Law the term ‘Tribunal’ is used in a special sense and refers to adjudicatory bodies outside the sphere of ordinary Courts of law.

In **Associated Cement Co. Ltd. vs. P.N. Sharma (AIR 1965 SC 1595)**, Supreme Court held that, a Tribunal may possess some but not all trappings of the Court. From a functional point of view and administrative tribunal is neither exclusively a judicial body nor exclusively an administrative body but is somewhere between the two.

**Durga Shankar Mehta v. Raghuraj Singh (AIR 1954 SC 520)** Supreme Court defined tribunal in the following words The expression Tribunal as used in A- 136 does not mean the same thing as court but includes, within its ambit all adjudicating bodies, provided they are constituted by states and are invested with Judicial as distinguished from administrative or Executive function.

#### **DEVELOPMENT OF ADMINISTRATIVE TRIBUNALS**

The 42nd Amendment to the Constitution introduced Part XIV-A which included Article 323A and 323B providing for constitution of tribunals dealing with administrative matters and other

issues. According to these provisions of the Constitution, tribunals are to be organized and established in such a manner that they do not violate the integrity of the judicial system given in the Constitution which forms the basic structure of the Constitution.

The introduction of Article 323A and 323B was done with the primary objective of excluding the jurisdiction of the High Courts under Article 226 and 227, except the jurisdiction of the Supreme Court under Article 136 and for originating an efficacious alternative institutional mechanism or authority for specific judicial cases.

The purpose of establishing tribunals to the exclusion of the jurisdiction of the High Courts was done to reduce the pendency and lower the burden of cases. Therefore, tribunals are organised as a part of civil and criminal court system under the supremacy of the Supreme Court of India.

From a functional point of view, an administrative tribunal is neither an exclusively judicial body nor an absolute administrative body but is somewhere between the two. That is why an administrative tribunal is also called 'quasi-judicial' body

### **CHARACTERISTICS OF ADMINISTRATIVE TRIBUNALS**

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

1. Administrative tribunals must have statutory origin i.e. they must be created by any statute.
2. They must have some features of the ordinary courts but not all.
3. An administrative tribunal performs the quasi-judicial and judicial functions and is bound to act judicially in every circumstance.
4. They are not adhered by strict rules of evidence and procedure.
5. Administrative tribunals are independent and not subject to any administrative interference in the discharge of judicial or quasi-judicial functions.
6. 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.

7. These tribunals are bound to abide by the principle of natural justice.
8. A fair, open and impartial act is the indispensable requisite of the administrative tribunals.
9. The prerogative writs of certiorari and prohibition are available against the decisions of administrative tribunals.

### **SOME EXAMPLES OF ADMINISTRATIVE TRIBUNALS:**

- **Income Tax Appellate Tribunals:** It is constituted by the Central Government under Section 252 of the Income Tax Act.
- **Industrial Tribunal:** The Industrial Tribunal and National Tribunal are created by the Central Government under Section 7-A and 7-B respectively of the Industrial Disputes Act, 1947 (to settle the disputes between the Employer and Employees).
- **Railway Rates Tribunal:** It is constituted under the Indian Railway Act, 1890.
- **Administrative Tribunals under the Administrative Tribunals Act, 1985:** Article 323-A of the Indian Constitution provides for the establishment of administrative tribunals to deal with service matters and Article 323-B provides for the establishment of Tribunals to deal with other matters.

### **DIFFERENCE BETWEEN COURT AND ADMINISTRATIVE TRIBUNALS**

<b>Courts</b>	<b>Administrative Tribunal</b>
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

## **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-

1. **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.
2. **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.

3. **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.
4. **Quality Justice:** If we consider the present scenario, the administrative tribunals are the best and the most effective method of providing adequate and quality justice in less time.
5. **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-

1. 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.
2. 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.
3. No prediction of future decisions: Since the administrative tribunals do not follow precedents, it is not possible to predict future decisions.
4. Scope of Arbitrariness: The civil and criminal courts work on a uniform code of procedure as prescribed under C.P.C and Cr.P.C 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.
5. 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.

## **THE ADMINISTRATIVE TRIBUNALS ACT, 1985**

Primary objective of this Act is to adjudication or trial by Administrative Tribunals of disputes and complaints with respect to recruitment and conditions of service of persons appointed to public services and posts in connection with the affairs of the Union or of any State or of any local or other authority within the territory of India or under the control of the Government of India or of 1 [any corporation or society owned or controlled by the Government in pursuance of article 323A of the Constitution] and for matters connected therewith.

There are only five chapters and 37 sections under this Act Chapter Second talks about the establishment, composition and qualifications of tribunals. Chapter three deals with the jurisdiction and powers of tribunals. Procedure is given under chapter four of the Act.

Presently, there many tribunals functioning in India and it cannot be listed as exhaustion. The tribunal system is not growing in a direction as it is lacking with far reaching goal .According to existing present status the tribunals are let free to interpret the principles of natural justice as there is no settle definite or uniform normss for them in their.

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