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From Courts to Tribunals: India's Journey Towards Administrative Justice

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*Administrative tribunals navigate the ship of justice across the turbulent oceans of disputes, just like lighthouses do. India's administrative tribunal history is significant, dating back to the time when the Income Tax Appellate Tribunal was founded before the country's independence. Tribunals were established in response to the demand for a specialized and effective means of resolving administrative conflicts following independence. Specialized courts called administrative tribunals, which are controlled by the **Administrative Tribunals Act 1985**¹, were created to settle disagreements between citizens and government organizations. Tribunals manage an enormous amount of cases in the current legal environment, which lessens the load on traditional courts and promotes a more effective justice system. They are an essential aspect of modern legal systems because they provide speedier outcomes, especially at a time when administrative judgments have a significant influence on day-to-day life. The goal of this research is to present a thorough examination of the development, governing laws, advantages, and disadvantages of administrative tribunals. The research aims to illustrate the evolution and adaptability of these tribunals throughout time by looking at their historical history and the main legal frameworks that oversee them. It will examine the special benefits of administrative tribunals, such as their efficacy, knowledge, and affordability, while also critically evaluating their drawbacks, such as issues with impartiality, consistency, and procedural difficulties.*

¹ Administrative Tribunals Act 1985

Keywords: *administrative, tribunals, specialized, effective, courts.*

HISTORICAL EVOLUTION OF ADMINISTRATIVE TRIBUNALS

Before India gained its independence, the Income Tax Appellate Tribunal was established, giving rise to the idea of tribunalization throughout the nation. After independence, administrative dispute resolution is required to be quick and adaptable. The primary goal of tribunalization was to give the public access to specialized, efficient justice. Following its formation, the Indian Constitution provided several rights related to the welfare of the people. Individuals are entitled to expedited trials of specialized quality, which the current legal system is unable to provide because of the number of cases overloaded, appeals, procedural inconsistencies, etc.

The creation of Administrative Tribunals as a component of the constitutional adjudicative system was suggested by the Swaran Singh Committee, which was appointed by the Congress party in 1976. S.C. of India also supported the creation of administrative tribunals *in K.K. Dutta v Union of India*², arguing that doing so would protect the courts from an overwhelming volume of writ petitions and appeals pertaining to service concerns. Consequently, the **42nd Amendment Act 1976**³ was enacted by the Parliament, adding a new **Part XIV-A**⁴ to the constitution. This part is designated as 'Tribunals' and consists of two articles: **Article 323A**⁵ (which deals with administrative tribunals) and **Article 323B**⁶ (which deals with tribunals for other cases). The Administrative Tribunal can be established in accordance with Article 323A of the Indian Constitution, and the **Administrative Tribunal Act 1985**⁷ was approved by the Parliament. The Central Government is authorized by this Act to create State Administrative Tribunals (SAT) and one Central Administrative Tribunal (CAT). Article 323B addresses the other concerns of tribunals.

² *K.K. Dutta v Union of India* (1980) 4 SCC 38

³ The Constitution (Forty-second Amendment) Act 1976

⁴ The Constitution (Forty-second Amendment) Act 1976, pt XIV-A

⁵ Constitution of India 1950, art 323A

⁶ Constitution of India 1950, art 323B

⁷ Administrative Tribunals Act 1985

INDIAN ADMINISTRATIVE TRIBUNALS ACT 1985

The term 'tribunal' in administrative law refers to entities other than the nation's regular courts. A tribunal is, in short, an entity established by legislation that possesses judicial or quasi-judicial powers and activities. The Indian Constitution has references to '*tribunal*' in **Articles 136⁸ and 227⁹**, however the term is not defined there. As the term '*tribunal*' has a broader meaning than '*court*', it is stated that all tribunals are not courts but all courts are tribunals. When a body has some but not all of the characteristics of a court, it is referred to as a tribunal. Its purpose is to decide disputes or the rights of parties.

Bharat Bank v Employees,¹⁰ in this particular case, The Supreme Court stated in this decision that while tribunals are sometimes referred to as courts and carry out quasi-judicial functions, they are not true courts. A tribunal, then, is an adjudicating body that has some but not all the judicial powers of a court. It resolves disputes between parties and performs judicial responsibilities in contrast to simply administrative ones.

In accordance with Article 323A¹¹, parliament may create administrative tribunals by legislation to settle disagreements and grievances about the recruitment procedures and working conditions of public employees employed by both the central 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 national and state levels. The legislation must include provisions governing the jurisdiction, authority, and power that tribunals will exercise; the process that tribunals will adhere to; and the exclusion of all other courts' jurisdiction except the Indian Supreme Court.

Article 323B gives the State Legislature and the Parliament 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 by clause (2) are the assessment, collection, and enforcement of any taxes, foreign exchange and export, labour and industrial conflicts, the production, purchase,

⁸ Constitution of India 1949, art 136

⁹ Constitution of India 1949, art 227

¹⁰ *Bharat Bank v Employees* (1950) SUPP SCR 317

¹¹ Constitution of India 1950, art 323A

distribution, and supply of food, rent regulation and control, and tenancy concerns, among other things. Such a statute has to specify the authority and jurisdiction of these tribunals as well as the steps that must be taken.

Later, in the case of *L. Chandra Kumar v Union of India*¹², it was decided that **clause 2(d) of article-323-A** was ultra vires and violated the fundamental framework of the constitution to the degree that it precluded the High Courts' authority under **Articles 226¹³ and 227¹⁴**. No attention is being paid to the fundamental issue of enhancing judicial oversight of tribunals. The Supreme Court and the High Court's supervisory power must not overlap with the general right of appeal on legal issues to maintain the tribunals' authority and ensure uniformity in their rulings.

CHARACTERISTICS OF THE ADMINISTRATIVE TRIBUNALS ACT

- The Administrative tribunals are required to be established by statutes; this is their legislative genesis.
- They share some, but not all, of the characteristics of regular courts.
- They carry out judicial and quasi-judicial duties and are required to behave responsibly at all times.
- They are not held to stringent standards of proof and protocol. However, the idea of natural justice serves as the foundation for their operations.
- When it comes to carrying out their judicial and quasi-judicial duties, the Administrative Tribunals are autonomous and immune to administrative interference.
- An administrative tribunal has the same rights as a court, including the ability to call witnesses, administer oaths, and require the production of documents.
- The administrative tribunal rulings may be challenged by the prerogative writs of certiorari and prohibition.

¹² *L. Chandra Kumar v Union of India* (1997) 3 SCC 261

¹³ Constitution of India 1949, art 226

¹⁴ Constitution of India 1949, art 227

STRUCTURE AND COMPOSITION

Administrative tribunals are quasi-judicial bodies that settle disagreements about hiring practices and terms of employment for public servants. This is stipulated in Article 323A, and it is under this Section that the **Central Administrative Tribunal (CAT)** was established.

Central Administrative Tribunal (CAT): It is authorized to handle service-related issues involving workers of the central government, any union territory, and any firm that the central government owns or controls. CAT was established on November 1st, 1985. It has seventeen regular benches, fifteen of which are in the major High Court locations and the other two in Jaipur and Lucknow. To provide the tribunal with the advantage of competence in both the legal and administrative domains, the members are selected from both the judicial and administrative streams.

State Administrative Tribunal (SAT): Section 323B: tribunals handling other matters, like:

- Levy
- Labor and Industry
- Foreign exchange, as well as import and export
- Land reforms
- Food
- The upper limitation for urban land
- The state legislature and Parliamentary elections
- Tenant rights and rent.
- The only body authorized to create tribunals under 323A is Parliament. Nevertheless, the State Legislature and Parliament may both create tribunals under 323B.
- A hierarchy of tribunals may exist under 323B, but only one tribunal at the national level and one for each state (or two or more states) under 323A.

Joint Administrative Tribunal (JAT): When two or more states jointly exercise administrative authority over two or more states, this might be formed at their request. There are several tribunals, including:

Armed Forces Tribunal (AFT): The Armed Forces Tribunal Act of 2007¹⁵ created this military tribunal. It resolves disagreements about the commission, pay, appointments, and terms of service of military personnel. New Delhi is home to its Principal Bench. Ten Regional Benches are also included. It is headed by **Justice Rajendra Menon**.

National Green Tribunal:¹⁶ It was established in 2010 to handle issues pertaining to the preservation and protection of the environment, forests, and other natural resources in an efficient and timely manner. Within six months of the petitions or appeals being filed, the tribunal is required to consider and attempt to decide on their ultimate resolution. It was suggested that the NGT be first installed in five locations for meetings, using a circuit process to make itself available. The main Tribunal sitting location is in New Delhi, with other benches located in Bhopal, Pune, and Kolkata. In charge is **Adarsh Kumar Goel**.

Water Disputes Tribunal:¹⁷ In order to settle disputes pertaining to the waters of interstate rivers and their river valleys, the parliament passed the Inter-State River Water Disputes Act 1956¹⁸ and established a number of water dispute tribunals. The parliament enacted the Inter-State River Water Disputes Amendment Bill 2019¹⁹ to create a standalone tribunal in place of the previous ISWRD Act, 1956²⁰, eliminating the need to create a separate tribunal for each water dispute. These were established in order to resolve disagreements amongst Indian governments on the distribution of water from rivers that cross many states.

Income Tax Appellate Tribunal:²¹ The ITAT was created in 1941 to handle disputes pertaining to direct tax legislation. The rulings issued by this tribunal are final, and an appeal to the High Court is available only if a substantial question of law emerges for determination. There are 63 Benches of the tribunal right now.

NCLT and NCLAT: Under Section 410 of the Companies Act of 2013²², the National Company Law Appellate Tribunal (NCLAT) was established to consider appeals against decisions made

¹⁵ Armed Forces Tribunal Act 2007

¹⁶ National Green Tribunal Act 2010

¹⁷ The Inter-state River Water Disputes Act 1956

¹⁸ *Ibid*

¹⁹ Inter-state River Water Disputes (Amendment) Bill 2019

²⁰ Inter-state River Water Disputes Act 1956

²¹ Indian Income-tax (Amendment) Act 1941

²² The Companies Act 2013, s 410

by the National Company Law Tribunal (NCLT). NCLT is a quasi-judicial organization that makes decisions on business-related matters. In addition, it serves as the appeals tribunal for rulings made by the Insolvency and Bankruptcy Board of India under Sections 202²³ and 211²⁴ of the Indian Bankruptcy Code, 2016 and by the NCLT under Section 61²⁵ of the same code. Anybody who feels wronged by an NCLAT order has the right to appeal it to the Supreme Court.

The composition of the bench and tribunals is outlined in **Section 5**²⁶ of this Act. A chairman, vice chairman, and judicial, and administrative members constitute each tribunal. There must be a minimum of one administration and one judicial member on each bench. Normally, the Central Tribunal's benches are in New Delhi, Allahabad, Calcutta, Madras, Bombay, and any other location designated by the Central Government. The Vice Chairman or other members may be moved from one bench to another by the Chairman.

APPLICABILITY OF THE ACT

According to **Section 2**²⁷ of the Administrative Tribunals Act, 1985, the act applies to all Central Government employees except –

- 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.

PROCEDURE AND POWERS

The powers and procedure of tribunals are outlined in **Section 22**²⁸ of the Administrative Tribunals Act, 1985, and are addressed below.

²³ Indian Bankruptcy Code 2016, s 206

²⁴ Indian Bankruptcy Code 2016, s 211

²⁵ Indian Bankruptcy Code 2016, s 61

²⁶ Administrative Tribunal Act 1985, s 5

²⁷ Administrative Tribunal Act 1985, s 2

²⁸ Administrative Tribunal Act 1985, s 22

- A tribunal is not required to adhere to the 1908 Code of Civil Procedure's²⁹ guidelines. It must follow the natural justice concept even if it has the authority to control its own processes.
- 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.

While hearing a lawsuit, tribunals have the same authority over the following topics as the civil courts under the Code of Civil Procedure, 1908:

- Calling someone to account, making sure they show up, and putting them through an oath examination;
- Creation of documentation;
- Obtaining evidence using affidavits;
- Request any public record or document from any office in accordance with **Indian Evidence Act, 1872, Sections 123³⁰ and 124³¹**;
- granting commissions to examine documents and witnesses;
- examining its choices;
- making a decision ex parte;
- reversing any ex-parte orders that it has made
- any other issue that the Central Government has mandated.

CONSTITUTIONAL VALIDITY OF THE ACT

In the *S.P. Sampath Kumar v Union of India*³² decision, the Supreme Court affirmed the constitutional legality of the Central Administrative Tribunals formed under the Administrative Tribunals Act, 1985. In this case, the Administrative Tribunals Act, 1985's constitutionality was primarily contested on the grounds that it destroyed the idea of judicial review, which was a fundamental component of the Indian Constitution, by excluding the High Court's jurisdiction

²⁹ Code of Civil Procedure 1908

³⁰ Indian Evidence Act 1872, s 123

³¹ Indian Evidence Act 1872, s 124

³² *S.P. Sampath Kumar v Union of India* (1987) 1 SCC 124

over service-related matters under **Articles 226³³ and 227³⁴**. The Act's constitutionality was upheld by a five-judge court bench, with the exception of **Section 6(1)(c)³⁵**. The court determined that while the Act has eliminated the High Court's authority to conduct a judicial review of in-service issues, the idea of judicial review has not been completely eliminated. This Act does not preclude the Supreme Court's authority under **Article 32³⁶ or 136³⁷** and leaves it intact.

As a result, there is still a court where cases involving injustice can be considered. The Indian Constitution's fundamental feature of judicial review may only be removed from a certain sector if a substitute, equally effective institutional mechanism or authority is established. Nevertheless, it was decided that Section 6 (1)(c) of the Act was unconstitutional since it allowed the Government unbridled authority to choose the Chairman, Vice-Chairman, and other tribunal members. The Chief Justice of India must be consulted before the Government makes any substantial or significant appointments. The court suggested that the five-year term set out in the Act for the Chairman, Vice-Chairman, and other tribunal members be logically extended since it would discourage virtuous and altruistic individuals from accepting positions on the tribunal.

The Administrative Tribunals (Amendment) Act, 1987 put the Supreme Court's directives into action. In the case of *Union of India v R. Gandhi, President, Madras Bar Association*³⁸ the legality of the National Company Law Tribunal (NLCT) and National Company Law Appellate Tribunal (NCLAT) on the following grounds:

- Parliament lacks the jurisdiction to assign judicial tasks that have long been handled by High Courts to any other institution.
- The concepts of the Rule of Law, the Separation of Powers, and the Independence of the Judiciary are violated by giving the tribunal full corporation jurisdiction over the High Court.

³³ Constitution of India 1949, art 226

³⁴ Constitution of India 1949, art 227

³⁵ Administrative tribunals act 1985, s 6(1)(c)

³⁶ Constitution of India 1949, art 32

³⁷ Constitution of India 1949, art 136

³⁸ *Union of India v R. Gandhi, President, Madras Bar Association* (2010) 6 SCR 857

- The Companies Act's numerous sections in parts 1B and 1C are flawed and illegal because they violate the fundamental rights to the rule of law, the separation of powers, and the independence of the judiciary.

The court upheld the legitimacy of NCLT and NCLAT in carrying out the power and jurisdiction of the High Court, provided that appropriate modifications are made to the **Companies Act, 1956**³⁹, as modified in 2002.

The court recognized and upheld the Parliament's constitutional authority to establish tribunals for the purpose of resolving disputes. **Articles 245**⁴⁰, **246**⁴¹ and **247**⁴² of the Constitution read together with different entries in the Union List and the Concurrent List, which are not impacted or governed by Article 323A or 323B of the Constitution, outline Parliament's legislative authority to establish courts and tribunals. The court continued further to state that since the Constitution permits both courts and tribunals to exercise judicial functions, it cannot be presumed that creating tribunals and transferring judicial powers per se violates the rule of law, the separation of powers, and the independence of the judiciary.

DISTINCTION BETWEEN TRIBUNALS AND COURTS

COURT OF LAW	ADMINISTRATIVE TRIBUNALS
A court of law is a component of the traditional judicial system.	An organization having judicial authority established by statute is the administrative tribunal.
All cases are under the general jurisdiction of a court of law.	It handles service-related issues and has limited authority to make decisions on specific issues.

³⁹ The Companies Act 1956

⁴⁰ Constitution of India 1949, art 245

⁴¹ Constitution of India 1949, art 246

⁴² Constitution of India 1949, art 247

It is obligated to adhere to all evidentiary regulations and the Code of Civil Procedure.	Unless the legislation that establishes the tribunal requires it to, it is not subject to the CPC's or the Evidence Act's regulations.
An official with legal expertise oversees it.	It is not always necessary for the members to be highly qualified legal professionals.
The facts and documents presented to the court are the primary basis for the court's objective determination.	The decision is subjective, meaning that it occasionally considers expediency and policy while making decisions.
It is constrained by prior decisions, the res judicata rule, and the natural justice concept.	The natural justice principle must be noticed, although precedents and the res judicata principle are not required.
It has the authority to determine if laws are legitimate.	It is unable to judge whether legislation is legitimate.
The courts base their decisions on the facts, not on investigative or inquisitional functions.	Tribunals carry out both their quasi-judicial and investigative functions.

MERITS OF ADMINISTRATIVE TRIBUNALS

Flexibility: The Indian legal system became more adaptable and versatile with the establishment of administrative tribunals. The administrative tribunals operate under somewhat relaxed and informal rules, in contrast to the strict and unyielding processes of the ordinary court. Natural justice is the foundation upon which it functions.

More Affordable: When it comes to lawsuit resolution, Administrative Tribunals work faster than regular courts. The expenditures are consequently decreased. However, the regular courts

are complicated and slow-moving, which drives up the expense of litigation. As a result, administrative tribunals are less expensive than regular courts.

Simplified Processes: Compared to regular court proceedings, the administrative tribunal's procedures are more straightforward and easily understood by the general public.

Respite to Ordinary Courts: Traditional courts, which are overloaded with numerous outstanding litigations, are given a break by the administrative tribunals.

Adequate Justice: Administrative tribunals are now the greatest and most efficient way to deliver sufficient, high-quality justice quickly. The tribunals give everyone fair justice and adequate administrative action.

DEMERITS OF ADMINISTRATIVE TRIBUNALS

Contrary to the Rule of Law: It is evident that the notion of the rule of law has been rejected by the creation of the administrative tribunals. The idea of the rule of law was to uphold equality before the law and the primacy of common law above the capricious operations of state power. In certain places, administrative tribunals limit the application of the law by establishing distinct statutes and processes for different types of cases.

Absence of a Defined Process: There is no strict set of guidelines or protocols governing the administrative adjudicatory bodies. Therefore, there's a possibility that the natural justice principle will be broken.

No Ability to Foresee Future Rulings: Future decisions cannot be predicted since administrative tribunals do not adhere to precedents.

The Scope of Arbitrariness: It is defined by the standardized codes of procedure that the criminal and civil courts follow, which are outlined in the C.P.C. and C.r.P.C., respectively. However, the administrative tribunals don't follow such strict guidelines. They are free to create their own processes, which might cause these tribunals to operate arbitrarily.

Lack of Legal Experience: It is not required for administrative tribunal members to have a background in law. They could be authorities in other domains, but they lack formal judicial training. As a result, they do not have the necessary legal knowledge, which is essential for settling conflicts.

OBSTACLES THAT THE ADMINISTRATIVE TRIBUNAL HAS TO CONQUER

- Since the Administrative tribunals rely on the Executive for things like funds and nominations, their operations are not inherently autonomous.
- The Supreme Court ruled in the Chandra Kumar case⁴³ that the court had jurisdiction over the tribunal appeals. This negates the intention of lightening the judiciary's workload altogether.
- The administrative tribunals' infrastructure is insufficient for their effective operation.
- It is yet uncertain how many people the tribunals will need on staff.
- The government appoints retired judges to preside over the tribunals. Because of this, current judges could be biased in specific cases in order to increase their chances of being selected for tribunals once they retire.

WHAT CAN BE THE NEXT STEP?

- To improve the administration of justice, the tribunal's current structure and operations must be changed.
- The tribunal must have autonomy in order to fulfil its mission and achieve its goals. Right now, the executive branch of government's political interests are in control of it.
- Some form of judicial oversight over the tribunals is necessary to preserve the Rule of Law in society and to protect individual liberties.
- In order for the judiciary to handle tribunal appeals as well as pending case resolution, the government must act to augment the number of judges and replace vacancies.
- The government must also take action to advance infrastructure and technology advancements for the tribunals' effective operation.
- It is necessary to grant the tribunals the authority to handle their own administrative needs. This might entail giving the tribunals the authority to establish or approve new positions.

⁴³ *L. Chandra Kumar v Union of India* (1997) 3 SCC 261

CONCLUSION

Administrative Tribunals are necessary because they carry out their duties more quickly, more affordably, and more effectively than regular courts; they also have more technical expertise and fewer biases against the government; they give greater weight to the social interests at stake; and they deliberately resolve disputes in a way that advances the social policies outlined in the relevant legislation. Nevertheless, the current tribunals are not currently operating to their full capacity and have several constraints. In order for the tribunals to operate effectively and for the resentful public workers to promptly get their just punishments, comprehensive reforms are required. In the current situation, the administration plays a significant role in both citizen life and government operations. Owing to this expanding function, it's critical to set up a capable body to handle complaints from the public and settle disputes. As a result, the idea of administrative tribunals was developed and is now thriving in India, albeit with certain shortcomings and advantages.