

**AFR**

**Neutral Citation No. - 2024:AHC:52137-DB**

**Reserved**

**Case :- WRIT - A No. - 602 of 2024**

**Petitioner :- Dr Brajendra Singh Chauhan And 2 Others**

**Respondent :- Central Administrative Tribunal And 2 Others**

**Counsel for Petitioner :- Pramod Kumar Pandey**

**Hon'ble Vivek Kumar Birla,J.**

**Hon'ble Donadi Ramesh,J.**

**(Per Hon'ble Donadi Ramesh, J.)**

1. Heard Sri Pramod Kumar Pandey, learned counsel for the petitioners.

2. The petitioners have approached the Central Administrative Tribunal, Allahabad Bench Allahabad, by invoking the provisions of the Contempt of Courts Act, 1971 (hereinafter referred to as 'the Act 1971'). The petitioners have filed original application no.1427 of 2018 before the Central Administrative Tribunal and the same was disposed of vide order dated 10.05.2022 with the following observations:

*"9. In view of the facts and circumstances as discussed above, the present original application is allowed with a direction to the Competent Authority amongst the respondents to issue orders forthwith, in any case not later than a period of twelve weeks from the date of this order giving appointment to the applicants as regular Assistant Medical Officers with effect from the date on which they were initially appointed as Short Term Medical Officer.*

*10. While the applicant shall be entitled to all the consequential benefits as a result of this Order, they shall have no claim over any arrears of salary and allowances, etc. The benefit of the service rendered by them as STMOs till 16.09.2015 shall be awarded to them only on notional basis."*

3. For non-compliance of the above order, the petitioners have approached the Tribunal by filing the contempt petition and the same was numbered as 48 of 2023 in original application no.1427 of 2018. The said

contempt application has been disposed of vide order dated 20.10.2023 with the following observations:

*12. Simple reading of the para 10 of the order of the Tribunal, which mentions of consequential benefit, cannot be read beyond the wordings of the order as all consequential benefits are as per rules and entitlement and nothing more or less can be given to the petitioners. We fail to read within the order if there is any express direction, which confers any benefit of seniority and other consequential benefit of out of turn promotion to the petitioners vide order dated 10.05.2022. The respondents have finally issued regularization order dated 19.04.2023 in compliance of the order dated 10.05.2022 and it is noted that similar benefit, as has been extended to the petitioners, has been granted to other Medical Officers, who initially joined as Short Terms Medical Officers and were subsequently regularized on recommendations of the UPSC as AMOs at a later date and these Medical Officers are deemed to be in service from the date of their first appointment and the break being ignored and shall be treated as leave to which these Medical Officers may be entitled to or as Extra Ordinary Leave without pay, if there is no leave in credit. Seniority of the Medical Officers will, however, count with effect from the date of their regular appointment as Assistant Medical Officer.*

*13. We have seen the order dated 19.04.2023 passed by the respondents, which is annexed at page 28 of the counter affidavit, regarding counting of past service, grant of condonation of break, increments, etc in respect of Short Term Medical Officer (STMOs) regularized following judgment of this Tribunal, we are satisfied that substantial compliance of the order of this Tribunal dated 10.05.2022 passed in OA No. 1427/2018 has been made and there is nothing on record which show anything contrary to this.*

*14. In view of the above facts and circumstances, this court is of the view that sufficient compliance has been made and we do not find any wilful disobedience of the direction of this Tribunal on the part of the respondents. Therefore, no further proceeding is required and the contempt proceeding is liable to be closed. Accordingly, the contempt proceeding is closed, the notices are discharged and the respondents are discharged from their liabilities. All associated pending MAs stand disposed off”*

4. Aggrieved by the same, the petitioners have filed the present writ petition with the following prayers:

*(i) To issue writ, order or direction in the nature of certiorari quashing the impugned order dated 20.10.2023 passed by Central Administrative Tribunal, Allahabad Bench, Allahabad in Civil Misc. Contempt Application No.48 of 2023, Dr. Brajendra Singh Chauhan and others Vs. Sri Giridhar Aramane and another, in Original Application No.1427 of*

2018, *Dr. Brajendra Singh Chauhan and others v. Union of India and another* (Annexure No.1 to the writ petition).

(ii) *To issue writ, order or direction in the nature of mandamus commanding and directing the respondent nos.2 and 3 to comply with the order dated 10.05.2022 passed by Central Administrative Tribunal, Allahabad Bench Allahabad, in Original Application No.1427 of 2018 (Dr. Brajendra Singh Chauhan and 2 others Vs. Union of India and another) (Annexure No.5 to the writ petition) in letter and spirit and in pith and assign the notional seniority to the petitioners from their initial appointment date, amend the seniority list and place the petitioners at the bottom of their respective batches and grant all due notional promotions to the petitioners upto the Chief Medical Officer through review DPC and thereafter fix their salary accordingly.*

(iii) *To issue any other suitable writ, order or direction, which this Hon'ble Court may deem fit and proper.*

(iv) *To award the cost of the writ petition in favour of the petitioners”*

5. Learned Standing Counsel has raised a preliminary objection with regard to maintainability of the present writ petition under Article 226 of the Constitution of India by virtue of Section 17 of the Administrative Tribunal Act, 1985 (hereinafter referred to as “the Act 1985”) read with Section 19 of the Contempt of Courts Act, 1971.

6. To answer preliminary objection, issue fell for consideration is whether the writ petition is maintainable before the High Court against the orders passed under the Contempt of Courts Act.

7. To decide the above issue, the following relevant Statutes and provisions namely (1) Article 323 A of the Constitution of India, (2) Sections 14 and 17 of the Administrative Tribunal Act, 1985 and Sections 11, 12 and 19 of the Contempt of Courts Act, 1971 are extracted respectively hereinbelow:-

**“Article 323A Administrative Tribunals-** (1) *Parliament may, by law, provide for the 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 any corporation owned or controlled by the Government.*

*(2) A law made under clause (1) may—*

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

*(b) specify the jurisdiction, powers (including the power to punish for contempt) and authority which may be exercised by each of the said tribunals;*

*(c) provide for the procedure (including provisions as to limitation and rules of evidence) to be followed by the said tribunals;*

*(d) exclude the jurisdiction of all courts, except the jurisdiction of the Supreme Court under article 136, with respect to the disputes or complaints referred to in clause (1);*

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

*(f) repeal or amend any order made by the President under clause (3) of article 371D;*

*(g) contain such supplemental, incidental and consequential provisions (including provisions as to fees) as Parliament may deem necessary for the effective functioning of, and for the speedy disposal of cases by, and the enforcement of the orders of, such tribunals.*

*(3) The provisions of this article shall have effect notwithstanding anything in any other provision of this Constitution or in any other law for the time being in force.”*

**“Section 14. Jurisdiction, powers and authority of the Central Administrative Tribunal.**

**(1) Save as otherwise expressly provided in this Act, the Central Administrative Tribunal shall exercise, on and from the appointed day, all the jurisdiction, powers and authority exercisable immediately before that day by all courts except the Supreme Court in relation to--**

*(a) recruitment, and matters concerning recruitment, to any All-India Service or to any civil service of the Union or a civil post under the Union or to a post connected with defence or in the defence services, being, in either case, a post filled by a civilian;*

*(b) all service matters concerning--*

*(i) a member of any All-India Service; or*

*(ii) a person [not being a member of an All-India Service or a person referred to in clause (c)] appointed to any civil service of the Union or any civil post under the Union; or*

*(iii) a civilian [not being a member of an All-India Service or a person referred to in clause (c)] appointed to any defence services or a post connected with defence,*

*and pertaining to the service of such member, person or civilian, 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 any corporation [or society] owned or controlled by the Government;*

*(c) all service matters pertaining to service in connection with the affairs of the Union concerning a person appointed to any service or post referred to in sub-clause (ii) or sub-clause (iii) of clause (b), being a person whose services have been placed by a State Government or any local or other authority or any corporation [or society] or other body, at the disposal of the Central Government for such appointment.*

*Explanation.--For the removal of doubts, it is hereby declared that references to "Union" in this sub-section shall be construed as including references also to a Union territory.]*

*(2) The Central Government may, by notification, apply with effect from such date as may be specified in the notification the provisions of sub-section (3) to local or other authorities within the territory of India or under the control of the Government of India and to corporations [or societies] owned or controlled by Government, not being a local or other authority or corporation [or society] controlled or owned by a State Government:*

*Provided that if the Central Government considers it expedient so to do for the purpose of facilitating transition to the scheme as envisaged by this Act, different dates may be so specified under this sub-section in respect of different classes of, or different categories under any class of, local or other authorities or corporations [or societies].*

*(3) Save as otherwise expressly provided in this Act, the Central Administrative Tribunal shall also exercise, on and from the date with effect from which the provisions of this sub-section apply to any local or other authority or corporation [or society], all the jurisdiction, powers and authority exercisable immediately before that date by all courts (except the Supreme Court in relation to--*

*(a) recruitment, and matters concerning recruitment, to any service or post in connection with the affairs of such local or other authority or corporation [or society]; and*

*(b) all service matters concerning a person [other than a person referred to in clause (a) or clause (b) of sub-section (1)] appointed to any service or post in connection with the affairs of such local or other authority or corporation [or society] and pertaining to the service of such person in connection with such affairs.*

**Section 17.** *Power to punish for contempt. - A Tribunal shall have, and exercise, the same jurisdiction, powers and authority in respect of contempt of itself as a High Court has and may exercise and, for this purpose, the provisions of the Contempt of Courts Act, 1971 (70 of 1971) shall have effect subject to the modifications that-*

*(a) the references therein to a High Court shall be construed as including a reference to such Tribunal; (b) the references to the Advocate-General in section 15 of the said Act shall be construed,-(i) in relation to the Central Administrative Tribunal, as a reference to the Attorney-General or the Solicitor-General or the Additional Solicitor-General; and (ii) in relation to an Administrative Tribunal for a State or a Joint Administrative Tribunal for two or more States, as a reference to the Advocate-General of the State or any of the States for which such Tribunal has been established.”*

**“Section 11 of the Contempt of Courts Act, 1971. Power of High Court to try offences committed or offenders found outside jurisdiction.—**

*A High Court shall have jurisdiction to inquire into or try a contempt of itself or of any court subordinate to it, whether the contempt is alleged to have been committed within or outside the local limits of its jurisdiction, and whether the person alleged to be guilty of contempt is within or outside such limits.*

**Section 12. Punishment for contempt of court.—**

*(1) Save as otherwise expressly provided in this Act or in any other law, a contempt of court may be punished with simple imprisonment for a term which may extend to six months, or with fine which may extend to two thousand rupees, or with both: Provided that the accused may be discharged or the punishment awarded may be remitted on apology being made to the satisfaction of the court. Explanation.—An apology shall not be rejected merely on the ground that it is qualified or conditional if the accused makes it bona fide. (2) Notwithstanding anything contained in any other law for the time being in force, no court shall impose a sentence in excess of that specified in sub-section (1) for any contempt either in*

respect of itself or of a court subordinate to it. (3) Notwithstanding anything contained in this section, where a person is found guilty of a civil contempt, the court, if it considers that a fine will not meet the ends of justice and that a sentence of imprisonment is necessary shall, instead of sentencing him to simple imprisonment, direct that he be detained in a civil prison for such period not exceeding six months as it may think fit. (4) Where the person found guilty of contempt of court in respect of any undertaking given to a court is a company, every person who, at the time the contempt was committed, was in charge of, and was responsible to, the company for the conduct of business of the company, as well as the company, shall be deemed to be guilty of the contempt and the punishment may be enforced, with the leave of the court, by the detention in civil prison of each such person: Provided that nothing contained in this sub-section shall render any such person liable to such punishment if he proves that the contempt was committed without his knowledge or that he exercised all due diligence to prevent its commission. (5) Notwithstanding anything contained in sub-section (4), where the contempt of court referred to therein has been committed by a company and it is proved that the contempt has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of the contempt and the punishment may be enforced, with the leave of the court, by the detention in civil prison of such director, manager, secretary or other officer. Explanation.—For the purposes of sub-sections (4) and (5),—(a) “company” means any body corporate and includes a firm or other association of individuals; and (a) “director”, in relation to a firm, means a partner in the firm.

### **Section 19. Appeals.—**

(1) An appeal shall lie as of right from any order or decision of High Court in the exercise of its jurisdiction to punish for contempt— (a) where the order or decision is that of a single Judge, to a Bench of not less than two Judges of the Court; (a) where the order or decision is that of a Bench, to the Supreme Court: Provided that where the order or decision is that of the Court of the Judicial Commissioner in any Union territory, such appeal shall lie to the Supreme Court.(2) Pending any appeal, the appellate Court may order that—(a) the execution of the punishment or order appealed against be suspended; (b) if the appellant is in confinement, he be released on bail; and (c) the appeal be heard notwithstanding that the appellant has not purged his contempt.(3) Where

*any person aggrieved by any order against which an appeal may be filed satisfies the High Court that he intends to prefer an appeal, the High Court may also exercise all or any of the powers conferred by sub-section (2). (4) An appeal under sub-section (1) shall be filed— (a) in the case of an appeal to a Bench of the High Court, within thirty days; (a) in the case of an appeal to the Supreme Court, within sixty days, from the date of the order appealed against.”*

8. The Constitution by (42<sup>nd</sup> Amendment) Act, 1976 introduced Article 323-A empowering the Parliament to enact the law and providing for adjudication or trial by Administrative Tribunals. Clause 2 (b) of Article 323 A empowers the Parliament to specify the jurisdiction and powers of such Tribunal including the power to punish for contempt.

9. Pursuant to the Article 323-A of the Constitution of India, the Parliament enacted the Administrative Tribunals Act, 1985 (further it is referred to as the Act, 1985). Section 14 of the Act 1985 specifies the jurisdiction, powers and authority of the Central Administrative Tribunal. Section 15 specifies the same for the State Administrative Tribunal. There is no remedy of appeal statutorily available for the orders passed under Sections 14/15 of the Act 1985.

10. Section 17 of the Act, 1985 empowers the Tribunal to punish for contempt of itself and provides that the provisions of the Contempt of Courts Act, 1971 (further it is referred to as the Act, 1971) shall have effect in this regard subject to the modification that any reference to High Court under the Act, 1971 shall be construed as a reference to the Tribunal. Further, the Tribunal shall have the same jurisdiction, powers and authority in respect of contempt of itself as a High Court has. There is a distinction between the orders passed by the Tribunal under Section 14(1) of the Act, 1985 and the order passed under Section 19 of the Act, 1971 as against the former there is no remedy of appeal statutorily provided but as against the latter remedy of appeal is provided under Section 19 of the Act, 1971. An order or decision of the Tribunal in exercise of its jurisdiction to punish for contempt would be appealable as

a matter of right under sub-section (1) of Section 19 of the Act, 1971, which provides that an appeal shall lie as a matter of right to the Bench of at least two Judges where the contempt order is passed by the Single Judge and it shall lie to the Supreme Court where the order is passed by the Bench.

11. Since proceeding for contempt under Section 17 of the Act, 1985 is dealt with by the Bench of not less than two Members and the order passed under Section 17 of the Act, 1985 would be appealable before the Supreme Court only. Therefore, any order or decision of the Tribunal under the Act, 1971 shall be appealable only to the Supreme Court within 60 days from the date of the order.

12. The provisions of the Act, 1971 are in addition to and not in derogation of Article 129 and 215 of the Constitution. The jurisdiction contemplated by Articles 129 and 215 of the Constitution is unalienable and it cannot be taken away or whittled down by any legislative enactment subordinate to the Constitution.

13. In view of the above backdrop, to answer the issue, we have to rely on the ratio decided by the three Judges Bench of the Apex Court in the case of **T. Sudhakar Prasad Vs. Government of A.P. (2001) 1 SCC 516**, relevant paragraph nos.7, 8, 11, 14, 16, 17 and 18 are reproduced as under:

*7. In pursuance of Article 323A of the Constitution the Parliament enacted the Administrative Tribunals Act, 1985 to provide for the 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 any Corporation or society owned or controlled by the Government. On coming into force of the Act and Constitution of the Central Administrative Tribunal all the jurisdiction, powers and authority exercisable immediately before that day by all courts, which would include the High Courts (except the Supreme Court) in relation to the matters specified in Section 14(1) of the Act came to be conferred on the*

*Tribunal. Section 17 gives the Tribunal power to punish for contempt which reads as under:*

*17. Power to punish for contempt - A Tribunal shall have, and exercise, the same jurisdiction, powers and authority in respect of contempt of itself as a High Court has and may exercise and, for this purpose, the provisions of the Contempt of Courts Act, 1971 (7.0 of 1971), shall have effect subject to the modifications that:*

*(a) the references therein to a High Court shall be construed as including a reference to such Tribunal;*

*(b) the references to the Advocate-General in Section 15 of the said Act shall be construed.*

*(i) in relation to the Central Administrative Tribunal, as a reference to the Attorney-General or the Solicitor-General or the Additional Solicitor-General; and*

*(ii) in relation to an Administrative Tribunal for a State or a Joint Administrative Tribunal for two or more States, as a reference to the Advocate-General of the State or any of the States for which such Tribunal has been established.*

*[emphasis supplied]*

*8. Section 22 provides that a Tribunal shall not be bound by the procedure laid down in the CPC, 1908 but shall be guided by the principles of natural justice and subject to the other provisions of the Act and of any Rules made by the Central Government, the Tribunal shall have power to regulate its own procedure including the fixing of places and times of its enquiry and deciding whether to sit in public or in private. Sub-section (2) empowers the Tribunal to decide the application before it on a perusal of documents and written representations and after hearing such oral arguments as may be advanced. Sub-section (3) confers on the Tribunal specified powers of a civil court under the CPC in respect of specified matters. Section 27 provides that the order of a Tribunal finally disposing of an application or an appeal shall not be called in question in any court including a High Court. On a Tribunal being functional, Section 28 excludes the jurisdiction of all courts, including High Court, but not the Supreme Court, Industrial Tribunal, Labour Court or other Authority constituted under the Industrial Disputes Act, 1947 or any other corresponding law from exercising any jurisdiction, power or authority in relation to matters falling within the jurisdiction of the Tribunal.*

*11. In L. Chandra Kumar v. Union of India and Ors. MANU/SC/0261/1997 : [1997] 228ITR725(SC) the matter had come up before the seven-Judges Bench of this Court consequent upon a reference made by a Division Bench of this Court which doubted the correctness of a five-Judges Constitution Bench of this Court in S.P. Sampath Kumar v.*

*Union of India MANU/SC/0851/1987 : (1987)ILLJ 128SC and felt the need of the same being comprehensively reconsidered. This Court framed three broad issues for its consideration and proceeded to consider the constitutional validity of Articles 323A, 323B and several provisions of the Administrative Tribunals Act, 1985. We need not extensively reproduce several conclusions arrived at by the Constitution Bench (excepting where necessary); it would suffice to briefly summarise the conclusions of the Constitution Bench insofar as necessary for our purpose. The Constitution Bench held that the jurisdiction conferred upon the High Courts and the Supreme Court under Articles 226 and 32 of the Constitution respectively is a part of the inviolable basic structure of our Constitution. The power of judicial review over legislative action vesting in the High Courts under Article 226 and in the Supreme Court under Article 32 of the Constitution are an integral and essential feature of such basic structure and therefore their power to test the constitutional validity of legislations can never be ousted or excluded (paras 73, 78). The power vested in the High Courts to exercise judicial superintendence over the decisions of all courts and Tribunals within their respective jurisdictions is also part of the basic structure of the Constitution and a situation where the High Courts are divested of all other judicial functions apart from that of constitutional interpretation is equally to be avoided (para 79). Though the subordinate judiciary or Tribunal created under ordinary legislations cannot exercise the power of judicial review of legislative action to the exclusion of the High Courts and the Supreme Court, there is no constitutional prohibition against their performing a supplemental - as opposed to a substitutional - role in this respect. Clause (3) of Article 32 itself contemplates that Parliament may by law empower any other court to exercise within the local limits of its jurisdiction all or any of the powers exercisable by the Supreme Court under Clause (2), without prejudice to the powers conferred on the Supreme Court by Clauses (1) and (2).*

14. *The jurisdictional powers of the Tribunal were summarised by the Constitution Bench as under (vide para 93):*

1. *The Tribunals are competent to hear matters where the vires of statutory provisions are questioned. However, in discharging this duty, they cannot act as substitutes for the High Courts and the Supreme Court which have, under our constitutional set up, been specifically entrusted with such an obligation. Their function in this respect is only supplementary and all such decisions of the Tribunals will be subject to scrutiny before a Division Bench of the respective High Courts. The Tribunals will consequently also have the power to test the vires of subordinate legislations and rules. However, this power of the Tribunals will be subject to one important exception. The Tribunals shall not entertain any question regarding the vires of their parent statutes following the settled principle that a Tribunal which is a creature of an*

*Act cannot declare that very Act to be unconstitutional. In such cases alone, the High Court concerned may be approached directly.*

*2. All other decisions of these Tribunals, rendered in cases that they are specifically empowered to adjudicate upon by virtue of their parent statutes, will also be subject to scrutiny before a Division Bench of their respective High Courts. The Tribunals will, however, continue to act as the only courts of first instance in respect of the areas of law for which they have been constituted; meaning thereby that it will not be open for litigants to directly approach the High Courts even in cases where they question the vires of statutory legislations (except, as mentioned, where the legislation which creates the particular Tribunal is challenged) by overlooking the jurisdiction of the Tribunal concerned.*

*The Constitution Bench concluded as under :*

*"We hold that Clause (2)(a)(d) of Article 323-A and Clause (3)(d) of Article 323-B, to the extent they exclude the jurisdiction of the High Courts and the Supreme Court under Articles 226/227 and 32 of the Constitution, are unconstitutional. Section 28 of the Act and the "exclusion of jurisdiction" Clauses in all other legislations enacted under the aegis of Articles 323-A and 323-B would, to the same extent, be unconstitutional. The jurisdiction conferred upon the High Courts under Articles 226/227 and upon the Supreme Court under Article 32 of the Constitution is a part of the inviolable basic structure of our Constitution. While this jurisdiction cannot be ousted, other courts and Tribunals may perform a supplemental role in discharging the powers conferred by Articles 226/227 and 32 of the Constitution. The Tribunals created under Article 323-A and Article 323-B of the Constitution are possessed of the competence to test the constitutional validity of statutory provisions and rules. All decisions of these Tribunals will, however, be subject to scrutiny before a Division Bench of the High Court within whose jurisdiction the Tribunal concerned falls. The Tribunals will, nevertheless, continue to act like courts of first instance in respect of the areas of law for which they have been constituted. It will not, therefore, be open for litigants to directly approach the High Courts even in cases where they question the vires of statutory legislations (except where the legislation which creates the particular Tribunal is challenged) by overlooking the jurisdiction of the Tribunal concerned. Section 5(6) of the Act is valid and constitutional and is to be interpreted in the manner we have indicated.*

*16. It is thus clear that the Constitution Bench has not declared the provisions of Article 323-A(2)(b) or Article 323-B(3)(d) or Section 17 of the Act ultra vires the Constitution. The High Court has, in its judgment under appeal, noted with emphasis the Tribunal having been compared to like 'courts of first instance' and then proceeded to hold that the status of Administrative Tribunals having been held to be equivalent to court or Tribunals sub-ordinate to High Court the jurisdiction to hear their own contempt was lost by the Administrative Tribunals and the only course*

*available to them was either to make a reference to High Court or to file a complaint under Sections 193, 219 and 228 of IPC as provided by Section 30 of the Act. The High Court has proceeded on the reasoning that the Tribunal having been held to be subordinate to the High Court for the purpose of Articles 226/227 of the Constitution and its decisions having been subjected to judicial review jurisdiction of the High Court under Articles 226/227 of the Constitution the right to file an appeal to the Supreme Court against an order passed by the Tribunal punishing for contempt under Section 17 of the Act was defeated and on these twin grounds Section 17 of the Act became unworkable and unconstitutional. We do not find any basis for such conclusion or inference being drawn from the judgments of this Court in the cases of Supreme Court Bar Association (supra) or L. Chandra Kumar (supra) or any other decision of this Court. The Constitution Bench has in so many words said that the jurisdiction conferred on the High Courts under Articles 226/227 could not be taken away by conferring the same on any court or Tribunal and jurisdiction hitherto exercised by the High Court now legislatively conferred on Tribunals to the exclusion of High Court on specified matters, did not amount to assigning Tribunals a status of substitute for the High Court but such jurisdiction was capable of being conferred additionally or supple mentally on any Court or Tribunal which is not a concept strange to the scheme of the Constitution more so in view of Articles 323-A and 323-B. Clause (2)(b) of Article 323-A specifically empowers the Parliament to enact a law specifying the jurisdiction and powers, including the power to punish for contempt, being conferred on Administrative Tribunals constituted under Article 323-A. Section 17 of the Act derives its legislative sanctity therefrom. The power of the High Court to punish for contempt of itself under Article 215 of the Constitution remains intact but the jurisdictional power and authority to hear and decide the matters covered by Sub-section (1) of Section 14 of the Act having been conferred on the Administrative Tribunals the jurisdiction of the High Court to that extent has been taken away and hence the same jurisdiction which vested in the High Court to punish for contempt of itself in the matters now falling within the jurisdiction of Tribunals if those matters would have continued to be heard by the High Court has now been conferred on the Administrative Tribunals under Section 17 of the Act. The jurisdiction is the same as vesting in the High Courts under Article 215 of the Constitution read with the provisions of the Contempt of Courts Act, 1971. The need for enacting Section 17 arose, firstly, to avoid doubts, and secondly, because the Tribunals are not "courts of record". While holding the proceedings under Section 17 of the Act the Tribunal remains a Tribunal and so would be amenable to jurisdiction of High Court under Articles 226/227 of the Constitution subject to the well-established rules of self-restraint governing the discretion of the High Court to interfere with the pending proceedings and upset the interim or interlocutory orders of the Tribunals. However any order or decision of Tribunal punishing for contempt shall be*

*appealable only to the Supreme Court within 60 days from the date of the order appealed against in view of the specific provision contained in Section 19 of the Contempt of Courts Act, 1971 read with Section 17 of the Administrative Tribunals Act, 1985. Section 17 of Administrative Tribunals Act is a piece of legislation by reference. The provisions of Contempt of Courts Act are not as if lifted and incorporated in the text of Administrative Tribunals Act (as is in the case of legislation by incorporation); they remain there where they are yet while reading the provision of Contempt of Courts Act in the context of Tribunal the same will be so read as to read the word 'Tribunal' in place of the word 'High Court' wherever it occurs, subject to the modifications set out in Section 17 of the Administrative Tribunals Act. Section 19 of the Contempt of Courts Act, 1971 provides for appeals. In its text also by virtue of Section 17 of the Administrative Tribunals Act, 1985 the word 'High Court' shall be read as 'Tribunal'. Here, by way of abundant caution, we make it clear that the concept of intra-Tribunal appeals i.e. appeal from an order or decision of a member of a Tribunal sitting singly to a bench of not less than two members of the Tribunal is alien to the Administrative Tribunals Act, 1985. The question of any order made under the provisions of the Contempt of Courts Act, 1971 by a member of the Tribunal sitting singly, if the rules of business framed by the Tribunal or the appropriate Government permit such hearing, being subject to an appeal before Bench of two or more members of Tribunal therefore, does not arise. Any order or decision of the Tribunal punishing for contempt is appealable under Section 19 of the Act to the Supreme Court only. The Supreme Court in the case of L. Chandra Kumar has nowhere said that orders of Tribunals holding the contemnor guilty and punishing for contempt shall also be subjected to judicial scrutiny of High Court under Article 226/227 of the Constitution in spite of remedy of statutory appeal provided by Section 19 of the Contempt of Courts Act being available. The distinction between orders passed by Administrative Tribunal on matters covered by Section 14(1) of Administrative Tribunals Act and orders punishing for contempt under Section 19 of the Contempt of Courts Act read with Section 17 of Administrative Tribunals Act; is this : as against the former there is no remedy of appeal statutorily provided, but as against the latter statutory remedy of appeal is provided by Section 19 of Contempt of Courts Act itself.*

*17. Subordination of Tribunals and courts functioning within the territorial jurisdiction of a High Court can be either judicial or administrative or both. The power of superintendence exercised by the High Court under Article 227 of the Constitution is judicial superintendence and not administrative superintendence, such as one which vests in the High Court under Article 235 of the Constitution over subordinate courts. Vide para 96 of L. Chandra Kumar's case, the Constitution Bench did not agree with the suggestion that the Tribunals be made subject to the supervisory jurisdiction of the High Courts within*

*whose territorial jurisdiction they fall, as our constitutional scheme does not require that all adjudicatory bodies which fall within the territorial jurisdiction of any High Court should be subject to its supervisory jurisdiction. Obviously, the supervisory jurisdiction referred to by the Constitution Bench in para 96 of the judgment is the supervision of the administrative functioning of the Tribunals as is spelt out by discussion made in paras 96 and 97 of the judgment.*

*18. Jurisdiction should not be confused with status and subordination. The Parliament was motivated to create new adjudicatory fora to provide new, cheap and fast-track adjudicatory systems and permitting them to function by tearing of the conventional shackles of strict rule of pleadings, strict rule of evidence, tardy trials, three/four-tier appeals, endless revisions and reviews - creating hurdles in fast flow of stream of justice. The Administrative Tribunals as established under Article 323-A and the Administrative Tribunals Act 1985 are an alternative institutional mechanism or authority, designed to be not less effective than the High Court, consistently with the amended constitutional scheme but at the same time not to negate judicial review jurisdiction of constitutional courts. Transfer of jurisdiction in specified matters from the High Court to the Administrative Tribunal equates the Tribunal with the High Court insofar as the exercise of judicial authority over the specified matters is concerned. That, however, does not assign the Administrative Tribunals a status equivalent to that of the High Court nor does that mean that for the purpose of judicial review or judicial superintendence they cannot be subordinate to High Court.*

*It has to be remembered that what has been conferred on the Administrative Tribunal is not only jurisdiction of the High Court but also of the subordinate courts as to specified matters. High Courts are creatures of Constitution and their Judges hold constitutional office having been appointed under the Constitution. The Tribunals are creatures of statute and their members are statutorily appointed and hold statutory office. In State of Orissa v. Bhagaban Sarangi : (1995)1SCC399 , it was held that Administrative Tribunal is nonetheless a Tribunal and so it is bound by the decision of the High Court of the State and cannot sidetrack or bypass it. Certain observations made in the case of T.N. Seshan, Chief Election Commr. of India v. Union of India MANU/SC/2271/1995 : 1994(1)SCALE7, may usefully be referred to. It was held that merely because some of the service conditions of the Chief Election Commissioner are akin to those of the Supreme Court Judges, that does not confer the status of a Supreme Court Judge on the C.E.C. This Court observed "Of late it is found that even personnel belonging to other fora claim equation as High Court or Supreme Court Judges merely because certain jurisdictions earlier exercised by those Courts are transferred to them not realising the distinction between constitutional and statutory functionaries". We are, therefore clearly of the opinion that there is no anathema in the Tribunal exercising jurisdiction of High Court and in*

*that sense being supplemental or additional to the High Court but at the same time not enjoying status equivalent to High Court and also being subject to judicial review and judicial superintendence of the High Court.”*

14. While deciding the issue in the above said decision, the observations made by the Apex Court in the case of **L. Chandra Kumar Vs. Union of India (1997) 3 SCC 261**, was also taken into consideration and finally observed that the Constitution Bench has not declared the provisions of Article 323-A(2)(b) or Article 323-B (3) (d) or Section 17 of the Act ultra vires.

15. Analysing the above said decision, the powers to the High Court to punish for contempt of itself under Article 215 of the Constitution remains intact but the jurisdiction, power and authority to hear and decide the matters covered by sub-section (1) of Section 14 of the Act, 1985 having been conferred on the Administrative Tribunals and the jurisdiction of the High Court to that extent has been taken away and hence the same jurisdiction which vested in the High Court to punish for contempt of itself in the matter now falling within the jurisdiction of Tribunals if those matters would have continued to be heard by the High Court has now been conferred on the Administrative Tribunals under Section 17 of the Act.

16. It has been held that jurisdiction is the same as vested in the High Courts under Article 215 of the Constitution read with the provisions of the Act, 1971. Further it has been observed that the need for enacting Section 17 arose, firstly to avoid doubts, and secondly, because the Tribunals are not ‘courts of record’. While holding the proceedings under Section 17 of the Act, 1985, the Tribunal remains a Tribunal and would be amenable to the jurisdiction of the High Court under Article 226/227 of the Constitution subject to the well established rules of self-restraint governing the discretion of the High Court to interfere with the pending proceedings. But any order or decision of the Tribunal for contempt shall be appealable only to the Supreme Court within 60 days from the date of

the order in view of the specific provision contained under Section 19 of the Act, 1971 read with Section 17 of the Act, 1985.

17. Section 19 of the Act, 1971 provides for appeal and by virtue of Section 17 of the Act, 1985, the word 'High Court' shall be read as 'Tribunal'. Accordingly, any order or decision of the Tribunal punishing for contempt is appealable under Section 19 of the Act to the Supreme Court only. The Supreme Court in the case of **L. Chandra Kumar** (supra) has nowhere said that the orders of the Tribunal under the contempt proceedings shall also be subject to the judicial scrutiny of the High Court under Articles 226 / 227 of the Constitution despite of having remedy of appeal provided by Section 19 of the Act, 1971.

18. In the case of **R. Mohajan Vs. Shefali Sengupta (2012) 4 SCC 761**, as against the order of the contempt proceedings of the Central Administrative Tribunal, Calcutta Bench, the contemnor in the contempt case has approached the Apex Court, the learned counsel appearing on behalf of the respondent therein raised an objection with regard to maintainability of the appeal before the Supreme Court and contended that the aggrieved parties have to approach the concerned High Court as per ratio laid down by the Constitution Bench in the case of **L. Chandra Kumar** (supra).

19. The Apex Court in the said case has rejected the objection raised by the respondent's counsel and by following the observations of the three Judges Bench in the case of **T. Sudhakar Prasad** (supra) held that aggrieved parties are at liberty to approach the Apex Court without exercising the remedy before the High Court. In the said case, the Supreme Court clarified the issue by following the observation in the case of **T. Sudhakar Prasad** (supra) and rejected the objection declaring the maintainability of the appeal before the Supreme Court.

20. Considering the relevant provisions of the Contempt of Courts Act, 1971, the Administrative Tribunal Act, 1985 and also observations made

by the Apex Court, more particularly in the case of **T. Sudhakar Prasad** (supra), we hold that all the orders of the Tribunal under the Contempt of Courts Act, 1971 shall be appealable to the Supreme Court only within a period of 60 days from the date of the order and no writ petition is maintainable before the High Court under Article 226 / 277 of the Constitution of India.

21. Accordingly, the present writ petition being not maintainable, is dismissed.

**Order Date :- 22.3.2024**

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