

Administrative Tribunals

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Most Common Litigation faced by Government Institutions

- ❑ Contractual & Service related
 - ❑ **Service Disputes** – Resolved at Departmental and Beyond-Departmental level
 - ❑ **Resolution beyond Department** – Tribunals , High Courts and Supreme Court
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Service Matters

- ❑ All matters relating to conditions of service in connection with Union or any State or any local authority or other authority etc.
 - ❑ Including recruitment, remuneration, pension & retirement benefits
 - ❑ Tenure including confirmation, seniority, promotion, reversion, premature retirement and superannuation
 - ❑ Leave , disciplinary matters etc
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Law Governing Service Matters

- ❑ Constitution of India- Art.309-311
 - ❑ Service Rules framed by appropriate Government
 - ❑ The Service Contracts (Standard Form)
 - ❑ Judicial Precedents
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Tribunals

- ❑ **Quasi-judicial bodies** created for specific purposes
- ❑ **Purposes** – Speedy, Informal and Inexpensive Justice
- ❑ **Classification** - Domestic, Service and Administrative
- ❑ **Service Tribunals** Created Under Art.323-A of Constitution & Administrative Tribunals Act, 1985
- * **Classification** - State, Joint or Central

Composition of Tribunals

- ❑ Chairman , Vice-Chairmen & Members
 - ❑ **Members** – Administrative and Judicial
 - ❑ **Qualifications: Chairman**- sitting/former judge of H.C. or experience as V.C. for 2 years
 - ❑ **Vice Chairman** :is/was/qualified to be H.C. Judge or 2 yrs exp . as Secretary to Govt or 5 yrs exp . as Addl. Secretary or 3yrs exp. as jud / adm. Member of adm. tribunal
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Composition of Tribunals (contd..)

- ❑ **Judicial member** - is/has been/qualified to be a High Court judge or member of Indian Legal Service holding post in Grade-I for minimum 3 years
 - ❑ **Adm.Member** – 2yrs experience as Additional Secretary or 3 yrs experience as Joint secretary having adequate administrative experience
 - ❑ **All-appointed by the President in consultation with concerned Governor**
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Jurisdiction, Powers and Authority of Adm.Tribunals

- ❑ Governed by **Sec.14 of ATA,1985**
 - ❑ All jurisdiction & powers over recruitment and related matters pertaining to All India Services/Civil service of Union/Civil Post under Union/Defence / Other authorities notified by Central Govt.
 - ❑ All jurisdiction & Powers exercised hitherto by all courts except Supreme Court
 - ❑ Adm . Tribunals = High Courts
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Jurisdiction, Powers and Authority of Adm. Tribunals (contd..)

- ❑ Power to punish for contempt - Under Sec.17,ATA,1985 & Contempt of Courts Act ,1970
 - ❑ Power to pass *interim* orders – Sec.24, ATA,1985 including injunctions / stay
 - ❑ To prevent any loss being caused to applicant which cannot be compensated in money.
 - Power to Transfer pending cases – S.28
 - Power to Review its decisions - S.22(3)(f)
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Procedure for determination of service disputes

□ Application to Tribunals - S.19

- After exhausting alternative remedies under relevant service rules (after passing of final order by competent authority or after expiry of 6 months period from representation) - S.20
 - Within Limitation Period (within 1 yr from date of final order or within 1 yr from expiry of 6 months from appeal/representation if no final order is passed)
 - Subject to condonation of delay by showing sufficient cause
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Procedure for determination of service disputes (contd..)

- ❑ Tribunal not bound by CPC, 1908 but guided by principles of natural justice
(Sec.22)
 - ❑ Shall decide every application as expeditiously as possible – on perusal of documents, written representations and after hearing oral arguments advanced
 - ❑ Shall have all powers of a civil court under CPC
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Procedure for determination of service disputes (contd..)

- ❑ Applicant can take assistance of legal practitioner & Govt . can appoint presenting officers (S.23)
 - ❑ Tribunal can pass interim orders (s.24)
 - ❑ **Orders of Tribunals-** executable (by following procedure under O.21 r/w S.151,CPC)
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Exclusion of Jurisdiction of Courts except Supreme Court

- ❑ No provision for appeal against decision of Adm.Tribunals except to S.C.of India - S.28,ATA & Art.323-A(2)(d) of Constitution
 - ❑ To the Supreme Court - only under Art.136 of Constitution
 - ❑ Impact of *L.Chandra Kumar vs.Union of India* AIR 1997 SC 1125 -W.P.can be filed before a DB of concerned HC
 - ❑ Power of Judicial Review - Basic Feature of Constitution
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Remedies before the High Courts

- ❑ Through W.P.s under Art.227
 - ❑ Only before a Division Bench and only after *Chandra Kumar*
 - ❑ Remedies available- directions, orders or writs including writs in nature of Habeas Corpus, Mandamus, Prohibition, Quo Warranto and Certiorari
 - ❑ Most relevant writs -mandamus, Certiorari and Prohibition
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Remedies before the High Courts (contd..)

- ❑ Nature of writ remedy- discretionary
 - ❑ Discretion of court – depends on Laches, Alternative relief, Locus standi, Res Judicata and Questions of Fact etc.
 - ❑ Grounds of Challenge-Violation of Art.14,15,16, and 311 etc
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Central Adm. Tribunal (Procedure) Rules, 1987

- ❑ Framed by Central Government U/S 35 and 36 of Ata, 1985 (w.e.f. 15 Jan 1987)
- ❑ **Language** of Tribunal-English (Hindi at discretion of Tribunal)
- ❑ **Application**- 1] presented by applicant in person/agent/legal practitioner; 2] in Triplicate; 3] in two compilations viz., 1-application along with impugned order and 2-all other documents and annexure ; 4] filed at place of working of applicant or where cause of action arose-exception-in case of retirement/dismissal/termination of service, at the place of residence of applicant

Central Adm.Tribunal (Procedure)Rules,1987 (contd..)

- ❑ **Application Fee** –Rs.50/-
 - ❑ **Contents of Application**- Distinct grounds,prayer for interim order/direction,separate application and affidavit for condonation of delay
 - ❑ **Annexure**- attested true copy of impugned order, other documents relied on and index of documents
 - ❑ **Service of Notices/Processes**- by party, hand delivery (dasti), RPAD, thr.concerned Head of office
 - ❑ **Filing of reply by Respondents**- in triplicate along with documents
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Central Adm. Tribunal (Procedure) Rules, 1987 (contd..)

- ❑ Ex parte hearing and disposal of application-at discretion of tribunal
 - ❑ Can be set aside within 30 days from date of order
 - ❑ Review Petition- to be filed within 30 days from date of receipt of copy of order.
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The CAT(Contempt of Courts) Rules,1992

- ❑ **Contempt**- Civil or Criminal
 - ❑ **Contempt petition** –filed before a bench of min.2 members or can be taken suo motu also
 - ❑ **Compelling attendance** -if needed by issue of warrant (R shall appear unless ordered otherwise)
 - ❑ **Execution of sentence** -Imprisonment till rising of Tribunal/Fine/Imprisonment
 - ❑ Apology at any stage of proceedings
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Other Tribunals

- ❑ Customs, Excise and Service Tax Appellate Tribunal (CEGAT)
 - ❑ The Income-Tax Appellate Tribunal (ITAT)
 - ❑ Intellectual Property Appellate Board (IPAB)
 - ❑ The Securities Appellate Tribunal (SAT)
 - ❑ Debts Recovery Tribunals etc
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Advantages of Tribunals

- ❑ Inexpensive
 - ❑ Accessibility
 - ❑ Freedom from Technicalities
 - ❑ Expedition; &
 - ❑ Expert Knowledge in a particular subject
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CONCLUSION

Thank You
