

\$~21

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 11348/2016 and C.M. Appl. No. 44445/2016 (for exemption)**

JOGINDER JOON & ORS Petitioners
Through: Mr. K.K. Bhatnagar, Advocate.

versus

NORTH DELHI MUNICIPAL CORPORATION & ORS Respondents
Through: Mr. Ram Kumar, Advocate for R-1.
Mr. Rakesh Mittal, Advocate for R-2.

CORAM:
HON'BLE MR. JUSTICE VALMIKI J. MEHTA

ORDER
% **30.11.2016**

1. Petitioners admittedly are employees of North Delhi Municipal Corporation and South Delhi Municipal Corporation. Delhi Municipal Corporation is included in the list of entities disputes of which with its employees have to be decided by the Central Administrative Tribunal, Principal Bench, New Delhi.

2. The Constitution Bench of the Supreme Court in the judgment in the case of ***L. Chandra Kumar vs. Union of India & Ors., (1995) 1 SCC 400***, in paragraph 99 has held that this Court does not exercise original jurisdiction, and which original jurisdiction is exercised by the Central Administrative Tribunal, Principal Bench, New Delhi, and this Court only exercises supervisory jurisdiction

after the Central Administrative Tribunal, Principal Bench, decides the matter exercising original jurisdiction. This paragraph 99 of the Constitution Bench judgment of the Supreme Court in the case of **L. Chandra Kumar (supra)** reads as under:-

“99. In view of the reasoning adopted by us, we hold that Clause 2(d) of Article [323A](#) and Clause 3(d) of Article [323B](#), 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 [323A](#) and [323B](#) 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 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 [323A](#) and Article [323B](#) 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 concerned Tribunal 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 concerned Tribunal. Section [5\(6\)](#) of the Act is valid and constitutional and is to be interpreted in the manner we have indicated.” (underling added)

3. Accordingly, this writ petition is not maintainable before this Court and is, therefore, dismissed giving the petitioners liberty to approach Central Administrative Tribunal, Principal Bench, New Delhi.

VALMIKI J. MEHTA, J

NOVEMBER 30, 2016

AK