

\$~8

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

+ W.P.(C) 424/2016 & CM No. 1718/2016(stay)

SATISH KUMAR

..... Petitioner

Through: Mr. Shanmuga Patro, Advocate
versus

UNION OF INDIA & ANR

..... Respondents

Through: Dr. L.C.Singhi, Adv. for R-1 and 2.

CORAM:

HON'BLE MR. JUSTICE VALMIKI J. MEHTA

ORDER

%

24.01.2017

1. Petitioner seeks appointment with the National Power Training Institute (in short 'NPTI'). NPTI is covered under the list of institutions disputes of which with its employees, existing or prospective, have to be decided by the Central Administrative Tribunal (CAT). This Court therefore does not have jurisdiction in view of para 99 of the Constitution Bench judgment of the Supreme Court in the case of *L. Chandra Kumar vs. Union of India & Ors. (1997) 3 SCC 261* which 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)

2. At the request, made on behalf of the petitioner, instead of dismissing this petition, this petition is transferred for decision to Central Administrative Tribunal (CAT), Principal Bench, New Delhi and CAT will hear and dispose of this petition alongwith O.A 820/2014 which is said to be pending before CAT and said to be related with the present matter as issue is of appointments to the post of Deputy Director of NPTI in the present

petition as also in O.A 820/2014.

3. Parties are directed to appear before the Registrar, CAT on 3.2.2017.

Registry will ensure that file of this case is made available to the Registrar, CAT on the date fixed.

VALMIKI J. MEHTA, J

JANUARY 24, 2017
ib