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* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ W.P.(C) 2822/2016

DTC RETIRED EMPLOYEES ASSO. (REGD.) Petitioner
Through: Mr. Charanjeet Bhalla, Advocate.

versus

DELHI TRANSPORT CORPORATION Respondent
Through: Mr. Purvesh Buttan, Advocate.

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

ORDER
% **25.01.2017**

1. By this writ petition service benefits are sought with respect to the employees of Delhi Transport Corporation (DTC). DTC is covered in the list of institutions disputes of which with its employees have to be decided by the Central Administrative Tribunal, Principal Bench, New Delhi. As per the ratio 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*, this Court would not have territorial jurisdiction as the Court of original jurisdiction will be Central Administrative Tribunal, Principal Bench, New Delhi. The relevant para 99 of the judgment 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)

2. Instead of dismissing the petition, at the request made on behalf of the petitioner, this petition is transferred for decision to Central Administrative Tribunal, Principal Bench, New Delhi.
3. Parties to appear before the Registrar of Central Administrative Tribunal, Principal Bench, New Delhi on 28th February, 2017.

4. Registry to ensure that file of this case is made available to the Registrar, Central Administrative Tribunal, on the date fixed.

VALMIKI J. MEHTA, J

JANUARY 25, 2017

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