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

+ W.P. (C) 5605/2020 & C.M. No. 20314/2020

**DELHI STATE CONTRACTUAL EMPLOYEES ASSOCIATION
THROUGH GENERAL SECRETARY** Petitioner

Through Mr. Subhash Chandran KR,
Advocate.

versus

GOVT. OF NCT OF DELHI & ORS. Respondents

Through Mr. Sanjoy Ghose, Advocate for
GNCTD.
Mrs. Avnish Ahlawat, Standing
Counsel, GNCTD (services) with Mr.
N.K. Singh and Ms. Palak Rohmetra,
Advocates.

**CORAM:
HON'BLE MS. JUSTICE JYOTI SINGH**

ORDER

% **28.08.2020**

Hearing has been conducted through Video Conferencing.

C.M. No. 20313/2020 (Exemption)

Allowed, subject to all just exceptions.

Application is disposed of.

W.P. (C) 5605/2020 & C.M. No. 20314/2020

By way of present petition, the Petitioner assails order dated 29.01.2019 issued by the Department of Health & Family Welfare, Govt. of NCT of Delhi.

The subject matter of the present petition is appointment to the posts of pharmacists in Lok Nayak Hospital, Delhi, which is under the aegis of Govt. of NCT of Delhi and being a service matter this Court has no jurisdiction to entertain the present petition.

Petitioner is clearly amenable to the jurisdiction of the Central Administrative Tribunal under the Administrative Tribunals Act, 1985.

In ***L. Chandra Kumar v. Union of India and Others***, [(1997) 3 SCC 261], the Supreme Court has held as under:-

99. In view of the reasoning adopted by us, we hold that clause 2(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.

After some arguments, Mr. Subhash Chandran KR, learned counsel for the Petitioner seeks to withdraw the petition with liberty to approach the Central Administrative Tribunal.

Petition and application are disposed of as withdrawn with the liberty, as prayed.

JYOTI SINGH, J

AUGUST 28, 2020/yo