

**IN THE HIGH COURT AT CALCUTTA
CIRCUIT BENCH AT JALPAIGURI
CIVIL APPELLATE JURISDICTION
APPELLATE SIDE**

Present:

The Hon'ble Justice Madhuresh Prasad

And

The Hon'ble Justice Partha Sarathi Chatterjee

MAT 59 of 2022

With

CAN 2 of 2022

Union of India & Others

Vs.

Sajal Roy @ Rai

For the appellants : Mr. Sudipto Kumar Mazumdar, Ld. D.S.G.I.,
Mr. Ajoy Kumar Singhania

For the respondent : Mr. Prosenjit Mukherjee

Heard on : 21.06.2024

Judgement on : 20.09.2024

MADHURESH PRASAD, J.:

1. The present intra-court appeal at the instance of the Union of India arises out of a judgment dated 28.02.2020 passed in the writ proceedings whereby and whereunder the Hon'ble Single Judge has held that the Central Administrative Tribunal (CAT)

does not have jurisdiction with respect to the present dispute, being a service matter of the writ petitioner as a Gramin dak Sevak (GDS).

2. Overruling the objection raised by the Union of India that the service dispute of the GDS was required to be agitated before the CAT and only thereafter the writ petition could have been filed, the Hon'ble Single Judge has proceeded to exercise writ jurisdiction to quash the impugned order dated 02.09.2019 cancelling the panel of recruitment by which the petitioner was engaged. The consequential termination order dated 04.09.2019 has also been quashed. The writ Court has further directed the reinstatement of the writ petitioner with all consequential benefits.
3. The brief factual matrix is that on 28.08.013 applications were invited from desirous candidates for participating in the process for nomination of candidates for the post of GDS. The requisite qualification as per the advertisement was that a candidate should be a resident of India having residence in the village where the Post Office is located. Candidate was required to be not less than 18 years of age as on 28.07.2013 and VIII passed. Preference was to be given to matriculation candidates. The candidate was required to furnish a security of Rs. 10 thousand in the form of

bond/ certificate as specified in the advertisement, and know how to ride a bicycle and having adequate means of livelihood. The post was reserved for candidates belonging to the Scheduled Caste category. The candidature of person having effective office; or working as an agent of insurance/ financial companies was barred from consideration under the advertisement.

4. The petitioner participated in the process pursuant to the said advertisement and emerged successful. The Inspector of Post Office, on 30.08.2013 issued an appointment letter provisionally appointing the petitioner as GDS deliverer pending verification of his character and antecedents. The letter in no uncertain terms specified that the employment was in the nature of a contract liable to be terminated by the petitioner or the Union of India by notifying the other in writing. The letter also specified that the writ petitioner's service was to be governed by the Gramin Dak Sevak (Conduct and Engagement) Rules 2011 ('Rules' for short) as amended from time to time. There was another stipulation in the petitioner's provisional appointment, that if he was found unsuitable for appointment upon verification of his character and antecedents, he would be discharged forthwith.
5. The writ petitioner was required to communicate acceptance of the terms of the letter of provisional appointment on the

prescribed proforma enclosed therewith. The letter specified pay scale and admissible Dearness Allowance (DA) as amended and circulated from time to time.

6. On 05.08.2019 the Superintendent of Post Office, Jalpaiguri Division issued a show-cause notice to the petitioner that on review of the recruitment certain irregularities were detected. The Superintendent thus issued a show-cause notice to the petitioner as to why his irregular selection/ engagement may not be treated as cancelled/ null and void.
7. The writ petitioner responded to the same by submitting a representation. He was thereafter afforded an opportunity of hearing. The Superintendent of Post Office thereafter by an order dated 02.09.2019 cancelled the panel whereby the petitioner was recruited on the ground that the petitioner was beneficiary of an irregular selection process. The Sub-Divisional Inspector (Posts), consequently terminated the petitioner's services with immediate effect under a communication dated 04.09.2019.
8. In the aforesaid background, the writ petitioner approached the writ Court.
9. The Union of India at the very outset, before the Hon'ble Single Judge raised a preliminary objection to the maintainability of the

writ petition before the High Court. It is the case of the Union of India that the service matter concerning Gramin Dak Sevak is covered by Section 14(C) of the Administrative Tribunals Act, 1985, hereinafter referred to as 'the Act'. Thus it is the CAT which as per the Act was to exercise all the jurisdiction, powers and authority exercisable in relation to the present service matter. Invocation of the writ jurisdiction under Article 226, directly by the writ petitioner would thus not be maintainable in view of the statutory bar contained in the Act.

10. The appellant/respondents having objected to maintainability of the writ petition have also opposed the writ petition on merits by submitting that one Badsah Biswas was declared the first empanelled candidate. The petitioner, being second and having lesser merit, however, has been offered the appointment ignoring the claim of the better first empanelled candidate. Several irregularities have been committed by the recruiting authority as he violated instructions by not maintaining the recruitment file properly. Even the date of dispatch of notification to all concerned is not maintained with respect to the recruitment process. Thus it was impossible even to ascertain whether the applications were received through the employment exchange or by post. When the recruitment officer was proceeded

against in a departmental proceeding, the irregularities in the recruitment process surfaced. Being faced with the irregularities, it was incumbent upon the authority to take necessary steps. Having regard to the provisions contained in Rule 4(3) (c) of the Rules the recruiting authority or any authority superior thereto could at any time, on its own motion, or otherwise call for the records relating to engagement of GDS made by the recruiting authority. If the records manifest that the recruiting authority exercised its jurisdiction illegally or with material irregularity, the superior authority is conferred with powers under the said Rule to make such order as it thinks fit, after giving an opportunity of being heard. The action of the appellants have thus sought to be substantiated.

11. The stand taken on behalf of the respondent/ writ petitioner, on the other hand, was that the selection process was conducted strictly in accordance with the advertisement and the rules. The petitioner is neither aware, nor is in any way concerned with or responsible for any alleged irregularity committed by the recruiting authority. It was contended on behalf of the petitioner that even though he was the second empanelled candidate he was rightly offered the employment, as the first empanelled candidate remained absent on the date of bio-data verification. Petitioner

has undergone the requisite pre-engagement training and also taken up a residence within the local jurisdiction of the Post Office where he is serving. He objected to review of the recruitment process leading to his engagement, 7 years after his appointment. He also alleged procedural irregularity as the petitioner's termination was not preceded by issuance of a charge-sheet or conduct of an enquiry as required by the Principles of Natural Justice. The issue that the authority who undertook review of the recruitment process had no power of review, has also been raised by the petitioner before the writ Court.

12. The rival submissions have been considered by the writ court, which has proceeded to hold that by virtue of the petitioner's recruitment in 2013 valuable statutory and fundamental right had accrued in his favour. In absence of conclusive proof of petitioner's involvement in the alleged irregularity in the recruitment process his service should not have been terminated, that also without complying with the Principles of Natural Justice. The Recruiting Officer has not been visited with any penal consequences for the alleged irregularities committed by him in the recruitment process. The action, therefore, against the petitioner is not only unwarranted, but also unsustainable. The Court has also found that the post of GDS has

been kept outside 'the civil services of the Union' as per Rule 3 A (v) of the Rules. Sub-Rule (vi) of Rule 3A contemplates that a Sevak shall not claim parity with the Central Government employees. Referring to the other provisions contained in Rule 3 A (ii) (iii) of the Rules it was concluded by the Hon'ble Single Judge GDS cannot be treated as a regular employee of the Central Government holding a civil post under the Central Government. And thus GDS would not be entitled to approach the CAT with respect to their service matters. Holding that the CAT does not have jurisdiction to deal with service matters of GDS, the objection regarding maintainability of the writ petition has thus been rejected by the Hon'ble Single Judge.

13. In the above noted conspectus we deem it appropriate to first consider whether recourse to the CAT under the Act was available to the writ petitioner in respect of the service matter of GDS, or not. We consider this to be the primary question because the Hon'ble Single Judge has held that remedy under the Act before the CAT was not available to the petitioner (GDS). The Hon'ble Single Judge has thus approved invocation of writ jurisdiction directly by the petitioner (GDS).

14. Since the issue of maintainability *vis-à-vis* jurisdiction of the CAT to entertain service matters in connection with the affairs

of the Union is concerned with Section 14 of the Act. We, therefore, consider it appropriate to quote Section 14 of the Act thus:

“14. Jurisdiction, powers and authority of the Central Administrative Tribunal.—(1) Save as otherwise expressly provided in this Act, the Central Administrative Tribunal shall exercise, on and from the appointed day, all the jurisdiction, powers and authority exercisable immediately before that day by all courts (except the Supreme Court [* *]) in relation to—*

(a) recruitment, and matters concerning recruitment, to any All-India Service or to any civil service of the Union or a civil post under the Union or to a post connected with defence or in the defence services, being, in either case, a post filled by a civilian;

(b) all service matters concerning—

(i) a member of any All-India Service; or

(ii) a person [not being a member of an All-India Service or a person referred to in clause (c)] appointed to any civil service of the Union or any civil post under the Union; or

(iii) a civilian [not being a member of an All-India Service or a person referred to in clause (c)] appointed to any defence services or a post connected with defence,

and pertaining to the service of such member, person or civilian, in connection with the affairs of the Union or of any State or of any local or other authority within the territory of India or under the control of the Government of India or of any corporation [or society] owned or controlled by the Government;

(c) all service matters pertaining to service in connection with the affairs of the Union concerning a person appointed to any service or post referred to in sub-clause (ii) or sub-clause (iii) of clause (b), being a person whose services have been placed by a State Government or any local or other authority or any corporation [or society] or other body, at the disposal of the Central Government for such appointment.

[Explanation.—For the removal of doubts, it is hereby declared that references to “Union” in this sub-section shall be construed as including references also to a Union Territory.]

(2) The Central Government may, by notification, apply with effect from such date as may be specified in the notification the provisions of sub-section (3) to local or other authorities within the territory of India or under the control of the Government of India and to corporations [or societies] owned or controlled by Government, not being a local or other authority or corporation [or society] controlled or owned by a State Government:

Provided that if the Central Government considers it expedient so to do for the purpose of facilitating transition to the scheme as envisaged by this Act, different dates may be so specified under this sub-section in respect of different classes of, or different categories under any class of, local or other authorities or corporations [or societies].

(3) Save as otherwise expressly provided in this Act, the Central Administrative Tribunal shall also exercise, on and from the date with effect from which the provisions of this sub-section apply to any local or other authority or corporation [or society], all the jurisdiction, powers and authority exercisable immediately before that date by all courts (except the Supreme Court [* *]) in relation to—*

(a) recruitment, and matters concerning recruitment, to any service or post in connection with the affairs of such local or other authority or corporation [or society]; and

(b) all service matters concerning a person [other than a person referred to in clause (a) or clause (b) of sub-section (1)] appointed to any service or post in connection with the affairs of such local or other authority or corporation [or society] and pertaining to the service of such person in connection with such affairs.”

15. The Act has been enacted by the Parliament so as to give effect to the constitutional provision contained under Article 323A of the Constitution of India enabling the Parliament to provide for the adjudication or trial of disputes and complaints with respect to service matters of persons appointed to public services posts in connection with the affairs of the Union, State, local or other authority.
16. In this connection, the learned Deputy Solicitor General for India has submitted that the Apex Court in the case of ***Superintendent of Post Offices and others vs. P.K. Rajamma*** reported in ***(1977) 3 SCC 94***, in the case of ***Union of India and others vs. Kameshwar Prasad*** reported in ***(1997) 11 SCC 650***, in the case of ***Chet Ram vs. Jit Singh*** reported in ***(2008) 14 SCC 427***, has held that the GDS hold a civil post and are entitled to the protection Article 311 (2) of the Constitution of India. GDS are recruited under the Engagement and Conduct Rules 2011 which specifies the qualifications and restrictions applicable to candidates for recruitment as GDS. Appointment being under a Rule issued by the Union Government, the post of GDS, though being a contractual appointment has the character of a civil post under the Union and in connection with the affairs of the Union of India. The petitioner was, therefore, required to approach the CAT.

Only after availing his statutory remedy, the petitioner could have invoked the jurisdiction under Article 226 and 227 of the Constitution of India.

17. The learned Counsel for the petitioner on the other hand, reiterated his above noted submissions before the Hon'ble Single Judge, which had been advanced before the CAT.

18. In so far as the reliance placed by the Union of India on decisions of the Apex Court it is submitted that these decisions have been passed prior to coming into force of the 2011 Rules, wherein for the first time Rule 3A was inserted. He thus submits that the decision relied upon by the Union of India are inapplicable in the present case, recruitment having been done under the 2011 Rules. It is further submitted that the appointment letter dated 30.08.2013 clearly indicates that the petitioner's appointment is contractual in nature and for these reasons it cannot be said that the GDS are the holders of a civil post. The writ petitioner, therefore, could not have maintained an application before the CAT under the Act and has rightly invoked the writ jurisdiction of this Court under Article 226 and 227 of the Constitution of India.

19. The Court is thus required to consider the purport of Rule 3A of the 2011 Rules. This Court considers it apposite to reproduce Rule 3A of the 2011 Rules, which reads thus:

“3A Terms and Conditions of Engagement

- (i) A Sevak shall not be required to perform duty beyond a maximum period of 5 hours in a day;*
 - (ii) A Sevak shall not be retained beyond 65 years of age;*
 - (iii) A Sevak shall have to give an undertaking that he has other sources of income besides the allowances paid or to be paid by the Government for adequate means of livelihood for himself and his family;*
 - (iv) A Sevak can be transferred from one post/ unit to another post/ unit in public interest;*
 - (v) A Sevak shall be outside the Civil Service of the Union;*
 - (vi) A Sevak shall not claim to be at par with the Central Government employees;*
 - (vii) Residence in post village/ delivery jurisdiction of the Post Office within one month after selection but before engagement shall be mandatory for a Sevak;*
- Failure to reside in place of duty for GDS BPM & within delivery jurisdiction of the Post Office for other categories of Gramin Dak Sevaks after engagement shall be treated as violative of conditions of engagement and liable for disciplinary action under Rule 10 of the Conduct Rules, requiring removal/ dismissal;*
- (viii) Post Office shall be located in the accommodation to be provided by Gramin Dak Sevak Branch Postmaster suitable for use as Post Office premises;*

(ix) *Combination of duties of a Sevak shall be permissible;*”

20. Incorporation of Clause 3A in the 2011 Regulations in our opinion, does not in any manner alter the status of GDS. Clause 3A of the 2011 Regulations only introduces certain terms and conditions of engagement. Clause (v) of Clause 3 A on which heavy reliance is placed by the learned Counsel for the writ petitioner/ respondents in our opinion, at best declares the GDS to be outside the ‘civil service of the Union’. It, however, does not mean that the GDS are denuded of their status as holders of a civil post as was declared by the Apex Court in the case of ***Union of India and others vs. Kameshwar Prasad*** (supra) thereafter reiterated consistently in the subsequent decisions which have been taken note of above. In this connection it would be fruitful to take note of another decision of the Apex Court in the case of ***Y. Najithamol and Others vs. Soumya S.D. and Others*** Reported in **(2016) 9 SCC 352** as the said report contains a decision after coming into force of the 2011 Regulations incorporating Clause 3A. Paragraph 15 to 17 of this report reads:-

“15. Promotion to a post, thus, can only happen when the promotional post and the post being promoted from are a part of the same class of service. Gramin Dak Sevak is a civil post, but is not a part of the regular service of the Postal Department. In Union of India v. Kameshwar Prasad [Union of India v. Kameshwar

Prasad, (1997) 11 SCC 650 : 1998 SCC (L&S) 447] this Court held as under: (SCC p. 652, para 2)

“2. The extra-departmental agents system in the Department of Posts and Telegraphs is in vogue since 1854. The object underlying it is to cater to postal needs of the rural communities dispersed in remote areas. The system avails of the services of schoolmasters, shopkeepers, landlords and such other persons in a village who have the faculty of reasonable standard of literacy and adequate means of livelihood and who, therefore, in their leisure can assist the Department by way of gainful avocation and social service in ministering to the rural communities in their postal needs, through maintenance of simple accounts and adherence to minimum procedural formalities, as prescribed by the Department for the purpose. [See Swamy's Compilation of Service Rules for Extra-Departmental Staff in Postal Department, p. 1.]”

16. Further, a three-Judge Bench of this Court in *Supt. of Post Offices v. P.K. Rajamma* [*Supt. of Post Offices v. P.K. Rajamma, (1977) 3 SCC 94 : 1977 SCC (L&S) 374*] held as under: (SCC p. 98, para 4)

“4. It is thus clear that an extra-departmental agent is not a casual worker but he holds a post under the administrative control of the State. It is apparent from the rules that the employment of an extra-departmental

agent is in a post which exists “apart from” the person who happens to fill it at any particular time. Though such a post is outside the regular civil services, there is no doubt it is a post under the State. The tests of a civil post laid down by this Court in Kanak Chandra Dutta case [State of Assam v. Kanak Chandra Dutta, AIR 1967 SC 884] are clearly satisfied in the case of the extra-departmental agents.”

(emphasis supplied)

17. *A perusal of the above judgments of this Court make it clear that extra-departmental agents are not in the regular service of the Postal Department, though they hold a civil post. Thus, by no stretch of imagination can the post of GDS be envisaged to be a feeder post to Group C posts for promotion.”*

21. This decision is consistent with the three decisions relied upon by the U. O. I. We, thus find no merit in the submission of the respondent that the three decisions relied upon by the Union of India are distinguishable since they are of a date prior to 2011 Regulations.

22. Merely because GDS are not within the civil service of the Union does not imply that they are not holding a civil post. In this connection, this Court considers it appropriate to refer to the constitutional provisions contained in part XIV of the Constitution of India, containing Articles 309, 310 and 311 of the Constitution

of India. A plain reading of Article 310 of the Constitution of India manifests the various class of persons serving the Union, or the State.

23. Article 310 categorizes persons serving the Union either to be a member of the defence service, or the civil service. The jurisdiction of the Central Administrative Tribunal as per Section 14 of the Act extends to service matters of any All India service, any civil service of the Union, a civil post under the Union, post connected with the defence or in the defence services, being in either case the post filled by a civilian; as also a person not being a member of All India Service serving in the affairs of the Union. The categories of the various nature of services which as per the Act are amenable to the jurisdiction of the CAT are in consonance with the categories of services under the union as contained in Article 310 of the Constitution of India. Any person who is serving on any of these categories of posts is entitled to invoke the jurisdiction of CAT. Therefore, incorporation of Regulation 3A (v) does not disentitle GDS who are holders of a civil post in connection with the affairs of the Union of India to invoke the jurisdiction of CAT.

24. The contention of the writ petitioner/ respondents that after incorporation of Regulation 3A in the 2011 Regulations the above

noted judgments relied upon on behalf of the Union of India are inapplicable, in our opinion, is unsustainable in view of the above discussion.

25. Having gone through the records, considered the rival submission and after taking note of the relevant provisions, we are in agreement with the conclusion of the Hon'ble Single Judge that GDS is not a regular employee of the Central Government holding a civil post under the Central Government. However, we are not in agreement with the consequential finding that the GDS is thus not entitled to approach the CAT with respect to their service matters.

26. In this connection reference to Section 14, quoted above is profitable. In so far as service matters related to a civil post under the Union is concerned, the same has been made subject to exclusive jurisdiction of CAT under Section 14(a). But Section 14(a) is not the only provision specifying the nature of services in relation to which the CAT shall exercise the jurisdiction, powers and authority. There are other nature of services also specified in Sections 14(b) and (c), in relation to which the CAT, as per the legislative mandate is to exercise jurisdiction. The legislature, thus has not limited the jurisdiction of the tribunal to service matters of persons holding only a civil post under the

Union/Central Government. From a plain reading of Section 14(b) (c) it is obvious that all service matters concerning the nature of other services specified therein also fall within the jurisdiction, power and authority exercised by the CAT.

27. Section 14 is thus expansive and also includes services of member of an All India service, a person not being a member of an All India service, but appointed to any civil service of the Union, or any civil post under the union. It also includes service matters of civilian appointed to any defence service, or a post connected with defence. The services even of a member, person or civilian in connection with the affairs of the Union within the territory of India or under the control of the Government of India are also amenable to the jurisdiction of CAT as per Section 14(b) (ii). This Section also includes services under any corporation or society owned or controlled by the Government of India.

28. Section 14(c) of the Act further brings within the jurisdiction of CAT all service matters pertaining to service in connection with the affairs of the Union of person appointed to any service/ post referred to in Sub-clause (ii) and (iii) of clause (b) of Section 14 in case the services of a person have been placed at the disposal of the Central Government, for such appointment by a State

Government, any local or other authority, or by any Corporation, society or other body.

29. It would be relevant here to notice the provisions contained in Section 14(2) and (3) of the Act which further confers a statutory discretion on the Central Government to apply the jurisdiction of CAT to any local or other authority within its control by issuing notification in this regard.

30. On a plain and literal reading of the provisions contained in Section 14 of the Act it is manifest that the Act does not restrict the jurisdiction of the tribunal only to a regular employee holding a civil post under the Union/ Central Government. The plain and literal reading of Section 14 of the Act, on the contrary gives an expansive, rather than such a restrictive scope as regards the nature of services under the Union, which are entitled to invoke the jurisdiction of the CAT in respect of their service matters.

31. It is by now a settled principle of statutory interpretation that in considering the meaning and scope of any statute the rule of plain and literal meaning is the most preferred meaning to ascertain the statutory intention. Thus when the Act does not contemplate limiting the jurisdiction of the tribunal only to regular employees holding a civil post under the Union; and a plain reading of the provision reveals a much more expansive

jurisdiction, then the conclusion of the Hon'ble Single Judge excluding the writ petitioner's service from the jurisdiction of CAT, in our opinion is unsustainable.

32. It is by a settled principle of statutory interpretation that the golden rule of literal interpretation of the statute is to be preferred. Only when such literal interpretation may not serve the purpose of the statute or is at variance with the purpose of the statute that other principles of interpretations are to be applied. In this connection we consider it fruitful to refer the decision of the Apex Court in the case of ***The High Court of Judicature at Madras Represented by its Registrar General vs. M. C. Subramaniam and Others*** reported in ***(2021) 3 SCC 560***. As noticed above Section 14 of the Act does not contemplate such a restrictive interpretation regarding the nature of services coming within the scope of the CAT. We, therefore, have no option but to respectfully disagree with the conclusion of the Hon'ble Single Judge excluding the petitioner's services from the jurisdiction of CAT. Such restrictive interpretation in our considered opinion would defeat the object and purposes of the Act enacted in furtherance of the constitutional provision contained in Article 323 A of the Constitution of India.

33. The Apex Court considering the role of CAT, in the case of **L. Chandra Kumar vs. Union of India and others** reported in **(1995) 1 SCC 400** has held that the tribunal would continue to be a Court of first instance in the area of law for which they have been constituted. The Apex Court has further held that all decisions of these tribunals will be subject to scrutiny before a Division Bench of the High Court within whose jurisdiction the concerned tribunal falls. In this Connection we consider it appropriate to quote paragraph 99 of the decision in the case of **L. Chandra Kumar vs. Union of India and others** reported in **(1995) 1 SCC 400** which reads:-

“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.”

34. Such being the legal position, there being no bar under the Act operating against contractual employees holding a civil post under the Union, from invoking the jurisdiction of the CAT, the conclusion of the Hon’ble Single Judge in this regard cannot be sustained.

35. There being no fetter on the part of the CAT to entertain service matters in respect of GDS, and having regard to Paragraph 99 of the decision of the Apex Court in the case of **L. Chandra Kumar vs. Union of India and others** (supra) we have no hesitation in concluding that it was not open to the writ petitioner to directly approach the High Court by overlooking the jurisdiction of the tribunal.

36. We set aside the Judgment dated 28.02.2020 passed by the Hon’ble Single Judge in W.P.A. No. 496 of 2019.

37. Since we have interfered with the decision of the Hon'ble Single Judge on the preliminary issue of maintainability of the writ petition, we clarify that any observation/conclusion in the present judgment has no bearing on the merits of the claim of the writ petitioners in the writ petition filed by them and the observations in the present judgment shall have no persuasive value on the CAT in the event the petitioner chooses to avail his remedy in respect of the impugned orders in the instant proceedings, before the CAT.

38. The appeal stands allowed. The pending application/s stands disposed of. Interim order/s if any stands vacated.

(MADHURESH PRASAD, J.)

(PARTHA SARATHI CHATTERJEE, J.)