

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH
CWP-6890-2023
DECIDED ON: 12.01.2024

ASHOK KUMARPETITIONER
VERSUS
STATE OF UT AND OTHERSRESPONDENTS

CORAM: HON'BLE MR. JUSTICE SANJAY VASHISTH.

Present: Ms. Arunima Agashi, Advocate for
Mr. Rohit Mittal, Advocate
for the petitioner.

Mr. Sanjeev Ghai, Addl. Standing Counsel
for respondents.

SANJAY VASHISTH, J (ORAL)

1. Order dated 08.01.2024 passed by this Court says as under:-

*“Present: Mr. Rohit Mittal, Advocate
for the petitioner.
Mr. Sanjiv Ghai, Advocate
for the respondents.

*Mr. Ghai, learned counsel for U.T. has
relied upon a judgment of Constitutional Bench of
Hon'ble Supreme Court, titled as L.Chandra Kumar
Vs. Union of India, 1997 AIR (Supreme Court)1125,
Law Finder Doc Id # 20495 and referred to
paragraph No. 95, which reads as under:*

*'95. Before moving on to other aspects, we may
summarize our conclusions on the
jurisdictional powers of these Tribunals. The
Tribunals are competent to hear matters where
the vires of statutory provisions are questioned.
However, in discharging this duty, they cannot
act as substitutes for the High Courts and the
Supreme Court which have, under our
constitutional setup, been specifically entrusted
with such an obligation. Their function in this
respect is only supplementary and all such
decisions of the Tribunals will be subject to
scrutiny before a Division Bench of the*

respective High Courts. The Tribunals will consequently also have the power to test the vires of subordinate legislations and rules. However, this power of the Tribunals will be subject to one important exception. The Tribunals shall not entertain any question regarding the vires of their parent statutes following the settled principle that a Tribunal which is a creature of an Act cannot declare that very Act to be unconstitutional. In such cases alone, the concerned High Court may be approached directly. All other decisions of these Tribunals, rendered in cases that they are specifically empowered to adjudicate upon by virtue of their parent statutes, will also be subject to scrutiny before a Division Bench of their respective High Courts. We may add that the Tribunals will, however, continue to act as the only courts of first instance in respect of the areas of law for which they have been constituted. By this, we mean that it will not be open for litigants to directly approach the High Courts even in cases where they question the vires of statutory legislations (except, as mentioned, where the legislation which creates the particular Tribunal is challenged) by overlooking the jurisdiction of the concerned Tribunal.'

Learned counsel for the petitioner seeks one last opportunity to examine the issue.

Adjourned to 12.01.2024.

To be shown in the urgent list."

2. On the very outset, counsel for the petitioner seeks withdrawal of the present petition, with liberty to seek alternative remedy available to him, as per law.

3. Dismissed as withdrawn, with the liberty as sought and recorded here above.

(SANJAY VASHISTH)
JUDGE

12.01.2024

Lavisha

Whether speaking/reasoned *Yes/No*
Whether reportable *Yes/No*