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

+ W.P.(C) 4946/2019 and CM APPL. Nos. 22019/2019 and
27097/2019

JOINT FRONT : A FORUM OF CPWD SERVICE ASSOCIATIONS
AND ORS.Petitioners

Through: Mr. C. Mohan Rao, Senior Advocate
with Mr. Lokesh Kumar Sharma, Advocate.

versus

UNION OF INDIA AND ORS.Respondents

Through: Ms. Geetanjali Setia, Advocate for
Respondent No.3.

CORAM:
HON'BLE MS. JUSTICE JYOTI SINGH

ORDER
12.11.2024

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1. This writ petition has been filed by the Petitioners under Article 226 of the Constitution of India seeking reliefs in the nature of challenging letter dated 11.02.2019 and O.M. dated 11.02.2019, prohibiting mass rallies allegedly violating the fundamental rights of the Petitioners, as also seeking a declaration that all actions of the Respondents such as suspending the employees, initiating disciplinary proceedings, appointing Inquiry Officer, etc. be declared *void ab initio*.

2. Indisputably, the reliefs sought are in the nature of service matters concerning the terms and conditions of employment as also disciplinary action initiated against the Petitioners and the reliefs are sought against Ministry of Housing and Urban Affairs and Central Public Works



Department which are under the jurisdiction of the Administrative Tribunals. Hence, in view of Section 14 of the Administrative Tribunals Act, 1985 as also the judgment of the Constitution Bench of the Supreme Court in ***L. Chandra Kumar v. Union of India and Others*, (1997) 3 SCC 261**, and the recent judgment of the Division Bench of this Court in ***Parikshit Grewal and Others v. Union of India and Another*, 2024 SCC OnLine Del 6939**, the Administrative Tribunal is the only Court of first instance to adjudicate the disputes arising in the present writ petition. I may allude to the relevant passages from the judgment in ***L. Chandra Kumar (supra)***, which are as follows:

“93. Before moving on to other aspects, we may summarise 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 set-up, 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 High Court concerned 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 Tribunal concerned.

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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.”

3. Accordingly, this writ petition is dismissed with liberty to the Petitioners to approach the Administrative Tribunal, in accordance with law, making it clear that this Court has neither entered into nor expressed any opinion on the merits of the case.
4. Pending applications stand disposed of.

JYOTI SINGH, J

**NOVEMBER 12, 2024
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