



\$~101

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

+ **W.P.(C) 11842/2024**

KIRTAN VAISHNAV

.....Petitioner

Through: **Mr. Ankit Kumar, Advocate.**

versus

DEPARTMENT OF POSTS AND ORS

.....Respondents

Through: **Ms.Sarika Singh, SPC for R-3**
Mr.Rajat Sikri, GP for R-3/UOI

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

ORDER

%

28.08.2024

CM APPL. No. 49307/2024 (for Exemption)

1. Allowed subject to all just exceptions.
2. Application stands disposed of.

W.P.(C) 11842/2024

3. This petition has been filed challenging the impugned order dated 22.6.2024 issued by the respondent No.1/ Department of Posts, whereby the candidature of the petitioner has been cancelled.
4. The relief claimed by the Petitioner is in the nature of service matter and is substantively against the Department of Posts, which is notified under Section 14 of the Administrative Tribunal Act, 1985. Therefore, by virtue of Section 14 of the Act and judgment of the Constitution Bench of the Supreme Court in ***L. Chandra Kumar v. Union of India and Others, (1997) 3 SCC 261***, the Central Administrative Tribunal will be the only Court of



first instance to adjudicate the issues raised by the Petitioner. In the aforementioned judgment the Supreme Court observed as under:

“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 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 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 concerned Tribunal.”

5. Accordingly, this petition is dismissed with liberty to the Petitioner to approach the appropriate forum in accordance with law.

JYOTI SINGH, J

AUGUST 28, 2024

SV