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

+ **W.P.(C) 16993/2024**

SUJATA KUMARI @ SUJATA

.....Petitioner

Through: Mr. Kapil Kishor Kaushik, Advocate.

versus

DELHI TRANSPORT CORPORATION

.....Respondent

Through: Ms. Avnish Ahlawat, Standing Counsel with Mr. Nitesh Kumar Singh, Ms. Laavanya Kaushik, Ms. Aliza Alam and Mr. Mohnish Sehrawat, Advocates for Respondent/DTC.

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

ORDER

09.12.2024

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CM APPL. 71930/2024

1. Exemption allowed, subject to all just exceptions.
2. Application stands disposed of.

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3. This writ petition has been preferred on behalf of the Petitioner under Article 226 of the Constitution of India laying a challenge to the impugned order dated 04.11.2024, whereby punishment has been imposed on the Petitioner.
4. There is no dispute that DTC, against which relief is sought, is notified under Section 14 of the Administrative Tribunals Act and therefore, in view of the 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 is the only Court of first instance to adjudicate the dispute raised by the Petitioner. Relevant paragraph of the judgment is as follows:

“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.”

5. Recently, a Division Bench of this Court in ***Parikshit Grewal and Others v. Union of India and Another, 2024 SCC OnLine Del 6939***, observed that it is a matter of some discomfiture to this Court that, nearly three decades after seven Hon'ble Judges of the Supreme Court clearly held, in the near iconic decision in ***L. Chandra Kumar (supra)***, that all matters which lay within the province of the Central Administrative Tribunal by virtue of Section 14 of the Administrative Tribunals Act, 1985 would have



to be agitated before the Tribunal and that the High Court could not act as a Court of first instance in such cases, petition after petition is still preferred in the High Court, in clear violation of the judgment. Every possible argument in the book is pressed into service, to somehow avoid ***L. Chandra Kumar (supra)***. Exceptions, not to be found either in Section 14 of the Act or in the judgment in ***L. Chandra Kumar (supra)***, are sought to be read into it by implication. In the process, both Articles 141 and 144 of the Constitution of India are consigned to oblivion.

6. In view of the binding dicta of the Supreme Court and the judgment of the Division Bench considering that DTC is notified under Section 14 of the Administrative Tribunals Act, this writ petition is dismissed with liberty to the Petitioner to take recourse to appropriate remedies before the appropriate Forum.

JYOTI SINGH, J

DECEMBER 9, 2024

B.S. Rohella