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IN THE HIGH COURT OF DELHI AT NEW DELHI

W.P.(C) 11266/2022 & CM APPL. 11077/2025

GUNJAN AND ORS

.....Petitioners

Through: Mr. Ramesh Kr. Sharma,
Advocate.

versus

GOVT. OF NCT OF DELHI & ORS.

.....Respondents

Through: Mrs. Avnish Ahlawat, SC with Mr.
N.K. Singh, Ms. Laavanya
Kaushik, Mr. Amitoj Chadha,
Advocates for GNCTD.

CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

28.02.2025

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1. The petitioners are Auxiliary Nurse Midwives recruited by the Department of Health and Family Welfare, Government of National Capital Territory of Delhi ["GNCTD"], pursuant to an advertisement dated 04.05.2021. They have filed this writ petition challenging orders by which their services had allegedly been terminated.

2. When the matter was taken up on 24.02.2025, the following order was passed:

"1. The petitioner has filed this application for amendment of the affidavit of rejoinder. Mr. Ramesh Sharma, learned counsel for the petitioner, seeks an adjournment on the ground that he is indisposed.

2. While the adjournment sought on this ground is granted, learned counsel for the parties are requested to assist the Court, on the question, as to whether the disputes raised in this writ petition are amenable to the jurisdiction of the Central Administrative Tribunal,



under the Administrative Tribunals Act, 1985.

3. *List the application and the writ petition in the category of “for admission” matters on 28.02.2025.”*

3. On the question of whether the disputes are liable to be agitated by way of a writ petition or before the Central Administrative Tribunal [“CAT”], it may be noted that the respondents in the writ petition are GNCTD, Chief Director Medical Officer, District Immunization Officer, Central District and the Director of Health Services. All these offices are a part of the GNCTD.

4. Learned counsel for the respondents also submits that the respondents are all amenable to the jurisdiction of the CAT as GNCTD is a notified entity under the Administrative Tribunals Act, 1985.

5. In such cases, where the matter falls within the jurisdiction of the Administrative Tribunal, the High Court cannot be approached as the Court of first instance. This is the position, as laid down by the Supreme Court in *L. Chandra Kumar v. Union of India and Ors.* [1997 (3) SCC 261]. The judgment in *L. Chandra Kumar* has been explained by the Division Bench of this Court in *Parikshit Grewal & Ors. v. Union of India & Anr* judgment dated 27.09.2024 in [LPA 971/2024], in the following terms:

*“12. Thus, the Supreme Court clarified, in terms as unequivocal as could be, that **it would not be open to a litigant to approach the High Court in matters relating to the areas of law in which the Tribunal concerned is constituted, and that the Tribunal would continue to act as the court of first instance in all such matters, the only exception being where the very legislation under which the Tribunal is constituted is challenged.** In other words, save and except for cases in which the litigant challenges one or the other provision of the AT Act, it is not open to the litigant to approach the High Court in the first instance, in respect of matters which the Central Administrative*



Tribunal is competent to adjudicate; in other words, in respect of matters which fall within the purview of Article 14 of the Constitution. In all such matters, the Central Administrative Tribunal would be the only court of first instance, available to the litigant.

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14. Thus, the position in law is clear as crystal. All matters, which fall within the purview of Section 14 of the AT Act have first to be agitated before the Tribunal. It is the Tribunal alone which can entertain these matters, as a court of first instance. The litigant is completely proscribed from approaching the High Court in such matters, without first approaching the Tribunal. The only circumstance in which the litigant can approach the High Court, without first approaching the Tribunal, is where the litigation challenges the vires of the AT Act itself, or of one or the other of its provisions.

15. It is completely befuddling, therefore, to see petitions, which clearly fall within the scope and ambit of Section 14 of the AT Act, being directly filed in the High Court. Going by the number of such petitions which are still coming up before this Court itself, the malaise is reaching endemic proportions. Without meaning any disrespect to High Courts which may choose to entertain such petitions, these stray examples, if any, cannot derogate from the position in law so unequivocally stated by seven Hon'ble Judges of the Supreme Court in L. Chandra Kumar."

[Emphasis supplied.]

6. Learned counsel for the petitioners, Mr. Sharma, submits that this Court has entertained writ petitions for similar relief in the past. He draws my attention to two interim orders passed by this Court, being order dated 06.06.2022 in W.P.(C) 9416/2022, and order dated 29.06.2022 in W.P.(C) 9643/2022. He also submits that W.P.(C) 9643/2022 was disposed of by a judgment of this Court dated 09.12.2022. Accepting the petitioners' contention on this account for the moment, the first two orders cited are interim orders. Even in the judgment dated 09.12.2022, the question of jurisdiction of the Tribunal was not discussed, because no objection was raised before the Court on this ground. It is noted in the



said judgment that the other writ petition [W.P.(C) 9416/2022] was ultimately disposed of as not pressed.

7. In view of the above, and the binding authorities of the Supreme Court and the Division Bench of this Court, I am of the view that the petitioners must be relegated to their remedies before the Tribunal.

8. The writ petition, alongwith pending application, is disposed of with liberty to the petitioners to approach the Tribunal in accordance with law.

9. It is made clear that this Court has not made any observations on the merits of the petitioners' case.

10. Next date of hearing, i.e., 18.07.2025, stands cancelled.

PRATEEK JALAN, J

FEBRUARY 28, 2025

'Bhupi'/SD/