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

+ **W.P.(C) 7840/2025**

DR. S.K. YADAV

.....Petitioner

Through: Mr. Lovkesh Sawhney, Senior
Advocate with Mr. Rohit Jain, Mr.
Gaurav Jain & Mr. Rohit Kumar,
Advocates.

versus

MUNICIPAL CORPORATION OF DELHI

.....Respondent

Through: Mr. Vikas Chopra, Standing
Counsel for MCD with Mr. Neeraj
Kumar, Advocate.

CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

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29.05.2025

CM APPLs. 34535/2025 & 34536/2025(Exemption)

Exemptions allowed, subject to all just exceptions.

The applications stand disposed of.

W.P.(C) 7840/2025 and CM APPL. 34537/2025

1. This petition has been filed by a Veterinary Doctor working in the Municipal Corporation of Delhi ["MCD"], for implementation of recommendations of 5th and 6th Central Pay Commission.
2. MCD is admittedly a notified entity for the purposes of jurisdiction of the Central Administrative Tribunal ["Tribunal"] under the Administrative Tribunals Act, 1985 [the "Act"]. Section 14 of the Act



provides for the jurisdiction of the Tribunal in respect of all service matters pertaining *inter alia* to notified local authorities. Therefore, the petitioner would have to agitate his grievances first before the Tribunal.

3. This position is made clear from the Constitution Bench judgment of the Supreme Court in *L. Chandra Kumar v. Union of India & Ors.* [(1997) 3 SCC 261], which has been interpreted in several judgments, including of Division Benches of this Court. In the recent Judgment in *Parikshit Grewal & Ors. v. Union of India & Anr.* [2024 SCC OnLine 6939], the Division Bench held as follows:-

“1. 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 v UOI* [(1993) 3 SCC 261], 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*. Exceptions, not to be found either in Section 14 of the AT Act or in the judgment in *L Chandra Kumar*, are sought to be read into it by implication. In the process, both Article 141 and 144 of the Constitution of India are consigned to oblivion.

2. This is yet one other such case, in which the appellants have sought to avoid approaching the Tribunal and have petitioned this Court, in a matter which clearly falls within Section 14 of the AT Act. A learned Single Judge of this Court has, in a detailed and well considered judgment, clearly disapproved the attempt, and has dismissed the petition as not maintainable in view of *L Chandra Kumar*. Instead of approaching the Tribunal, as they could, and should, have, the appellants have sought to appeal against the decision of the learned Single Judge. Of course, they are certainly entitled to appeal; but, in the process, the chance of, perhaps, obtaining relief from the right forum, is frittered away.

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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]

4. The same view has been taken in *Manish Kumar v. Union of India* [2025 SCC OnLine Del 1519], holding *inter alia* as follows:

“12. We pointed out to Mr. Chinmoy that there is a complete proscription on the High Court acting as a court of first instance in any service matter concerning a Central Government employee. This proscription, which is by now part of legal lore, is to be found in para



93 of the judgment of the seven-Judge Bench of the Supreme Court in *L Chandra Kumar v. UOI*:

"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.

(Emphasis supplied)"

5. Mr. Lovkesh Sawhney, learned Senior Counsel for the petitioner, however, submits that this Court has jurisdiction as the Tribunal has already decided an original application, i.e. OA 3711/2018, dated 12.10.2018 against a similarly placed petitioner. Be that as it may, in



terms of the aforesaid decisions of this Court, at the first instance, the petitioner is bound to approach the Tribunal rather than to invoke the Constitutional jurisdiction of this Court under Article 226 of the Constitution. The view taken in the aforesaid judgments admit of little ambiguity; an aggrieved litigant must first approach the Tribunal, and if he/she is dissatisfied with the view taken by the Tribunal, only then is the remedy before the High Court under Article 226 available. Such writ petitions are also placed before the Division Bench, akin to an appeal from an order of a Single Judge under Article 226.

6. Mr. Sawhney cites the judgment of Division Bench in *Dr. Chandra Shekhar Sahukar v. Union of India* [W.P.(C) 2780/2011, decided on 14.10.2014] in support of his contention that the petitioner's claim on merits has been decided in his favour. It may be noted that this judgment was rendered by the Division Bench in a petition against orders of the Tribunal. It is clear that the petitioners therein had first approached the Tribunal for relief, and only then invoked the writ jurisdiction. He also cites an order of the Division Bench in *Dr. Asha Aggarwal v. Union of India and Anr and connected matters* [W.P.(C) 460/2007 and connected matters, decided on 11.01.2008]. It does not appear that any question of jurisdiction was decided therein.

7. Mr. Sawhney also referred to an order of a coordinate Bench dated 07.12.2020 in W.P.(C) 9866/2020 [*Dr. A K Singla v. Union of India and Ors.*]. It is clear from a reading of paragraphs 1 and 7 of the said order that the petitioner therein was a Veterinary Doctor, but he was working in Food Safety and Standards Authority of India which was not amenable to the jurisdiction of the Tribunal. It is in these circumstances that the writ



petition was entertained at the first instance by this Court. Reliance upon the said order is therefore entirely misconceived. The fact that the petitioners in both cases are Veterinary Doctors is hardly relevant to the question of jurisdiction of the Tribunal. What is relevant is whether the employer is covered under the Administrative Tribunals Act, 1985 or not. In the said case, it was not covered, but in this case, it is.

8. In these circumstances, the writ petition is dismissed, but without prejudice to the petitioner's statutory remedies.

PRATEEK JALAN, J

MAY 29, 2025/'pv'/kb/