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

+ W.P.(C) 40/2020, CM APPLs. 153/2020, 155/2020, 8945/2020 & 53854/2023

NISHAT ABDULLAH AND ORS.Petitioners

Through: Ms. Roma Bhagat, Mr. Rohan Sharma & Ms. Ruchika Sharma, Advocates.

versus

UNION OF INDIA AND ORS.Respondent

Through: Ms. Nidhi Mohan Parashar & Mr. Anand Chichra, Advocates.

CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

10.01.2025

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1. The petitioners assail a recruitment process initiated by the Union of India under notification dated 10.02.2018 being Centralised Employment Notice (CEN) No. 02/2018.
2. In the very first order in the writ petition, passed on 07.01.2020, a status report was sought from the respondent-Railways “*without adverting to the aspect of maintainability of the writ petition*”.
3. It is undisputed that the issues raised in this writ petition fall within the jurisdiction of the Central Administrative Tribunal [“CAT”], under the Administrative Tribunals Act, 1985. In such cases, the judgment of the Supreme Court in *L. Chandra Kumar vs. UOI* [(1997) 3 SCC 261], clearly mandates that the original forum of challenge will be CAT. A



recent Division Bench decision of this Court in *Parikshit Grewal & Ors. vs. Union of India & Anr.* [LPA 971/2024, decided on 27.09.2024] has considered the judgment in *L. Chandra Kumar [Supra]* and several subsequent decisions of the Supreme Court. The Division Bench observed as follows:-

“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. As the grievances in this writ petition are admittedly amenable to the jurisdiction of CAT, I am of the view that the aforesaid decisions squarely apply to the petitioners' case, and they must first approach CAT.

5. Ms. Roma Bhagat, learned counsel for the petitioners, submits that the writ petition has been pending before this Court for five years now, and pleadings have been filed by the respondents also. She further submits that relegating the petitioners to the remedies before CAT at this stage will cause unnecessary delay in the resolution of their grievances.

6. Ms. Bhagat further submits that the very same recruitment process was challenged by other candidates before the Commissioner for Persons with Disability, under the Rights of Persons with Disabilities Act, 2016. An order dated 12.10.2020 was passed by the Commissioner, directing the respondents to quash the entire process and conduct the exercise of recruitment afresh after proper calculation of the reserved posts for persons with benchmark disabilities. The aforesaid decision is under challenge in a writ petition filed by Union of India [W.P.(C) 1549/2021]. She submits that the issues raised in the present writ petition are overlapping with the issues which the Court will have to decide in W.P.(C) 1549/2021.

7. As far as the last argument is concerned, the challenge in W.P.(C) 1549/2021 remains pending before this Court. If the directions of the Commissioner are ultimately upheld by this Court, that would naturally enure to the benefit of the petitioners in this petition also. However, that is not a ground to depart from the principles of *L. Chandra Kumar [Supra]*.



8. With regard to the delay that may be occasioned in resolution of the petitioner's grievances, it can only be said that the issue of maintainability was adverted to in the first order of this Court, but the petitioners chose to pursue writ proceedings. The petitioners' interest can best be protected by permitting them to place the pleadings filed in this petition as part of their application before CAT, and requesting CAT to consider the petitioners' application as expeditiously as possible, having regard to the fact that they have already spent considerable time in this Court. Learned counsel for Union of India ["UoI"] assures the Court that the UoI will also cooperate in this process.

9. The writ petition, alongwith pending applications, is disposed of, with liberty to the petitioners in terms of the above directions.

PRATEEK JALAN, J

JANUARY 10, 2025

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