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

+ **W.P.(C) 14469/2025**

DR APNA

.....Petitioner

Through: Mr. Gurpreet Singh, Mr. Sitaram
Yadav, Ms. Anshika Juneja, Ms.
Saddhvi Nayak, Advocates.

versus

UNION OF INDIA AND ANR

.....Respondents

Through: Mr. Vijay Joshi, CGSC for UoI.

CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

% **19.09.2025**

1. The petitioner has filed this writ petition under Article 226 of the Constitution, against respondent No. 1 –Union of India [“UOI”], and respondent No. 2 – Dr. Ram Manohar Lohia Hospital [“the Hospital”], which is an establishment of UOI, challenging recruitment to the post of Senior Resident under the Notification dated 31.07.2025.
2. The writ petition was first listed on 18.09.2025, when a jurisdictional objection was taken by Mr. Vijay Joshi, learned Central Government Standing Counsel, that the appropriate forum for the grievance would be the Central Administrative Tribunal [“the Tribunal”].
3. Mr. Gurpreet Singh, learned counsel for the petitioner, however, does not dispute that the Tribunal has jurisdiction over the petitioner’s grievances, but submits that the examination in which the petitioner



wishes to participate is scheduled to be held this Sunday, i.e. 21.09.2025, and therefore requests this Court to entertain the present writ petition.

4. At the very outset, such a course is, in my view, not acceptable. It is the settled position that a litigant must not file a writ petition at the first instance, if the matter lies within the purview of the Tribunal's jurisdiction. This position was established by the seven-Judge Bench of the Supreme Court in *L. Chandra Kumar v. Union of India* [(1997) 3 SCC 261] [hereinafter, "*L. Chandra Kumar*"]:

*"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 **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. Two recent Division Bench judgments of this Court in, *Parikshit Grewal v. Union of India* [2024 SCC OnLine Del 6939] [hereinafter,



“*Parikshit Grewal*”], and *Manish Kumar v. Union of India* [2025 SCC OnLine Del 1519] [hereinafter “*Manish Kumar*”], have placed the matter beyond doubt. In *Parikshit Grewal*, the Court 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.]

6. The same view has been taken in *Manish Kumar* in the following terms:

"14. On our pointing out to Mr. Chinmoy that the present petition would not lie before this Court as this is a "service matter" which, as per Section 19(1)8 of the AT act has to be preferred before the Tribunal, Mr. Chinmoy has drawn our attention to Section 3(q)9 of the AT Act which defines "service matters". He submits that by virtue of the said definition, a "service matter" has to be a matter relating to the conditions of service of the person who approaches the Court. In as much as the dispute in WP (C) 819/2025, from the order passed in which the present appeal emanates, was not a matter concerning the conditions of service of the petitioner but was in the nature of a quo warranto challenging the legality of appointment and continuance in office of Respondent 4, Mr. Chinmoy's contention is that it would lie before this Court.

15. The contention, to our mind, is misguided.

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17. In case the appellant has a personal interest in the appointment of Respondent 4, in that setting aside of the appointment of Respondent 4 would affect the appellant's conditions of service, the lis in the writ petition would clearly be a "service matter" within the meaning of Section 2(q) of the AT Act, and would have to be preferred before the Tribunal under Section 19 thereof."

7. The petitioner is, therefore, relegated to her remedies before the Tribunal.

8. Mr. Singh, however, submits that the examination is scheduled to be held on 21.09.2025. He, therefore, seeks interim protection.

9. In the present case, the recruitment notice was issued on 31.07.2025, with applications open until 19.08.2025, and the list of rejected applications scheduled to be uploaded by 03.09.2025. The petitioner submitted her application on 18.08.2025. She, however, did not possess a registration certificate from the Delhi Dental Council. Her name was, therefore, included in a rejection list dated 03.09.2025 published on the respondent's website. It is the admitted position that the petitioner received her registration certificate on 08.09.2025. She attempted to upload the certificate the same day, but it is contended that she was unable to do so due to a technical error.

10. According to Mr. Singh, the documents uploaded by the petitioner could not be submitted in time due to an error in the hyperlink in the rejection notice dated 03.09.2025 (Annexure P-6 to the writ petition). In particular, it is stated that, in the said notice, a hyperlink was provided to the e-mail address at which the documents were to be submitted. Although the e-mail address was written as "residentrecruitmentml@gmail.com", the hyperlink, in fact, opened



to an incorrect e-mail address, “*residentrecruitmentrml@smail.com*”. A screenshot has been annexed to the writ petition as Annexure P-4.

11. Mr. Joshi, instructed by Dr. U.K. Kundu, Additional Medical Superintendent of the Hospital, submits that the aforesaid contention regarding the hyperlink, has been verified and found to be correct. In view of this position, and without prejudice to the respondents’ contentions with regard to timely submission of documents by the petitioner, Mr. Joshi submits that the petitioner will be permitted to participate in the examination scheduled on 21.09.2025, subject to the orders of the Tribunal.

12. It is made clear that the respondents have not conceded to the merits of the petitioner’s submissions, and that the petitioner is being permitted to participate only so that her contentions can be adjudicated by the Tribunal. No special equities will be created in favour of the petitioner by such participation. All contentions are left open to be agitated before the Tribunal.

13. Although the petitioner’s case is being disposed of with these directions, it is a matter of regret that the petitioner did not approach the Tribunal at the first instance, or even after the submission recorded on 18.09.2025. The filing of writ petitions before this Court, in matters which clearly lie within the jurisdiction of the Tribunal is inconsistent with the principles laid down in *L. Chandra Kumar* and the other judgments referred to above. The filing of such writ petitions, particularly at the last minute, places an unnecessary burden on the writ Court. This practice is strongly deprecated, and it is made clear that in future, the Court may be compelled to impose costs in such cases.



14. The writ petition is disposed of.
15. A copy of the order be given *Dasti* under the signature of the Court Master.

PRATEEK JALAN, J

SEPTEMBER 19, 2025

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