**IN THE SUPREME COURT OF INDIA**

**(CIVIL ORIGINAL JURISDICTION)**

**WRIT PETITION (CIVIL) NO. OF 2020**

DIARY NO 11209/2020

**(Under Article 32 of the Constitution of India)**

**IN THE MATTER OF:**

Asheesh Singh Kotwal & Anr. ... Petitioner

V/s

Union of India & Ors. ...Respondents

**[I.A. NO. 2020]**

**[APPLICATION FOR STAY]**

**WITH**

**[I.A. NO. 2020]**

**[APPLICATION FOR EXEMPTION FROM FILING AFFIDAVIT]**

**PAPER BOOK**

(For Index: Kindly See Inside)

**ADVOCATE FOR THE PETITIONERS: ARJUN GARG**

# INDEX

| Sl. No. | Particulars of Document | Page No. of part to which it belongs | | Remarks |
|---|---|---|---|---|
| | | Part I (Contents of Paper Book) | Part II (Contents of file alone) | |
| (i) | (ii) | (iii) | (iv) | (v) |
| | Court Fees | | | |
| 1. | Listing proforma | **A-A1** | **A-A1** | |
| 2. | Cover page of paper book | | **A-2** | |
| 3. | Index of Record of Proceedings | | **A-3** | |
| 4. | Defect List | | **A-4-A6** | |
| 5. | Note Sheet | | **NS1-** | |
| 6. | Synopsis & List of dates | **B - V** | | |
| 7. | Writ Petition with Affidavit. | **1 - 33** | | |
| 8. | **APPENDIX**<br>**Constitution of India**<br>**14, 19, 21, 39-A, 226, 323-A and 323-B** | **34 - 39** | | |
| 9. | **ANNEXURE P-1:-**<br>A true copy of Notification No. GSR 551 (E) dated 05.08.2019 revoking Special Status to J & K. | **40** | | |
| 10. | **ANNEXURE P-2 :-**<br>A true copy of Relevant Sections 5, 18, 28 and 29 of | **41 - 45** | | |

| | | | | |
|---|---|---|---|---|
| | Administrative Tribunal Act, 1985. | | | |
| 11. | **ANNEXURE P-3:-**<br>A true copy of Notice dated NIL issued by the High Court of Jammu and Kashmir at Jammu . | **46** | | |
| 12. | **ANNEXURE P-4:-**<br>A true copy of Notification No. G.S.R. 267 (E) dated 29.04.2020. | **47 - 49** | | |
| 13. | **ANNEXURE P-5:-**<br>A true copy of Press Release dated 01.05.2020 issued by Ministry of Personnel, Public Grievance and Persons, Department of Personnel. | **50** | | |
| 14. | **ANNEXURE P-6:-**<br>A true copy of tabular representation showing total strength and vacancies. | **51 - 54** | | |
| 15. | **I.A. NO. OF 2020:-**<br>Application for Stay | **55 – 61** | | |
| 16. | **I.A. NO. OF 2020:-**<br>Application for exemption from filing Affidavit. | **62 - 64** | | |
| 17. | F/M | | **65** | |
| 18. | V/A | | **66** | |

A

**PROFORMA FOR FIRST LISTING**

Section-X

The case pertains to (Please tick/check the correct box):

☐ Central Act: (Title) N.A.

☐ Section: N.A.

☐ Central Rule: (Title): N.A.

☐ Rule No(s): N.A.

☐ State Act (Title): N.A.

☐ Section: N.A.

☐ State Rule (Title): N.A.

☐ Rule No(s): N.A

☐ Impugned Interim Order: (Date): N.A.

Impugned Final Order/Decree: N.A.

☐ High Court: N.A.

☐ Names of Judges: N.A.

☐ Tribunal/Authority: (Name N.A.

1. Nature of Matter: Civil ☑ Criminal ☐

2. (a) Petitioner: Asheesh Singh Kotwal & Anr.

(b) e-mail ID: N.A.

(c) Mobile phone number: N.A.

3. (a) Respondents: Union of India & Ors.

A1

(b) e-mail ID: N.A.

(c) Mobile phone number: N.A.

4. (a) Main category classification: 08

(b) Sub classification: 0812

5. Not to be listed before: N.A.

6. (a) Similar disposed of matter with citation, if any, & case details: No Similar Matter Disposed Of.

(b) Similar pending matter with case details: Similar matter not pending.

7. Criminal Matters: N.A.

(a) Whether accused/convict has surrendered: Yes ☐ No ☑ NA

(b) FIR No. N.A. Date: N.A.

(c) Police Station N.A.

(d) Sentence Awarded: N.A.

(e) Sentence undergone: N.A.

8. Land Acquisition Matters: N.A.

(a) Date of Section 4 notification: N.A.

(b) Date of Section 6 notification: N.A.

(c) Date of Section 17 notification: N.A.

9. Tax matters: State the tax effect: N.A.

A2

10. Special Category (first petitioner/appellant only) N.A.

☐ Senior Citizen >65 years ☐ SC/ST ☐ Woman/Child

☐ Disabled ☐ Legal Aid ☐ In Custody

11. Vehicle Number (in case of Motor Accident Claim Matters): N.A.

Date: 08.05.2020

AOR for petitioner(s)/appellant(s)
**ARJUN GARG**
Registration No. – 1807
E-mail: garg.arjun1@gmail.com

# SYNOPSIS

1. The petitioners are filing the present writ petition under Article 32 of the constitution seeking a writ of Mandamus for quashing of Notification No. G.S.R. 267 (E) dated 29.04.2020 issued by Ministry of Personnel, Public Grievance and Persons, Department of Personnel and Training conferring jurisdiction to the Ld. Central Administrative Tribunal, Chandigarh over all service matters of the employees of the Union Territory of Jammu and Kashmir, and also seeking establishment of a permanent bench of the Central Administrative Tribunal at the Union Territory of Jammu and Kashmir with complete infrastructure and adequate strength of Hon'ble Members.

## (I) Undisputed Facts:-

The facts leading to filing of the present petition are as follows:

2. That before Reorganization Act, 2019 of Jammu and Kashmir, the Central Administrative Tribunal, Chandigarh Bench had jurisdiction of service matters only pertaining to Central Government employees posted in erstwhile state of J&K and the service matters of employees

of the state government of J&K were being adjudicated upon by Jammu and Kashmir High Court.

3. On 09.08.2019, after invocation of Article 370 of the Constitution, the Jammu And Kashmir Reorganization Act, 2019 was enacted by the Government of India whereby the erstwhile State of J&K was converted into a Union Territory and therefore, came under the control and administration of the Central Government.

4. As a result, the Administrative Tribunal Act, 1985 became applicable on J&K. All matters covered under Section 28 and 29 of the Administrative Tribunal Act, 1985 were required to be transferred to the Central Administrative Tribunal.

5. Pursuant to the said change in status, and without any formal change in the jurisdiction, the Hon'ble High Court of Jammu and Kashmir started identifying the matters which appear to be covered under Section 28 and 29 of the Administrative Tribunals Act, 1985.

6. On 29.04.2020, the Ministry of Personnel, Public Grievance and Persons, Department of Personnel and Training vide notification no. G.S.R. 267 (E) conferred jurisdiction to the Ld. Central

Administrative Tribunal, Chandigarh over all service matters of the employees of the Union Territory of Jammu and Kashmir.

7. On 01.05.2020 The Ministry of Personnel, Public Grievance and Persons, Department of Personnel and Training issued a press release stating that all service matters of Central Government and UT employees shall be taken up in CAT Circuit Bench at J&K.

8. The Petitioners believe that there are approximately around 35,000 to 40,000 cases pending in the High Court of Jammu and Kashmir which will get transferred to the Ld. CAT at Chandigarh (30,000 such cases have already been identified by both benches of the High Court while more identification is in progress). The Bench of Ld. CAT at Chandigarh has a capacity of 4 Hon'ble Members, and presently it is functioning with only 1 Hon'ble Member. To put it in a context, the overall pendency of cases before all benches of CAT (17) as on 31.12.2018 was approx. 50,000. While almost equal number of cases are now sought to be transferred to one bench having only 1 member.

9. The Petitioners are approaching this Hon'ble Court as the action of the Respondents are in violation of the constitutional principles and

the said notification is unconstitutional and against the fundamental rights of the citizens.

**(II) Scope of Judicial Review – Powers of the High Court under Article 226 vis a vis An Administrative Tribunal:-**

**10.** Insofar as the employees of Central Government are concerned the jurisdiction is exercisable by the Central Administrative Tribunal Act. Until recently this jurisdiction was being exercised by the Hon'ble High Court by the High Court Under Article 226 and 227 of the Constitution (and under Section 103 of the Constitution of Jammu and Kashmir) because the employees were the employees of the State Government and there was no State Administrative Tribunal.

**11.** Due to change in the status of the State by having become a Union Territory and consequently the change in the status of the employees becoming the employees of the Central Government if the jurisdiction is to be exercised by the Central Administrative Tribunal under the Administrative Tribunal Act, then there has to be established a proper bench of the Central Administrative Tribunal which can exercise the powers and jurisdiction of the High Court.

**12.** It is submitted that as a Constitutional Court, the jurisdiction of a High Court is very wide and unfettered. The scope of jurisdiction conferred of the High Courts under Articles 226 and 227 came up for consideration before a bench of Seven Hon'ble Judges of this Hon'ble Court of India in ***L. Chandra Kumar Vs. Union of India &Ors. (1997) 3 SCC 261***. This Hon'ble Court held that the powers under Articles 226 and 227 are part of basic structure of the Constitution. This Hon'ble Court further held that the jurisdiction of the High Courts under Articles 226 / 227 cannot be wholly excluded. The Court emphasized the necessity for ensuring that the High Courts are able to exercise the power of judicial superintendence and held as under:

> *"90. We may first address the issue of exclusion of the power of judicial review of the High Courts. We have already held that in respect of the power of judicial review, the jurisdiction of the High Courts under Articles 226/227 cannot wholly be excluded. It has been contended before us that the Tribunals should not be allowed to adjudicate upon matters where the vires of legislations is questioned, and that they should restrict themselves to handling matters where constitutional issues are not raised. We cannot bring ourselves to agree to this proposition as that may result in splitting up*

*proceedings and may cause avoidable delay. If such a view were to be adopted, it would be open for litigants to raise constitutional issues, many of which may be quite frivolous, to directly approach the High Courts and thus subvert the jurisdiction of the Tribunals. Moreover, even in these special branches of law, some areas do involve the consideration of constitutional questions on a regular basis; for instance, in service law matters, a large majority of cases involve an interpretation of Articles 14, 15 and 16 of the Constitution. To hold that the Tribunals have no power to handle matters involving constitutional issues would not serve the purpose for which they were constituted. On the other hand, to hold that all such decisions will be subject to the jurisdiction of the High Courts under Articles 226/227 of the Constitution before a Division Bench of the High Court within whose territorial jurisdiction the Tribunal concerned falls will serve two purposes. While saving the power of judicial review of legislative action vested in the High Courts under Articles 226/227 of the Constitution, it will ensure that frivolous claims are filtered out through the process of adjudication in the Tribunal. The High Court will also have the benefit of a reasoned decision on merits which will be of use to it in finally deciding the matter.*

> *99. 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 Article 226/227 and 32 of the Constitution."*

**13.** Further, this Hon'ble Court has also emphasised that if a Tribunal is being created as an alternate to the Court then it ought to be a robust, effective institutional mechanism or authority. Certainly, the purpose and object cannot be achieved through a circuit bench to adjudicate over 40,000 cases.

**14.** In view of the aforesaid submissions, it is clear that the jurisdiction of a High Court can never be ousted. There can never be an absolute bar of jurisdiction of the High Court. This is relevant for the present petition since there is no absolute bar to the powers of the High Court and therefore there was no necessity to initiate the procedure for transferring all the cases from High Court to the Ld. CAT, bench at Chandigarh, especially when the bench at Chandigarh is presently functioning with only 1 Hon'ble Member and such transfer of cases

would result in serious impediment to the administration and delivery of justice.

**(III) <u>Transfer of Cases by High Court is not justified in absence of a permanent Bench of Ld. Central Administrative Tribunal at Jammu and Kashmir:-</u>**

**15.** The other issue which arises is that when this Hon'ble Court in L. Chandra Kumar (supra) has held that jurisdiction of the High Court is not taken away and in fact it cannot be abrogated, and to that extent Section 28 of the Administrative Tribunals Act has been read down and declared ultra vires, the High Court even now retains its constitutional jurisdiction to adjudicate the cases. The jurisdiction of High Court remains intact notwithstanding the fact that the employees become Central Government employees and there shall be an Administrative Tribunal for dealing with their service matters.

**16.** In such a situation the High Court ought not to have initiated the procedure for transferring the cases in such a hasty manner without ascertaining to itself that a permanent full-fledged bench of the Central Administrative Tribunal is not only established but made fully functional and operational so that the access to justice is not

jeopardized. As far as Jammu & Kashmir is concerned, there is no permanent Bench of the Ld. CAT established. It is foremost requirement to establish a proper Bench and only then transfer the cases to the Bench of CAT ought to have been done.

**17.** It is thus being prayed that the High court should transfer the cases only after a bench has been constituted for Jammu & Kashmir and it has become fully functional. The adhoc arrangement of holding circuit bench by the Bench of Chandigarh is not a substitute or even a proper arrangement for dealing with such huge number of cases.

**(IV) <u>Scheme of the Administrative Tribunals Act, 1985: -</u>**

**18.** It is further submitted that the very continuance of proceedings before the Ld. CAT at Chandigarh with a Single Member holding the charge is also questionable. Section 5(2) of the Administrative Tribunals Act provides that *subject to the other provisions of this Act, a Bench shall consist of one Judicial Member and one Administrative Member.*

**19.** While Section 5(6) provides that a Single Member can also constitute a Bench and exercise the jurisdiction, clearly such provision has been kept to fulfil any administrative exigency, or in a rare or emergency

situation. But this practice cannot continue for routine hearing of cases under the contemplation of the Administrative Tribunal Act.

**20.** Further, Section 18 presupposes that the Benches have been constituted and therefore only enables the Central Government to make distribution of the business amongst the benches.

**(V) <u>Access to Justice is a Fundamental Right:-</u>**

**21.** It is submitted that the said notification is violative of Articles 19(1)(g), 14, 21 & 39A of the Constitution as it denies access to justice to all, coupled with right to equality to litigants facing administrative inaction or outreach by the government. Moreover, it violates the right to practice any profession enshrined under Article 19(1)(g) of the constitution to lawyers/advocates. Thereby encroaching upon the Right to life and liberty of both the litigants and lawyers.

**22.** That the said notification suffers from the vice of arbitrariness, and a complete non-application of mind. The Notification violates fundamental rights not only of the Petitioners but of a large number of people in the Union Territories of Jammu & Kashmir and Ladakh.

**23.** By changing the status from State to Union Territory the status of approx 5,00,000 employees of the State Government has changed and they are now treated as Central Government employees. The number of service cases of such State Government employees pending in the High Court of J&K has not been considered at all.

**24.** It is also pertinent to note that 'Service' Writs in the High Court pertain not only to the employees and their service conditions, but many such cases are filed by candidates challenging the recruitment procedure etc and thus there are a large number of cases filed by non-employees as well. A rough estimate suggests that these cases are in the range of 35,000 to 40,000 presently pending in the High Court of Jammu and Kashmir.

**25.** The Respondents have also completely overlooked the total strength and available strength of Members available at Central Administrative Tribunal, Chandigarh at present. The total strength at present is 4 while the available strength is only 1. The Respondents have suggested that the hearings will take place at Jammu and Srinagar only and the Hon'ble Member will sit in Circuit Benches at these places while also managing the Bench at Chandigarh. It is

submitted with respect that it is a completely impractical and unworkable suggestion keeping in view the number of pendency of cases.

**26.** Constitution of Circuit benches would not only delay the output of justice system rather it would multiply administrative problems for litigants and lawyers.

**27.** This Hon'ble Court in *Anita Khushwa Vs. Pushpa Sadan* (2016) 8 SCC 509 observed that 'access to justice' is a fundamental right guaranteed to citizens not only under Article 21 but also under Article 14. The Court broadly outlined 4 facets of access to justice – Need for effective adjudicatory mechanism; Mechanism must be reasonably accessible in terms of distance; Speedy process of adjudication and; Adjudicatory process must be affordable.

**(VI) <u>The Impugned Notification is Arbitrary and Suffers From A complete Non-Application of Mind:-</u>**

**28.** It is submitted that the impugned notification is completely arbitrary and discriminating. The same has been notified by the Central Government without any application of mind.

**29.** The demography and geological condition of the Union Territory of Jammu & Kashmir and Ladakh have also not been kept in mind while issuing the Notification. Given the adverse conditions and the prevalent situations in the UT of J&K, the residents anyways used to take a long time in reaching the seats of High Court at Jammu and Srinagar. To compel them to go to Chandigarh would seriously violate their fundamental right of access to justice.

**30.** The situation cannot be compared with the pre-august situation, when there were only a handful of Central Government employees in State of J&K and thus the number of cases arising from State of J&K before the Ld. CAT, Chandigarh were also very few. The same does not stand correct any longer with the change in status of employees.

**(VII) <u>Need of a permanent bench of Central Administrative Tribunal at the Union Territory of Jammu and Kashmir:-</u>**

**31.** It is submitted that the access to justice and justice at doorstep are concepts enshrined under the Fundamental Rights of a citizen of India. The need for a Tribunal or a Special Court to be situated within the territory of the State has been emphasised time and again.

**32.** The following from the concurring judgment of Hon'ble Chief Justice P.N. Bhawati in ***S.P. Sampath Kumar v. Union of India*, (1987) 1 SCC 124 (Although subsequently overruled in L. Chandrakumar on the larger issue)** is extremely pertinent to note in this regard:

> ***"8.*** *I may also add that if the Administrative Tribunal is to be an equally effective and efficacious substitution for the High Court on the basis of which alone the impugned Act can be sustained, there must be a permanent or if there is not sufficient work, then a Circuit Bench of the Administrative Tribunal at every place where there is a seat of the High Court. I would, therefore, direct the government to set up a permanent Bench and if that is not feasible having regard to the Vol. of work, then at least a circuit Bench of the Administrative Tribunal wherever there is a seat of the High Court, on or before March 31, 1987. That would be necessary if the provisions of the impugned Act are to be sustained. So far as rest of the points dealt with in the judgment of Ranganath Misra, J. are concerned, I express my entire agreement with the view taken by him."*

**33.** The Petitioners submit that there is a need to have a full-fledged functional bench(es) of Central Administrative Tribunal in the Union Territory of Jammu & Kashmir with adequate strength and complete

infrastructure for efficient and proper administration of justice and for providing access to justice to the litigants of UT of J&K.

**34.** The problem in delay in administration of justice has been taken note of by this Hon'ble Court on a number of occasions. This Hon'ble Court in *Rojer Mathew Vs. South Indian Bank Ltd.* (CA 8588 of 2019 decided on 13.11.2019) observed as under:

> *"**10.** Delay and backlogs in the administration of justice is of paramount concern for any country governed by the rule of law. In our present judicial setup, disputes often take many decades to attain finality, travelling across a series of lower courts to the High Court and ending with an inevitable approach to the Supreme Court.*
>
> ***11.** Such crawling pace of the justice delivery system only aggravates the misery of affected parties. Although with nebulous origins, the adage "justice delayed, is justice denied" is apt in this context. Courts in this country, probably in a quest to ensure complete justice for everyone, overlook the importance of expediency and finality. This situation has only worsened over the years, as evidenced through piling pendency across all Courts. It would however be wrong to place the blame of such delay squarely on the judiciary, for an empirical examination of pendency clearly demonstrates that the ratio of judges against the*

*country's population is one of the lowest in the world and the manpower (support staff) and infrastructure provided is dismal."*

**35.** The following directions from the judgment in Rojer Mathew (Supra) are also extremely pertinent:

***"ISSUE VIII: WHETHER THERE IS A NEED FOR AMALGAMATION OF EXISTING TRIBUNALS AND SETTING UP OF BENCHES***

***234.*** *While seeking a 'Judicial Impact Assessment' of all existing Tribunals, counsels for petitioners/appellant(s) have underscored the exorbitant pendency before of a number of Tribunals like the CESTAT and ITAT, which they claim affects the very objective of tribunalisation. On the other hand, they also highlight an incongruity wherein numerous Tribunals are hardly seized of any matters, and are exclusively situated in one location.*

***235.*** *As noted by this court on numerous occasions, including in Madras Bar Association (2014) (supra), although it is the prerogative of the Legislature to set up alternate avenues for dispute resolution to supplement the functioning of existing Courts, it is essential that such mechanisms are equally effective, competent and accessible. Given that jurisdiction of High Courts and*

*District Courts is affected by the constitution of Tribunals, it is necessary that benches of the Tribunals be established across the country. However, owing to the small number of cases, many of these Tribunals do not have the critical mass of cases required for setting up of multiple benches. On the other hand, it is evident that other Tribunals are pressed for resources and personnel.*

***236.*** *This 'imbalance' in distribution of case-load and inconsistencies in nature, location and functioning of Tribunals require urgent attention. It is essential that after conducting a Judicial Impact Assessment as directed earlier, such 'niche' Tribunals be amalgamated with others dealing with similar areas of law, to ensure effective utilisation of resources and to facilitate access to justice.*

***237.*** *We accordingly direct the Union to rationalise and amalgamate the existing Tribunals depending upon their case-load and commonality of subject-matter after conducting a Judicial Impact Assessment, in line with the recommendation of the Law Commission of India in its 272nd Report. Additionally, the Union must ensure that, at the very least, circuit benches of all Tribunals are set up at the seats of all major jurisdictional High Courts."*

**36.** It is evident for a catena of judgements that this Hon'ble Court has taken cognizance of imbalance of case load in Tribunals. The present

case is a case in point. The requirement is certainly that of a full-fledged Bench in J&K and not a mere weekly circuit Court of one Hon'ble Member as suggested by the Respondents. Such action would result in serious delay in imparting justice and would result in irreparable loss and injury to the litigants.

**37.** It is submitted that both benches of the Hon'ble High Court at Jammu, and at Srinagar have already made a list of Service Writs and are in the process of identifying more cases. These cases are then going to be transferred to the Ld. CAT, Chandigarh. The Petitioners have also reliably learnt that the Registry of High Court has stopped accepting any fresh service writs (at present only e-filing is available due to Covid-19 situation).

**38.** Hence the present Writ Petition.

## LIST OF DATES & EVENTS

Prior to 2019 Until the enactment of Reorganization Act, 2019 of Jammu and Kashmir, the Central Administrative Tribunal, Chandigarh Bench had jurisdiction of service matters only pertaining to Central Government employees posted in

T

erstwhile state of J&K and the service matters of employees of the state government of J&K were being adjudicated upon by Jammu and Kashmir High Court.

05.08.2019 The Ministry of Law and Justice vide notification no. GSR 551 (E) issued The Constitution (Application to Jammu and Kashmir) Order, 2019 which superseded the, The Constitution (Application to Jammu and Kashmir) Order, 1954.

09.08.2019 Subsequently, the Jammu And Kashmir Reorganization Act, 2019 was enacted by the Government of India whereby the erstwhile state of J&K was converted into a Union Territory and therefore, came under the direct control and administration of the central government.

As a result, the Administrative Tribunal Act, 1985 became applicable on J&K. and the provisions of Section 28 and 29 of the Administrative Tribunal Act, 1985 became applicable to the extent that they were held to be valid by this Hon'ble Court.

The High Court of Jammu and Kashmir issued a notice stating that all matters pertaining to administrative disputes under Section 28 & 29 of Administrative Tribunal Act, 1985 have been identified which need to be transferred to Central Administrative Tribunal and said that further cases are being identified.

29.04.2020 The Ministry of Personnel, Public Grievance and Persons, Department of Personnel and Training vide notification no. G.S.R. 267 (E) conferred jurisdiction to the Ld. Central Administrative Tribunal, Chandigarh over all service matters of the employees of the Union Territory of Jammu and Kashmir.

01.05.2020 The Ministry of Personnel, Public Grievance and Persons, Department of Personnel and Training issued a press release stating that all service matters of Central Government and UT employees shall be taken up in CAT Circuit Bench at J&K.

08.5.2020 Hence the present writ petition under Article 32 of the constitution seeking writ of mandamus and or any other

writ quashing the notification no. G.S.R. 267 (E) dated 29.04.2020 issued by Ministry of Personnel, Public Grievance and Persons, Department of Personnel and Training regarding transfer of all service matters of J&K UT to Central Administrative Tribunal, Chandigarh Bench and for establishment of a permanent bench of Central Administrative Tribunal at Jammu with adequate strength and infrastructure and for other consequential and ancillary reliefs.

**IN THE SUPREME COURT OF INDIA**

**(CIVIL ORIGINAL JURISDICTION)**

**WRIT PETITION (CIVIL) NO. OF 2020**

**(Under Article 32 of the Constitution of India)**

**IN THE MATTER OF:**

1. **Asheesh Singh Kotwal**
   Son of Daya Krishnan Kotwal

2. **Shiv Kumar**
   Son of Shri Vidya Raj Sharma ....Petitioner No.1

.... Petitioner No.2

Versus

1. **Union of India**
   Through its Secretary
   Ministry of Personnel, Public Grievance and Persons,
   Department of Personnel and Training
   North Block, New Delhi, 110001

   Contesting
   .... Respondent No.1

2. **Union of India**
   Through its Secretary,
   Ministry of Home Affairs, Govt of India
   26, Jaisalmer House, New Delhi-110

   Contesting
   .... Respondent No.2

3. **Union Territory of Jammu & Kashmir**,
Home Department
Through its Principal Secretary
R. No. 3/21, 3rd, Floor Main Building,
Civil Secretariat, Jammu - 180001

**ALSO AT:**

R. No. 462, 4th Floor, Civil Secretariat, Srinagar - 190001

Contesting
.... Respondent No. 3

4. **High Court of Jammu & Kashmir**
Through it's Registrar General
High Court Building, Jammu - 180007

Contesting
....Respondent no. 4

5. **Central Administrative Tribunal**
Chandigarh Bench
Through its Registrar
Opp. Hotel Shivalik View, 17H, 17C, Sector 17, Chandigarh, 160017

Contesting
....Respondent No.5

**WRIT PETITION UNDER ARTICLE 32 OF THE**

**CONSTITUTION OF INDIA**

**To**

**THE HON'BLE CHIEF JUSTICE AND**

**HIS HON'BLE COMPANION JUSTICES**

**OF THE HON'BLE SUPREME COURT OF INDIA**

**THE HUMBLE PETITION OF**
**THE PETITIONER ABOVE-NAMED**

**MOST RESPECTFULLY SHOWETH: -**

1. The petitioners are filing the present writ petition under Article 32 of the constitution seeking A writ of Mandamus for quashing of notification no. G.S.R. 267 (E) dated 29.04.2020 issued by Ministry of Personnel, Public Grievance and Persons, Department of Personnel and Training conferring jurisdiction to the Ld. Central Administrative Tribunal, Chandigarh over all service matters of the employees of the Union Territory of Jammu and Kashmir, and also seeking establishment of a permanent bench of the Central Administrative Tribunal at the Union Territory of Jammu and Kashmir with complete infrastructure and adequate strength of Hon'ble Members.

2. It is pertinent to mention that prior to invocation of Article 370 of the constitution by the government of India, CAT, Chandigarh Bench was dealing with matters of only Central Government employees in the erstwhile state of J&K and those of other States as well.

**3.** The Petitioners are approaching this Hon'ble Court as the Respondents Nos. 1 & 2 have flagrantly violated the constitutional principles and therefore, the said notification in unconstitutional and violative of fundamental rights of the citizens.

1A. The Petitioners have not written any representation to the Respondents seeking the same relief that is sought in the present writ petition.

**4.** The Petitioner No. 1 is an advocate enrolled under the Advocates Act, 1981 with the Bar Council of Jammu & Kashmir in the year 2005 vide enrolment no. 691/05 and is also a member of Jammu and Kashmir High Court Bar Association, Jammu vide Membership no. 1375/2006.

**5.** The Petitioner No. 2 is the permanent resident of J&K. That Petitioner No. 2 had filed SWP 2499/2012 MP. No 3873/2012 titled as 'Shiv Kumar and Anr. vs State' pending before the High Court of Jammu and Kashmir which is now in the process of being transferred to Central Administrative Tribunal, Chandigarh pursuant to notification notification no. G.S.R. 267 (E) dated 29.04.2020 issued by Ministry of Personnel, Public Grievance and Persons, Department of Personnel

and Training. That Petitioner no, 2 is an aggrieved party due to the arbitrary actions of Respondent no. 1 & 2. Petitioner No. 2 is also a physically disabled person.

**6.** Respondent No. 1 is the Ministry of Personnel, Public Grievance and Persons, Department of Personnel and Training issued the notification no. G.S.R. 267 (E) dated 29.04.2020.

**7.** Respondent No. 2 is the Ministry of Home Affairs, Govt of India and is responsible for administration of Union Territories and domestic policy.

**8.** Respondent No. 3 is Union Territory of Jammu and Kashmir.

**9.** Respondent No. 4 is the High Court of Jammu and Kashmir.

**10.** Respondent No. 5 is the Central Administrative Tribunal, Bench at Chandigarh.

**11.** The facts relevant for the present writ petition are set out as under: -

*i.* That before Reorganization Act, 2019 of Jammu and Kashmir, the Central Administrative Tribunal, Chandigarh Bench had jurisdiction of service matters only pertaining to Central

Government employees posted in erstwhile state of J&K and the service matters of employees of the state government of J&K were being adjudicated upon by Jammu and Kashmir High Court.

*ii.* The Ministry of Law and Justice vide notification no. GSR 551 (E) issued The Constitution (Application to Jammu and Kashmir) Order, 2019 which superseded the, The Constitution (Application to Jammu and Kashmir) Order, 1954.

A true copy of Notification No. GSR 551 (E) dated 05.08.2019 revoking Special Status to J & K is annexed herewith and marked as **ANNEXURE "P-1" [Pg. 40 ].**

*iii.* Subsequently, on 09.08.2019, the Jammu And Kashmir Reorganization Act, 2019 was enacted by the Government of India whereby the erstwhile State of J&K was converted into a Union Territory and therefore, came under the control and administration of the Central Government.

*iv.* As a result, the Administrative Tribunal Act, 1985 became applicable on J&K and the provisions of Section 28 and 29 of

the Administrative Tribunal Act, 1985 became applicable to the extent that they were held to be valid by this Hon'ble Court.

A true copy of relevant Sections of Administrative Tribunal Act, 1985 is annexed herewith and marked as **ANNEXURE "P-2" [Pg. 41 to 45].**

*v.* The High Court of Jammu and Kashmir issued a notice stating that all matters pertaining to administrative disputes under Section 28 & 29 of Administrative Tribunal Act, 1985 have been identified which need to be transferred to Central Administrative Tribunal.

A true copy of Notice dated NIL issued by the High Court of Jammu and Kashmir at Jammu is annexed herewith and marked as **ANNEXURE "P-3" [Pg. 46 ].**

*vi.* On 29.04.2020, the Ministry of Personnel, Public Grievance and Persons, Department of Personnel and Training vide notification no. G.S.R. 267 (E) conferred jurisdiction to the Ld. Central Administrative Tribunal, Chandigarh over all service matters of the employees of the Union Territory of Jammu and Kashmir.

A true copy of Notification No. G.S.R. 267 (E) dated 29.04.2020 is annexed herewith and marked as **ANNEXURE "P-4" [Pg. 47 to 49].**

*vii.* On 01.05.2020, the Ministry of Personnel, Public Grievance and Persons, Department of Personnel and Training issued a press release stating that all service matters of Central Government and UT employees shall be taken up in CAT Circuit Bench at J&K.

A true copy of Press Release dated 01.05.2020 issued by Ministry of Personnel, Public Grievance and Persons, Department of Personnel is annexed herewith and marked as **ANNEXURE "P-5" [Pg. 50 ].**

**12.** It is submitted that the notice is a hogwash and completely deceiving as it failed to mention that only a circuit bench of CAT, Chandigarh Bench would be constituted at J&K.. That respondent no. 1 & 2 having overlooked crucial factors such as the pendency of cases in J&K (for both Central and UT employees), infrastructure of CAT Chandigarh Bench etc have misled the Petitioners and thousands of

other Central and UT employees who have been left stranded without justice being served to them.

**13.** That the said Notification is violative of Articles 19(1)(g), 14, 21 & 39A of the Indian Constitution as it denies access to justice to all coupled with right to equality to litigants facing administrative inaction or outreach by the government. Moreover, it violates the right to practice any profession enshrined under Article 19(1)(g) of the constitution to lawyers/advocates. Thereby encroaching upon the Right to life and liberty of both the litigants and lawyers.

**14.** That the Notification No. G.S.R. 267 (E) dated 29.4.2020 suffers from the vice of arbitrariness, and a complete non-application of mind. The Notification violates fundamental rights not only of the Petitioners but of a large number of people in the Union Territories of Jammu & Kashmir and Ladakh. These violations are multifaceted as enumerated herein as under:-

**a.** The notification amends the jurisdiction of the Ld. Central Administrative Tribunal, Chandigarh by deleting a State and adding two Union Territories therein. It would be a very convenient statement for the Respondents to make that the

territorial aspects do not change and it is only a change from 'State' to 'Union Territory'. In the respectful submission of the Petitioners, the suggestion is far from truth.

**b.** By changing the status from State to Union Territory the status of approx 5,00,000 employees of the State Government has changed and they are now treated as Central Government employees. The number of service cases of such State Government employees pending in the High Court of J&K has not been considered at all.

**c.** It is also pertinent to note that 'Service' Writs in the High Court pertain not only to the employees and their service conditions, but many such cases are filed by candidates challenging the recruitment procedure etc and thus there are a large number of cases filed by non-employees as well. A rough estimate suggests that these cases are in the range of 35,000 to 40,000 presently pending in the High Court of Jammu and Kashmir.

**d.** The Respondents have also completely overlooked the total strength and available strength of Members available at Central Administrative Tribunal, Chandigarh at present. The total

strength at present is 4 while the available strength is only 1. The Respondents have suggested that the hearings will take place at Jammu and Srinagar only and the Hon'ble Member will sit in Circuit Benches at these places while also managing the Bench at Chandigarh. It is submitted with respect that it is a completely impractical and unworkable suggestion keeping in view the number of pendency of cases. Therefore, it is completely impossible, unjustified and against the basic principles of law for one Judicial member to cater to administrative disputes for 5 individual states and UT's.

**e.** A tabular representation showing total strength and vacancies of Judicial and Administrative members in Central Administrative Tribunals all across the country.

A true copy of tabular representation showing total strength and vacancies is annexed herewith and marked **ANNEXURE "P-6"** **[Pg. 51 to 54 ].**

**f.** It is submitted that Central Administrative Tribunal, Chandigarh Bench has within its jurisdiction a total number of 5 States and UT's including Chandigarh, Punjab, Haryana, Himachal

Pradesh, Ladakh and J&K. The combined population for all 5 States and UT's is 5.96 Crore compared to the Central Administrative Tribunal, Principal Bench at New Delhi which caters to population of 3 Crores.

**g.** The demography and geological condition of the Union Territory of Jammu & Kashmir and Ladakh have also not been kept in mind while issuing the Notification. Given the adverse conditions and the prevalent situations in the UT of J&K and Ladakh, the residents anyways used to take a long time in reaching the seats of High Court at Jammu and Srinagar. To compel them to go to Chandigarh would seriously violate their fundamental right of access to justice.

**h.** The situation cannot be compared with the pre-august situation, when there were only a handful of Central Government employees in State of J&K and thus the number of cases arising from State of J&K before the Ld. CAT, Chandigarh were also very few. The same does not stand correct any longer with the change in status of employees.

**15.** It is submitted that, even if a circuit bench is constituted for Jammu and Kashmir, it would be highly ineffective for the reasons that; **Firstly**, the place and frequency of Circuit Benches are normally determined by the Vice-Chairman of the Bench who takes into account various factors such as the number of Members available in the Bench, workload of cases at a particular place, convenience of the litigants, availability of accommodation, etc. A merged number of approximately 35,000 to 40,000 cases are pending before the Jammu and Kashmir High Court which would be transferred to Ld. CAT. This is a fairly high number of cases considering that the bench will assemble to hear the cases only once in few months.

**16.** **Secondly,** there is only one judicial member catering to administrative disputes of 5 individual states/UT's.

**17.** **Thirdly,** the idea behind establishment of tribunals was to provide speedy and efficient justice to all. Constitution of Circuit benches would not only delay the output of justice system rather it would multiply administrative problems for litigants and lawyers. There is usually a huge gap between two sittings of Circuit Benches and most importantly, the constitution of Circuit Benches changes on every

visit resulting in matters being reheard every time. Therefore, there would be lack of consistency and uniformity in the cases being heard.

18. **Fourthly,** since Central Government would be a stakeholder in all cases before the Central Administrative Tribunal therefore, its role with regard to composition and constitution of benches would be inappropriate to the extent that it cannot play any role in the administrative dealings with CAT or its members. This would undermine the independence and fairness of the CAT and its members.

19. It is submitted that in order to streamline the conduct and to improve the efficiency of Central Administrative Tribunal, there is need for a permanent bench of Central Administrative Tribunal in Union Territory of J&K with adequate infrastructure and strength to hear and dispose cases.

20. It is submitted that the access to justice and justice at doorstep are concepts enshrined under the Fundamental Rights of a citizen of India. The need for a Tribunal or a Special Court to be situated within the territory of the State has been emphasised time and again.

**21.** It is submitted that mere setting up of institutions for providing relief is not enough. There are many factors that plague the judicial system and its reach to a common man. Such factors, if not addressed in its entirety would lead to inefficient judicial reach and therefore, denial of justice. It is not mere access to law, rather access to justice which should be seen to be fair, just, economically viable and fast.

**22.** Hence the present writ petition under Article 32 of the constitution seeking writ of mandamus and or any other writ quashing the notification no. G.S.R. 267 (E) dated 29.04.2020 issued by Ministry of Personnel, Public Grievance and Persons, Department of Personnel and Training and for establishment of a permanent bench of Central Administrative Tribunal at Jammu and for other ancillary and consequential reliefs.

## GROUNDS

That the Petitioner is filing the present Writ Petition on following amongst other grounds which are taken in addition and without prejudice to each other: -

A. **BECAUSE,** the said notification is violative of Articles 19(1)(g), 14, 21 & 39A of the Indian Constitution as it denies access to justice to all coupled with right to equality to litigants facing administrative inaction or outreach by the Government.

B. **BECAUSE**, the impugned Notification violates the right to practice any profession enshrined under Article 19(1)(g) of the constitution to lawyers/advocates. Thereby encroaching upon the Right to life and liberty of both the litigants and lawyers.

C. **BECAUSE**, due to change in the status of the State by having become a Union Territory and consequently the change in the status of the employees becoming the employees of the Central Government if the jurisdiction is to be exercised by the Central Administrative Tribunal under the Administrative Tribunal Act, then there has to be established a proper bench of the Central Administrative Tribunal which can exercise the powers and jurisdiction of the High Court.

D. **BECAUSE**, as a Constitutional Court, the jurisdiction of a High Court is very wide and unfettered. The scope of jurisdiction conferred of the High Courts under Articles 226 and 227 came up for consideration before a bench of Seven Hon'ble Judges of this Hon'ble Court of India in ***L. Chandra Kumar Vs. Union of India &Ors. (1997) 3 SCC 261***. This Hon'ble Court held that the powers under Articles 226 and 227 are part of basic structure of the Constitution. This Hon'ble Court further held that the jurisdiction of the High Courts under Articles 226 / 227 cannot be wholly excluded. The Court

emphasized the necessity for ensuring that the High Courts are able to exercise the power of judicial superintendence and held as under:

> *"90. We may first address the issue of exclusion of the power of judicial review of the High Courts. We have already held that in respect of the power of judicial review, the jurisdiction of the High Courts under Articles 226/227 cannot wholly be excluded. It has been contended before us that the Tribunals should not be allowed to adjudicate upon matters where the vires of legislations is questioned, and that they should restrict themselves to handling matters where constitutional issues are not raised. We cannot bring ourselves to agree to this proposition as that may result in splitting up proceedings and may cause avoidable delay. If such a view were to be adopted, it would be open for litigants to raise constitutional issues, many of which may be quite frivolous, to directly approach the High Courts and thus subvert the jurisdiction of the Tribunals. Moreover, even in these special branches of law, some areas do involve the consideration of constitutional questions on a regular basis; for instance, in service law matters, a large majority of cases involve an interpretation of Articles 14, 15 and 16 of the Constitution. To hold that the Tribunals have no power to handle matters involving constitutional issues would not serve the purpose for which they were constituted. On the other hand, to hold*

*that all such decisions will be subject to the jurisdiction of the High Courts under Articles 226/227 of the Constitution before a Division Bench of the High Court within whose territorial jurisdiction the Tribunal concerned falls will serve two purposes. While saving the power of judicial review of legislative action vested in the High Courts under Articles 226/227 of the Constitution, it will ensure that frivolous claims are filtered out through the process of adjudication in the Tribunal. The High Court will also have the benefit of a reasoned decision on merits which will be of use to it in finally deciding the matter.*

*99. 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 basicstructure of our Constitution. While this jurisdiction cannot be ousted, other courts and Tribunals may perform a supplemental role in discharging the powers conferred by Article 226/227 and 32 of the Constitution."*

**E.** **BECAUSE**, this Hon'ble Court has also emphasised that if a Tribunal is being created as an alternate to the Court then it ought to be a robust, effective institutional mechanism or authority. Certainly, the purpose

and object cannot be achieved through a circuit bench to adjudicate over 40,000 cases.

F. **BECAUSE,** the jurisdiction of a High Court can never be ousted. There can never be an absolute bar of jurisdiction of the High Court. This is relevant for the present petition since there is no absolute bar to the powers of the High Court and therefore there was no necessity to initiate the procedure for transferring all the cases from High Court to the Ld. CAT, bench at Chandigarh , especially when the bench at Chandigarh is presently functioning with only 1 Hon'ble Member and such transfer of cases would result in serious impediment to the administration and delivery of justice.

G. **BECAUSE,** this Hon'ble Court in L. Chandra Kumar (supra) has held that jurisdiction of the High Court is not taken away and in fact it cannot be abrogated, and to that extent Section 28 of the Administrative Tribunals Act has been read down and declared ultra vires. As such the High Court even now retains its constitutional jurisdiction to adjudicate the cases. The jurisdiction of High Court remains intact notwithstanding the fact that the employees become Central Government employees and there shall be Administrative Tribunal for dealing with their service matters High Court.

**H.** **BECAUSE**, in such a situation the High Court ought not to have initiated the procedure for transferring the cases in such a hasty manner without ascertaining to itself that a permanent full fledged bench of the Central Administrative Tribunal is not only established but made fully functional and operational so that the access to justice is not jeopardized. As far as Jammu & Kashmir is concerned, there is no permanent Bench of the Ld. CAT established. It is foremost requirement to establish a proper Bench and then only transfer the cases to Bench of the CAT ought to have been done.

**I.** **BECAUSE**, as such, the High court should transfer the cases only after a bench has been constituted for Jammu & Kashmir and it has become fully functional. The adhoc arrangement of holding circuit bench by the Bench of Chandigarh is not a substitute or even a proper arrangement for dealing with such huge number of cases.

**J.** **BECAUSE**, the very continuance of proceedings before the Ld. CAT at Chandigarh with a Single Member holding the charge is also questionable. Section 5(2) of the Administrative Tribunlas Act provides that *subject to the other provisions of this Act, a Bench shall consist of one Judicial Member and one Administrative Member.*

K. **BECAUSE**, while Section 5(6) provides that a Single Member can also constitute a Bench and exercise the jurisdiction, clearly such provision has been kept to fulfil any administrative exigency, or in a rare or emergency situation. But this practice cannot continue for routine hearing of cases under the contemplation of the Administrative Tribunal Act. Further, Section 18 presupposes that the Benches have been constituted and therefore only enables the Central Government to make distribution of the business amongst the benches.

L. **BECAUSE**, the impugned notification suffers from the vice of arbitrariness, and a complete non-application of mind. The Notification violates fundamental rights not only of the Petitioners but of a large number of people in the Union Territory of Jammu & Kashmir.

M. **BECAUSE**, by changing the status from State to Union Territory the status of approx 5,00,000 employees of the State Government has changed and they are now treated as Central Government employees. The number of service cases of such State Government employees pending in the High Court of J&K has not been considered at all.

N. **BECAUSE**, 'Service' Writs in the High Court pertain not only to the employees and their service conditions, but many such cases are filed by candidates challenging the recruitment procedure etc and thus there are a large number of cases filed by non-employees as well. A rough estimate suggests that these cases are in the range of 35,000 to 40,000 presently pending in the High Court of Jammu and Kashmir.

O. **BECAUSE**, the Respondents have also completely overlooked the total strength and available strength of Members available at Central Administrative Tribunal, Chandigarh at present. The total strength at present is 4 while the available strength is only 1. The Respondents have suggested that the hearings will take place at Jammu and Srinagar only and the Hon'ble Member will sit in Circuit Benches at these places while also managing the Bench at Chandigarh. It is submitted with respect that it is a completely impractical and unworkable suggestion keeping in view the number of pendency of cases.

P. **BECAUSE**, Constitution of Circuit benches would not only delay the output of justice system rather it would multiply administrative problems for litigants and lawyers.

Q. **BECAUSE**, this Hon'ble Court in *Anita Khushwa v. Pushpa Sadan* (2016) 8 SCC 509 observed that 'access to justice' is a fundamental

right guaranteed to citizens not only under Article 21 but also under Article 14. The Court broadly outlined 4 facets of access to justice – Need for effective adjudicatory mechanism; Mechanism must be reasonably accessible in terms of distance; Speedy process of adjudication and; Adjudicatory process must be affordable.

**R.** **BECAUSE**, the impugned notification is completely arbitrary and discriminating. The same has been notified by the Central Government without any application of mind.

**S.** **BECAUSE**, the demography and geological condition of the Union Territory of Jammu & Kashmir have also not been kept in mind while issuing the Notification. Given the adverse conditions and the prevelant situations in the UT of J&K, the residents anyways used to take a long time in reaching the seats of High Court at Jammu and Srinagar. To compel them to go to Chandigarh would seriously violate their fundamental right of access to justice.

**T.** **BECAUSE**, the situation cannot be compared with the pre-august situation, when there were only a handful of Central Government employees in State of J&K and thus the number of cases arising from State of J&K before the Ld. CAT, Chandigarh were also very few. The same does not stand correct any longer with the change in status of employees.

U. **BECAUSE**, access to justice and justice at doorstep are concepts enshrined under the Fundamental Rights of a citizen of India. The need for a Tribunal or a Special Court to be situated within the territory of the State has been emphasised time and again.

V. **BECAUSE,** both benches of the Hon'ble High Court at Jammu, and at Srinagar have already made a list of Service Writs and are in the process of identifying more cases. These cases are then going to be transferred to the Ld. CAT, Chandigarh. The Petitioners have also reliably learnt that the Registry of High Court has stopped accepting any fresh service writs (at present only e-filing is available due to Covid-19 situation).

W. **BECAUSE**, the Petitioners submit that there is a need to have a full-fledged functional bench(es) of Central Administrative Tribunal in the Union Territory of Jammu & Kashmir with adequate strength and complete infrastructure for efficient and proper administration of justice and for providing access to justice to the litigants of UT of J&K.

X. **BECAUSE**, the problem in delay in administration of justice has been taken note of by this Hon'ble Court on a number of occasions. This

Hon'ble Court in Rojer Mathew Vs. South Indian Bank Ltd. (CA 8588 of 2019 decided on 13.11.2019) observed as under:

> ***"10.*** *Delay and backlogs in the administration of justice is of paramount concern for any country governed by the rule of law. In our present judicial setup, disputes often take many decades to attain finality, travelling across a series of lower courts to the High Court and ending with an inevitable approach to the Supreme Court.*
>
> ***11.*** *Such crawling pace of the justice delivery system only aggravates the misery of affected parties. Although with nebulous origins, the adage "justice delayed, is justice denied" is apt in this context. Courts in this country, probably in a quest to ensure complete justice for everyone, overlook the importance of expediency and finality. This situation has only worsened over the years, as evidenced through piling pendency across all Courts. It would however be wrong to place the blame of such delay squarely on the judiciary, for an empirical examination of pendency clearly demonstrates that the ratio of judges against the country's population is one of the lowest in the world and the manpower (support staff) and infrastructure provided is dismal."*

**Y. BECAUSE,** the following directions from the judgment in Rojer Mathew (Supra) are also extremely pertinent:

> ***"ISSUE VIII: WHETHER THERE IS A NEED FOR AMALGAMATION OF EXISTING TRIBUNALS AND SETTING UP OF BENCHES***
>
> ***234.*** *While seeking a 'Judicial Impact Assessment' of all existing Tribunals, counsels for petitioners/appellant(s) have underscored the exorbitant pendency before of a number of Tribunals like the CESTAT and ITAT, which they claim affects the very objective of tribunalisation. On the other hand, they also highlight an incongruity wherein numerous Tribunals are hardly seized of any matters, and are exclusively situated in one location.*
>
> ***235.*** *As noted by this court on numerous occasions, including in Madras Bar Association (2014) (supra), although it is the prerogative of the Legislature to set up alternate avenues for dispute resolution to supplement the functioning of existing Courts, it is essential that such mechanisms are equally effective, competent and accessible. Given that jurisdiction of High Courts and District Courts is affected by the constitution of Tribunals, it is necessary that benches of the Tribunals be established across the country. However, owing to the*

*small number of cases, many of these Tribunals do not have the critical mass of cases required for setting up of multiple benches. On the other hand, it is evident that other Tribunals are pressed for resources and personnel.*

***236.*** *This 'imbalance' in distribution of case-load and inconsistencies in nature, location and functioning of Tribunals require urgent attention. It is essential that after conducting a Judicial Impact Assessment as directed earlier, such 'niche' Tribunals be amalgamated with others dealing with similar areas of law, to ensure effective utilisation of resources and to facilitate access to justice.*

***237.*** *We accordingly direct the Union to rationalise and amalgamate the existing Tribunals depending upon their case-load and commonality of subject-matter after conducting a Judicial Impact Assessment, in line with the recommendation of the Law Commission of India in its 272nd Report. Additionally, the Union must ensure that, at the very least, circuit benches of all Tribunals are set up at the seats of all major jurisdictional High Courts."*

**Z.** **BECAUSE,** it is evident for a catena of judgements that this Hon'ble Court has taken cognizance of imbalance of case load in Tribunals. The present case is a case in point. The requirement is certainly that of a full-fledged Bench in J&K and not a mere weekly circuit Court of one Hon'ble Member as suggested by the Respondents. Such action

would result in serious delay in imparting justice and would result in irreparable loss and injury to the litigants.

**AA. BECAUSE,** the respondent no. 1 & 2 having overlooked crucial factors such as the pendency of cases in J&K (for both Central and UT employees), infrastructure of CAT Chandigarh Bench etc have misled the Petitioners and thousands of other Central and UT employees who have been left stranded without justice being served to them.

**BB. BECAUSE**, there is usually a huge gap between two sittings of Circuit Benches. The very purpose of providing cheaper and quicker justice to everyone gets lost because circuit benches constitute rarely and many a times, the constitution of the Circuit Benches changes on every visit resulting in matters being reheard every time. Therefore, there is lack of consistency and uniformity in the cases being heard.

**CC. BECAUSE**, the idea behind establishment of tribunals was to provide speedy and efficient justice to all. Constitution of Circuit benches would not only delay the output of justice system rather it would multiply administrative problems for litigants and lawyers.

**DD. BECAUSE**, the following from the concurring judgment of Hon'ble Chief Justice P.N. Bhawati in S.P. Sampath Kumar Vs. Union of

India, (1987) 1 SCC 124 (Although subsequently overruled in L. Chandrakumar on the larger issue) is extremely pertinent to note in this regard:

> *"8. I may also add that if the Administrative Tribunal is to be an equally effective and efficacious substitution for the High Court on the basis of which alone the impugned Act can be sustained, there must be a permanent or if there is not sufficient work, then a Circuit Bench of the Administrative Tribunal at every place where there is a seat of the High Court. I would, therefore, direct the government to set up a permanent Bench and if that is not feasible having regard to the Vol. of work, then at least a circuit Bench of the Administrative Tribunal wherever there is a seat of the High Court, on or before March 31, 1987. That would be necessary if the provisions of the impugned Act are to be sustained. So far as rest of the points dealt with in the judgment of Ranganath Misra, J. are concerned, I express my entire agreement with the view taken by him."*

**EE. BECAUSE**, mere setting up of institutions for providing relief is not enough. There are many factors that plague the judicial system and its reach to a common man. Such factors, if not addressed in its entirety would lead to inefficient judicial reach and therefore, denial of justice.

It is not mere access to law, rather access to justice which should be seen to be fair, just, economically viable and fast.

**FF. BECAUSE,** the Petitioners are seeking the enforcement of their fundamental rights guaranteed under the constitution of India.

**23.** That the Petitioners have no other alternative efficacious remedy but to approach this Hon'ble Court by way of instant petition under Article 32 of the Constitution of India.

**24.** That the Petitioners have not filed any other petition seeking similar relief before the Hon'ble High Court or this Hon'ble Court.

## PRAYER

In view of the facts stated and submissions made herein above, the Petitioner respectfully pray that this Hon'ble Court may graciously be pleased to: -

**a.** Issue an appropriate order, direction or writ in the nature of Mandamus or any other appropriate writ for quashing of notification no. G.S.R. 267 (E) dated 29.04.2020 issued by Ministry of Personnel, Public Grievance and Persons, Department of Personnel and Training to the extent that it

confers jurisdiction to the Central Administrative Tribunal, Chandigarh Bench over the Union Territory of Jammu and Kashmir.

**b.** Issue an appropriate order, direction or writ in the nature of Mandamus or any other appropriate Writ for establishment of a Permanent Bench (s) of Central Administrative Tribunal with a Vice Chairman, and other Members having adequate strength and infrastructure at the Union Territory of Jammu & Kashmir under the provisions of Administrative Tribunals Act, 1985.

**c.** Direct the High Court of Jammu and Kashmir not to transfer any case pending before it to the Central Administrative Tribunal till a Permanent Bench Permanent Bench(es) of Central Administrative Tribunal is established at the Union Territory of Jammu and Kashmir under the provisions of Administrative Tribunals Act, 1985 and made functional with a Vice Chairman, and other Members having adequate strength and infrastructure.

**d.** Direct the High Court of Jammu and Kashmir to continue to receive any fresh 'Service' Writs and continue to adjudicate fresh and old 'Service' Writ Petitions till a Permanent Bench Permanent Bench(es) of Central Administrative Tribunal is established at the Union Territory of Jammu and Kashmir under the provisions of Administrative Tribunals Act, 1985 and made functional with a Vice Chairman, and other Members having adequate strength and infrastructure.

**e.** pass any other order(s)/direction which this Hon'ble Court may deem fit and proper in the facts and circumstances of the present case.

**AND FOR THIS ACT OF KINDNESS YOUR HUMBLE PETITIONERS AS IN DUTY BOUND SHALL EVER PRAY.**

**DRAWN AND FILED BY**

**(ARJUN GARG)**
**Advocate for the Petitioners**

**DRAWN ON: 06.05.2020**
**DATE: 08.05.2020**
**NEW DELHI**

**IN THE SUPREME COURT OF INDIA**
**(CIVIL ORIGINAL JURISDICTION)**
**WRIT PETITION (CIVIL) NO. OF 2020**

**IN THE MATTER OF:**

Asheesh Singh Kotwal & Ors ...Petitioners

Versus

Union of India & Ors. ... Respondents

**AFFIDAVIT**

I, Asheesh Singh Kotwal, Son of Daya Krishnan Kotwal, Aged about 38 years, Resident of Marallia Road, Miran Sahib, Jammu 180001, do hereby solemnly affirm and state as under:

1. That I am the Petitioner in the above matter and am conversant with the facts and circumstances of the case. As such I am competent to swear this affidavit.

2. That I have read and understood the contents of Para Nos. 1 to 22 on Page Nos. 1 to 32 of the accompanying Writ Petition and state that the facts stated in the petition are true to my knowledge and belief.

3. That I have read the accompanying Synopsis and List of Dates and Events from page B to V and say that what is stated therein is true to my knowledge and belief.

4. That I have read the accompanying Applications and say that what is stated therein is true to my knowledge and belief.

5. The annexures filed along with the Writ Petition are true copies of their respective originals.

**DEPONENT**

**VERIFICATION:**

I, the deponent abovenamed, do hereby verify that the contents of paras 1 to 5 of my above affidavit are true to my knowledge and belief, no part of it is false and nothing material has been concealed therefrom.

Verified at New Delhi on this the 06 day of May, 2020.

**DEPONENT**

## APPENDIX

### Article 14 in The Constitution Of India 1949

14. Equality before law The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India Prohibition of discrimination on grounds of religion, race, caste, sex or place of birth.

### Article 19 in The Constitution Of India 1949

19. Protection of certain rights regarding freedom of speech etc

(1) All citizens shall have the right
(a) to freedom of speech and expression;
(b) to assemble peaceably and without arms;
(c) to form associations or unions;
(d) to move freely throughout the territory of India;
(e) to reside and settle in any part of the territory of India; and
(f) omitted
(g) to practise any profession, or to carry on any occupation, trade or business
(2) Nothing in sub clause (a) of clause ( 1 ) shall affect the operation of any existing law, or prevent the State from making any law, in so far as such law imposes reasonable restrictions on the exercise of the right conferred by the said sub clause in the interests of the sovereignty and integrity of India, the security of the State, friendly relations with foreign States, public order, decency or morality or in relation to contempt of court, defamation or incitement to an offence
(3) Nothing in sub clause (b) of the said clause shall affect the operation of any existing law in so far as it imposes, or prevent the State from making any law imposing, in the interests of the sovereignty and integrity of India or public order, reasonable restrictions on the exercise of the right conferred by the said sub clause
(4) Nothing in sub clause (c) of the said clause shall affect the operation of any existing law in so far as it imposes, or prevent the State from making any law imposing, in the interests of the sovereignty and integrity of India or public order or morality, reasonable restrictions on the exercise of the right conferred by the said sub clause
(5) Nothing in sub clauses (d) and (e) of the said clause shall affect the operation of any existing law in so far as it imposes, or prevent the State from making any law imposing, reasonable restrictions on the exercise of any of the rights conferred by the said sub clauses either in the interests of the general public or for the protection of the interests of any Scheduled Tribe

(6) Nothing in sub clause (g) of the said clause shall affect the operation of any existing law in so far as it imposes, or prevent the State from making any law imposing, in the interests of the general public, reasonable restrictions on the exercise of the right conferred by the said sub clause, and, in particular, nothing in the said sub clause shall affect the operation of any existing law in so far as it relates to, or prevent the State from making any law relating to,
(i) the professional or technical qualifications necessary for practising any profession or carrying on any occupation, trade or business, or
(ii) the carrying on by the State, or by a corporation owned or controlled by the State, of any trade, business, industry or service, whether to the exclusion, complete or partial, of citizens or otherwise

**Article 21 in The Constitution Of India 1949**

21. Protection of life and personal liberty No person shall be deprived of his life or personal liberty except according to procedure established by law.

**Article 39-A in The Constitution Of India 1949**

39. Certain principles of policy to be followed by the State: The State shall, in particular, direct its policy towards securing;

(a) that the citizens, men and women equally, have the right to an adequate means to livelihood;

**Article 226 in The Constitution Of India 1949**

226. Power of High Courts to issue certain writs

(1) Notwithstanding anything in Article 32 every High Court shall have powers, throughout the territories in relation to which it exercise jurisdiction, to issue to any person or authority, including in appropriate cases, any Government, within those territories directions, orders or writs, including writs in the nature of habeas corpus, mandamus, prohibitions, quo warranto and certiorari, or any of them, for the enforcement of any of the rights conferred by Part III and for any other purpose

(2) The power conferred by clause ( 1 ) to issue directions, orders or writs to any Government, authority or person may also be exercised by any High Court exercising jurisdiction in relation to the territories within which the cause of action, wholly or in part, arises for the exercise of such power, notwithstanding that the seat of such Government or authority or the residence of such person is not within those territories

(3) Where any party against whom an interim order, whether by way of injunction or stay or in any other manner, is made on, or in any proceedings relating to, a petition under clause ( 1 ), without
(a) furnishing to such party copies of such petition and all documents in support of the plea for such interim order; and

(b) giving such party an opportunity of being heard, makes an application to the High Court for the vacation of such order and furnishes a copy of such application to the party in whose favour such order has been made or the counsel of such party, the High Court shall dispose of the application within a period of two weeks from the date on which it is received or from the date on which the copy of such application is so furnished, whichever is later, or where the High Court is closed on the last day of that period, before the expiry of the next day afterwards on which the High Court is open; and if the application is not so disposed of, the interim order shall, on the expiry of that period, or, as the case may be, the expiry of the aid next day, stand vacated

(4) The power conferred on a High Court by this article shall not be in derogation of the power conferred on the Supreme court by clause ( 2 ) of Article 32.

**[PART XIVA TRIBUNALS]**

**323A. Administrative tribunals;-** Parliament may, by law, provide for the adjudication or trial by administrative tribunals of disputes and complaints with respect to recruitment and conditions of service of persons appointed to public services and posts in connection with the affairs of the Union or of any State or of any local or other authority within the territory of India or under the control of the Government of India or of any corporation owned or controlled by the Government.

(2) A law made under clause (1) may—

(a) provide for the establishment of an administrative tribunal for the Union and a separate administrative tribunal for each State or for two or more States;

(b) specify the jurisdiction, powers (including the power to punish for contempt) and authority which may be exercised by each of the said tribunals;

(c) provide for the procedure (including provisions as to limitation and rules of evidence) to be followed by the said tribunals;

(d) exclude the jurisdiction of all courts, except the jurisdiction of the Supreme Court under article 136, with respect to the disputes or complaints referred to in clause (1);

(e) provide for the transfer to each such administrative tribunal of any cases pending before any court or other authority immediately before the establishment of such tribunal as would have been within the jurisdiction of such tribunal if the causes of action on which such suits or proceedings are based had arisen after such establishment;

(f) repeal or amend any order made by the President under clause (3) of article 371D;

(g) contain such supplemental, incidental and consequential provisions (including provisions as to fees) as Parliament may deem necessary for the effective functioning of, and for the speedy disposal of cases by, and the enforcement of the orders of, such tribunals.

(3) The provisions of this article shall have effect notwithstanding anything in any other provision of this Constitution or in any other law for the time being in force.

**323B. Tribunals for other matters.-** (1) The appropriate Legislature may, by law, provide for the adjudication or trial by tribunals of any disputes, complaints, or offences with respect to all or any of the matters specified in clause (2) with respect to which such Legislature has power to make laws.

(2) The matters referred to in clause (1) are the following, namely:—

(a) levy, assessment, collection and enforcement of any tax;

(b) foreign exchange, import and export across customs frontiers;

(c) industrial and labour disputes;

(d) land reforms by way of acquisition by the State of any estate as defined in article 31A or of any rights therein or the extinguishment or modification of any such rights or by way of ceiling on agricultural land or in any other way;

(e) ceiling on urban property;

(f) elections to either House of Parliament or the House or either House of the Legislature of a State, but excluding the matters referred to in article 329 and article 329A;

(g) production, procurement, supply and distribution of food-stuffs (including edible oilseeds and oils) and such other goods as the President may, by public notification, declare to be essential goods for the purpose of this article and control of prices of such goods;

1[(h) rent, its regulation and control and tenancy issues including the right, title and interest of landlords and tenants;]

2[(i)] offences against laws with respect to any of the matters specified in sub-clauses (a) to 3[(h)] and fees in respect of any of those matters;

2[(j)] any matter incidental to any of the matters specified in sub-clauses (a) to 4[(i)].

(3) A law made under clause (1) may—

(a) provide for the establishment of a hierarchy of tribunals;

(b) specify the jurisdiction, powers (including the power to punish for contempt) and authority which may be exercised by each of the said tribunals;

(c) provide for the procedure (including provisions as to limitation and rules of evidence) to be followed by the said tribunals;

(d) exclude the jurisdiction of all courts, except the jurisdiction of the Supreme Court under article 136, with respect to all or any of the matters falling within the jurisdiction of the said tribunals;

(e) provide for the transfer to each such tribunal of any cases pending before any court or any other authority immediately before the establishment of such tribunal as would have been within the jurisdiction of such tribunal if the causes of action on which such suits or proceedings are based had arisen after such establishment;

(f) contain such supplemental, incidental and consequential provisions (including provisions as to fees) as the appropriate Legislature may deem necessary for the effective functioning of, and for the speedy disposal of cases by, and the enforcement of the orders of, such tribunals.

(4) The provisions of this article have effect notwithstanding anything in any other provision of this Constitution or in any other law for the time being in force.

*Explanation.*—In this article, "appropriate Legislature", in relation to any matter, means Parliament or, as the case may be, a State Legislature competent to make laws with respect to such matter in accordance with the provisions of Part XI.]

**//TRUE COPY//**

ANNEXURE - P-1

राम नाथ कोविंद,
राष्ट्रपति।

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[फा.सं. 19(2)/2019-विधायी 1]

डॉ. जी. नारायण राजू, सचिव

**MINISTRY OF LAW AND JUSTICE**

**(Legislative Department)**

**NOTIFICATION**

New Delhi, the 5th August, 2019

**G.S.R .551(E).**— the following Order made by the President is published for general information:-

**THE CONSTITUTION (APPLICATION TO JAMMU AND KASHMIR) ORDER, 2019**

**C.O. 272**

In exercise of the powers conferred by clause (1) of article 370 of the Constitution, the President, with the concurrence of the Government of State of Jammu and Kashmir, is pleased to make the following Order:—

**1.** (*1*) This Order may be called the Constitution (Application to Jammu and Kashmir) Order, 2019.

(*2*) It shall come into force at once, and shall thereupon supersede the Constitution (Application to Jammu and Kashmir) Order, 1954 as amended from time to time.

**2.** All the provisions of the Constitution, as amended from time to time, shall apply in relation to the State of Jammu and Kashmir and the exceptions and modifications subject to which they shall so apply shall be as follows:—

To article 367, there shall be added the following clause, namely:—

"(*4*) For the purposes of this Constitution as it applies in relation to the State of Jammu and Kashmir—

(*a*) references to this Constitution or to the provisions thereof shall be construed as references to the Constitution or the provisions thereof as applied in relation to the said State;

(*b*) references to the person for the time being recognized by the President on the recommendation of the Legislative Assembly of the State as the Sadar-i-Riyasat of Jammu and Kashmir, acting on the advice of the Council of Ministers of the State for the time being in office, shall be construed as references to the Governor of Jammu and Kashmir;

(*c*) references to the Government of the said State shall be construed as including references to the Governor of Jammu and Kashmir acting on the advice of his Council of Ministers; and

(*d*) in proviso to clause (3) of article 370 of this Constitution, the expression "Constituent Assembly of the State referred to in clause (2)" shall read "Legislative Assembly of the State"."

RAM NATH KOVIND,

President.

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[F. No. 19(2)/2019-Leg.I]

Dr. G. NARAYANA RAJU, Secy.

Uploaded by Dte. of Printing at Government of India Press, Ring Road, Mayapuri, New Delhi-110064
and Published by the Controller of Publications, Delhi-110054.

ALOK KUMAR Digitally signed by ALOK KUMAR Date: 2019.08.05 11:00:09 +05'30'

T/C

ANNEXURE-P-2

41

Tribunal for that State and the same shall exercise the jurisdiction, powers and authority conferred on the Administrative Tribunal for that State by or under this Act,

and upon such designation, the Bench or Benches of the State Administrative Tribunal or, as the case may be, the Bench or Benches of the Central Administrative Tribunal shall be deemed, in all respects, to be the Central Administrative Tribunal, or the State Administrative Tribunal for that State established under the provisions of article 323A of the Constitution and this Act.

(*6*) Every notification under sub-section (*5*) shall also provide for the apportionment between the State concerned and the Central Government of the expenditure in connection with the Members common to the Central Administrative Tribunal and the State Administrative Tribunal and such other incidental and consequential provisions not inconsistent with this Act as may be deemed necessary or expedient.]

**5. Composition of Tribunals and Benches thereof.**—(*1*) Each Tribunal shall consist of [1][a Chairman and such number of Judicial and Administrative Members] as the appropriate Government may deem fit and, subject to the other provisions of this Act, the jurisdiction, powers and authority of the Tribunal may be exercised by Benches thereof.

[2][(*2*) Subject to the other provisions of this Act, a Bench shall consist of one Judicial Member and one Administrative Member.]

[3]* * * * *

(*4*) Notwithstanding anything contained in sub-section (*1*), [4]*** the Chairman—

[5][(*a*) may, in addition to discharging the functions of the Judicial Member or the Administrative Member of the Bench to which he is appointed, discharge the functions of the Judicial Member or, as the case may be, the Administrative Member, of any other Bench;]

(*b*) may transfer [6][a Member] from one Bench to another Bench;

[7][(*c*) may authorise [8][the Judicial Member] or the Administrative Member appointed to one Bench Bench to dischange also the functions of [9][the Judicial Member or the Administrative Member, as the case may be] of another Bench; and]

(*d*) may, for the purpose of securing that any case or cases which, having regard to the nature of the questions involved, requires or require, in his opinion or under the rules made by the Central Government in this behalf, to be decided by a Bench composed of more than [10][two members], issue such general or special orders, as he may deem fit.

[11][Provided that every Bench constituted in pursuance of this clause shall include at least one Judicial Member and one Administrative Member.]

[12]* * * * *

(*6*) Notwithstanding anything contained in the foregoing provisions of this section, it shall be competent for the Chairman or any other Member authorised by the Chairman in this behalf to function as [13][a Bench] consisting of a single Member and exercise the jurisdiction, powers and authority of the

1. Subs. by Act 1 of 2007, s. 4, for "a Chairman and such number of Vice-Chairman and Judicial and Administrative Members" (w.e.f 19-2-2007).
2. Subs. by Act 19 of 1986, s. 6, for sub-section (*2*) (w.e.f. 1-11-1985).
3. Sub-section (*3*) omitted by s. 6, *ibid.* (w.e.f. 1-11-1985).
4. The words, brackets and figure "or sub-section (*3*)" omitted by s. 6, *ibid.* (w.e.f.1-11-1985).
5. Subs. by s. 6, *ibid.*, for clause (*a*) (w.e.f. 1-11-1985).
6. Subs. by Act 1 of 2007, s. 4, for "the Vice-Chairman or other Members" (w.e.f. 19-2-2007).
7. Subs. by Act 19 of 1986, s. 6, for clause (*c*) (w.e.f. 1-11-1985).
8. Subs. by Act 1 of 2007, s. 4, for "the Vice-Chairman or the Judicial Member" (w.e.f. 19-2-2007)
9. Subs. by s. 4, *ibid.*, for "the Vice-Chairman or, as the case may be, the Judicial Member or the Administrative Member" (w.e.f. 19-2-2007).
10. Subs. by Act 19 of 1986, s. 6, for "three Members" (w.e.f. 1-11-1985).
11. Ins. by s. 6, *ibid.* (w.e.f. 1-11-1985).
12. Sub-section (*5*) omitted by s. 6, *ibid.* (w.e.f. 1-11-1985).
13. Subs. by s. 6, *ibid.*, for "an additional Bench" (w.e.f. 1-11-1985).

Tribunal in respect of such classes of cases or such matters pertaining to such classes of cases as the Chairman may by general or special order specify:

Provided that if at any stage of the hearing of any such case or matter it appears to the Chairman or such Member that the case or matter is of such a nature that it ought to be heard by a Bench consisting of [1][two members], the case or matter may be transferred by the Chairman or, as the case may be, referred to to him for transfer to, such Bench as the Chairman may deem fit.

[2][(*7*) Subject to the other provisions of this Act, the Benches of the Central Administrative Tribunal shall ordinarily sit at New Delhi (which shall be known as the principal Bench), Allahabad, Calcutta, Madras, New Bombay and at such other places as the Central Government may, by notification, specify.

(*8*) Subject to the other provisions of this Act, the places at which the principal Bench and other Benches of a State Administrative Tribunal shall ordinarily sit shall be such as the State Government may, by notification, specify.]

[3][**6. Qualifications for appointment as Chairman, Vice-Chairman and other members.**—(*1*) A person shall not be qualified for appointment as the Chairman unless he is, or has been, a Judge of a High Court:

Provided that a person appointed as Vice-Chairman before the commencement of this Act shall be qualified for appointment as Chairman if such person has held the office of the Vice-Chairman at least for a period of two years.

(*2*) A person shall not be qualified for appointment,—

(*a*) as an Administrative Member, unless he has held for at least two years the post of Secretary to the Government of India or any other post under the Central or State Government and carrying the scale of pay which is not less than that of a Secretary to the Government of India for at least two years or held a post of Additional Secretary to the Government of India for at least five years or any other post under the Central or State Government carrying the scale of pay which is not less than that of Additional Secretary to the Government of India at least for a period of five years:

Provided that the officers belonging to All-India Services who were or are on Central deputation to a lower post shall be deemed to have held the post of Secretary or Additional Secretary, as the case may be, from the date such officers were granted proforma promotion or actual promotion whichever is earlier to the level of Secretary or Additional Secretary, as the case may be, and the period spent on Central deputation after such date shall count for qualifying service for the purposes of this clause;

(*b*) as a Judicial Member, unless he is or qualified to be a Judge of a High Court or he has for at least two years held the post of a Secretary to the Government of India in the Department of Legal Affairs or the Legislative Department including Member-Secretary, Law Commission of India or held a post of Additional Secretary to the Government of India in the Department of Legal Affairs and Legislative Department at least for a period of five years.

(*3*) The Chairman and every other Member of the Central Administrative Tribunal shall be appointed after consultation with the Chief Justice of India by the President.

(*4*) Subject to the provision of sub-section (*3*), the Chairman and every other Member of an Administrative Tribunal for a State shall be appointed by the President after consultation with the Governor of the concerned State.

(*5*) The Chairman and every other Member of a Joint Administrative Tribunal shall, subject to the provisions of sub-section (*3*) and subject to the terms of the agreement between the participating State Governments published under sub-section (*3*) of section 4 of the principal Act, be appointed by the President after consultation with the Governors of the concerned States.

---

1. Subs. by Act 19 of 1986, s. 6, for "three Members" (w.e.f. 1-11-1985).
2. Subs. by s. 6, *ibid.*, for sub-section (*7*) (w.e.f. 1-11-1985).
3. Subs. by Act 1 of 2007, s. 5, for section 6 (w.e.f. 19-2-2007).

(*b*) all service matters concerning a person [other than a person referred to in clause (*b*) of sub-section (*1*) of this section or a member, person or civilian referred to in clause (*b*) of sub-section (*1*) of section 14] appointed to any service or post in connection with the affairs of such local or other authority or corporation [1][or society] and pertaining to the service of such person in connection with such affairs.

(*4*) For the removal of doubts, it is hereby declared that the jurisdiction, powers and authority of the Administrative Tribunal for a State shall not extend to, or be exercisable in relation to, any matter in relation to which the jurisdiction, powers and authority of the Central Administrative Tribunal extends or is exercisable.

**16. Jurisdiction, powers and authority of a Joint Administrative Tribunal.**—A Joint Administrative Tribunal for two or more States shall exercise all the jurisdiction, powers and authority exercisable by the Administrative Tribunals for such States.

**17. Power to punish for contempt.**—A Tribunal shall have, and exercise, the same jurisdiction, powers and authority in respect of contempt of itself as a High Court has and may exercise and, for this purpose, the provisions of the Contempt of Courts Act, 1971 (70 of 1971), shall have effect subject to the modifications that—

(*a*) the references therein to a High Court shall be construed as including a reference to such Tribunal;

(*b*) the references to the Advocate-General in section 15 of the said Act shall be construed,—

(*i*) in relation to the Central Administrative Tribunal, as a reference to the Attorney-General or the Solicitor-General or the Additional Solicitor-General; and

(*ii*) in relation to an Administrative Tribunal for a State or a Joint Administrative Tribunal for two or more States, as a reference to the Advocate-General of the State or any of the States for which such Tribunal has been established.

**18. Distribution of business amongst the Benches.**—(*1*) Where [2][any Benches of a Tribunal are constituted], the appropriate Government may, from time to time, by notification, make provisions as to the distribution of the business of the Tribunal amongst the [3]*** Benches and specify the matters which may be dealt with by each Bench.

(*2*) If any question arises as to whether any matter falls within the purview of the business allocated to a Bench of a Tribunal, the decision of the Chairman thereon shall be final.

*Explanation.*—For the removal of doubts, it is hereby declared that the expression "matters" includes applications under section 19.

## CHAPTER IV

## PROCEDURE

**19. Applications to tribunals.**—(*1*) Subject to the other provisions of this Act, a person aggrieved by any order pertaining to any matter within the jurisdiction of a Tribunal may make an application to the Tribunal for the redressal of his grievance.

*Explanation.*—For the purposes of this sub-section, "order" means an order made—

(*a*) by the Government or a local or other authority within the territory of India or under the control of the Government of India or by any corporation [4][or society] owned or controlled by the Government; or

(*b*) by an officer, committee or other body or agency of the Government or a local or other authority or corporation [4][or society] referred to in clause (*a*).

1. Ins. by Act 19 of 1986, s. 12 (w.e.f. 22-1-1986).
2. Subs. by s. 13, *ibid.*, for "any additional Bench or Benches of a Tribunal is or are constituted" (w.e.f. 22-1-1986).
3. The words "principal Bench and the additional Bench or additional" omitted by s. 13, *ibid.* (w.e.f. 22-1-1986).
4. Ins. by s. 14, *ibid.* (w.e.f. 22-1-1986).

injunction or stay or in any other manner) shall be made on, or in any proceedings relating to, an application unless—

(*a*) copies of such application and of all documents in support of the plea for such interim order are furnished to the party against whom such application is made or proposed to be made; and

(*b*) opportunity is given to such party to be heard in the matter:

Provided that a Tribunal may dispense with the requirements of clauses (*a*) and (*b*) and make an interim order as an exceptional measure if it is satisfied, for reasons to be recorded in writing, that it is necessary so to do for preventing any loss being caused to the applicant which cannot be adequately compensated in money but any such interim order shall, if it is not sooner vacated, cease to have effect on the expiry of a period of fourteen days from the date on which it is made unless the said requirements have been complied with before the expiry of that period and the Tribunal has continued the operation of the interim order.

[1][**25. Power of Chairman to transfer cases from one Bench to another.**—On the application of any of the parties and after notice to the parties, and after hearing such of them as he may desire to be heard, or on his own motion without such notice, the Chairman may transfer any case pending before one Bench, for disposal, to any other Bench.

**26. Decision to be by majority.**—If the Members of a Bench differ in opinion on any point, the point shall be decided according to the opinion of the majority, if there is a majority, but if the Members are equally divided, they shall state the point or points on which they differ, and make a reference to the Chairman who shall either hear the point or points himself or refer the case for hearing on such point or points by one or more of the other Members of the Tribunal and such point or points shall be decided according to the opinion of the majority of the Members of the Tribunal who have heard the case, including those who first heard it.]

**27. Execution of orders of a Tribunal.**—Subject to the other provisions of this Act and the rules, [2][the order of a Tribunal finally disposing of an application or an appeal shall be final and shall not be called in question in any court (including a High Court) and such order] shall be executed in the same manner in which any final order of the nature referred to in clause (*a*) of sub-section (*2*) of section 20 (whether or not such final order had actually been made) in respect of the grievance to which the application relates would have been executed.

## CHAPTER V

### MISCELLANEOUS

**28. Exclusion of jurisdiction of courts except the Supreme Court under article 136 of the Constitution.**—On and from the date from which any jurisdiction, powers and authority becomes exercisable under this Act by a Tribunal in relation to recruitment and matters concerning recruitment to any Service or post or service matters concerning members of any Service or persons appointed to any Service or post, [3][no court except—

(*a*) the Supreme Court; or

(*b*) any Industrial Tribunal, Labour Court or other authority constituted under the Industrial Disputes Act, 1947 (14 of 1947) or any other corresponding law for the time being in force,

shall have], or be entitled to exercise any jurisdiction, powers or authority in relation to such recruitment or matters concerning such recruitment or such service matters.

**29. Transfer of pending cases.**—(*1*) Every suit or other proceeding pending before any court or other authority immediately before the date of establishment of a Tribunal under this Act, being a suit or proceeding the cause of action whereon it is based is such that it would have been, if it had arisen after

1. Subs. by Act 19 of 1986, s. 17, for sections 25 and 26 (w.e.f. 22-1-1986).
2. Subs. by s. 18, *ibid.*, for "the order of a Tribunal finally disposing of an application" (w.e.f. 22-1-1986).
3. Subs. by s. 19, *ibid.*, for "no court (except the Supreme Court under article 136 of the Constitution) shall have" (w.e.f. 1-11-1985).

such establishment, within the jurisdiction of such Tribunal, shall stand transferred on that date to such Tribunal:

Provided that nothing in this sub-section shall apply to any appeal pending as aforesaid before a High Court [1]***.

(*2*) Every suit or other proceeding pending before a court or other authority immediately before the date with effect from which jurisdiction is conferred on a Tribunal in relation to any local or other authority or corporation [2][or society], being a suit or proceeding the cause of action whereon it is based is such that it would have been, if it had arisen after the said date, within the jurisdiction of such Tribunal, shall stand transferred on that date to such Tribunal:

Provided that nothing in this sub-section shall apply to any appeal pending as aforesaid before a High Court [1]***

*Explanation.*—For the purposes of this sub-section "date with effect from which jurisdiction is conferred on a Tribunal", in relation to any local or other authority or corporation [2][or society], means the date with effect from which the provisions of sub-section (*3*) of section 14 or, as the case may be, sub-section (*3*) of section 15 are applied to such local or other authority or corporation [2][or society].

(*3*) Where immediately before the date of establishment of a Joint Administrative Tribunal any one or more of the States for which it is established, has or have a State Tribunal or State Tribunals, all cases pending before such State Tribunal or State Tribunals immediately before the said date together with the records thereof shall stand transferred on that date to such Joint Administrative Tribunal.

*Explanation.*—For the purposes of this sub-section, "State Tribunal" means a Tribunal established under sub-section (*2*) of section 4.

(*4*) Where any suit, appeal or other proceeding stands transferred from any court or other authority to a Tribunal under sub-section (*1*) or sub-section (*2*),—

(*a*) the court or other authority shall, as soon as may be after such transfer, forward the records of such suit, appeal or other proceeding to the Tribunal; and

(*b*) the Tribunal may, on receipt of such records, proceed to deal with such suit, appeal or other proceeding, so far as may be, in the same manner as in the case of an application under section 19 from the stage which was reached before such transfer or from any earlier stage or *de novo* as the Tribunal may deem fit.

(*5*) Where any case stands transferred to a Joint Administrative Tribunal under sub-section (*3*), the Joint Administrative Tribunal may proceed to deal with such case from the stage which was reached before it stood so transferred.

[3][(*6*) Every case pending before a Tribunal immediately before the commencement of the Administrative Tribunals (Amendment) Act, 1987 (51 of 1987), being a case the cause of action whereon it is based is such that it would have been, if it had arisen after such commencement, within the jurisdiction of any court, shall, together with the records thereof, stand transferred on such commencement to such court.

(*7*) Where any case stands transferred to a court under sub-section (*6*), that court may proceed to deal with such case from the stage which was reached before it stood so transferred.]

[4]**[29A. Provision for filing of certain appeals.**—Where any decree or order has been made or passed by any court (other than a High Court) in any suit or proceeding before the establishment of a Tribunal, being a suit or proceeding the cause of action whereon it is based is such that it would have been if it had arisen after such establishment, within the jurisdiction of such Tribunal, and no appeal has been preferred

1. The words "or the Supreme Court" omitted by Act 19 of 1986, s. 20 (w.e.f. 22-1-1986).
2. Ins. by s. 20, *ibid.* (w.e.f. 22-1-1986).
3. Ins. by Act 51 of 1987, s. 5 (w.e.f. 22-12-1987).
4. Ins. by Act 19 of 1986, s. 21 (w.e.f. 22-1-1986).



T/C

ANNEXURE P.3

46

# HIGH COURT OF JAMMU AND KASHMIR AT JAMMU

******

## NOTICE

It is notified that Registry has undertaken an exercise for identifying the matters which appear to be covered under section 28 and 29 of the Administrative Tribunals Act, 1985 and would require to be transferred to the Central Administrative Tribunal. The details of the said matters have been made available on the High Court website. If there is any matter left out, the details thereof may also be furnished to the Registry by the concerned Advocate/Department/Litigant.

Any Advocate/Department/Litigant who has any doubt with regard to the said matters should contact the concerned Assistant Registrar, Mrs.Shashi Koul/Mrs. Neelam Kumari, Assistant Registrar (Computer).

**By Order.**

**Registrar Judicial**

TIC

ANNEXURE A-4

47

**MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES AND PENSIONS**

**(Department of Personnel and Training)**

**NOTIFICATION**

New Delhi, the 29th April, 2020

**G.S.R. 267(E).**—In exercise of the powers conferred by sub-section (1) of section 18 of the Administrative Tribunals Act, 1985 (13 of 1985), the Central Government hereby makes the following further amendment in the Notification of the Government of India in the erstwhile Ministry of Personnel and Training, Administrative Reforms and Public Grievances and Pensions *vide* number G.S.R. 610(E) dated the 26th July, 1985, namely :—

2. In the said Notification, for the Table, the following Table shall be substituted, namely.—

**"TABLE**

| S. No. | Bench | Jurisdiction of the Bench |
|---|---|---|
| (1) | (2) | (3) |
| 1. | Principal Bench (New Delhi) | National Capital territory of Delhi. |
| 2. | Ahmedabad Bench | State of Gujarat. |
| 3. | Allahabad Bench | (i) State of Uttar Pradesh excluding the Districts mentioned against serial number 4 under the jurisdiction of Lucknow Bench.<br>(ii) State of Uttaranchal. |

| | | |
|---|---|---|
| 4. | Lucknow Bench | Districts of Lucknow, Hardoi, Kheri, Rai-Bareli, Sitapur, Unnao, Faizabad, Ambedkar Nagar, Baharaich, Shravasti, Barabanki, Gonda, Balrampur, Pratapgarh, Sultanpur in the State of Uttar Pradesh. |
| 5. | Bengaluru Bench | State of Karnataka. |
| 6. | Kolkata Bench | (i) State of Sikkim<br>(ii) State of West Bengal<br>(iii) Union territory of Andaman and Nicobar Islands. |
| 7. | Chandigarh Bench | (i) State of Haryana<br>(ii) State of Himachal Pradesh<br>(iii) State of Punjab<br>(iv) Union territory of Chandigarh<br>(v) Union territory of Jammu and Kashmir<br>(vi) Union territory of Ladakh. |
| 8. | Cuttack Bench | State of Odisha. |
| 9. | Ernakulam Bench | (i) State of Kerala<br>(ii) Union territory of Lakshadweep. |
| 10. | Guwahati Bench | (i) State of Assam<br>(ii) State of Manipur<br>(iii) State of Meghalaya<br>(iv) State of Nagaland<br>(v) State of Tripura<br>(vi) State of Arunachal Pradesh<br>(vii) State of Mizoram. |
| 11. | Hyderabad Bench | (i) State of Andhra Pradesh<br>(ii) State of Telangana. |
| 12. | Jabalpur Bench | (i) State of Madhya Pradesh<br>(ii) State of Chattisgarh. |
| 13. | Jodhpur Bench | State of Rajasthan excluding the Districts mentioned against serial number 14 under the jurisdiction of Jaipur Bench. |
| 14. | Jaipur Bench | Districts of Ajmer, Alwar, Baran, Bharatpur, Bundi, Dausa, Dholpur, Jaipur, Jhallawar, Jhunjhunu, Kota, Sawai Madhopur, Sikar, Tonk and Karauli in the State of Rajasthan. |
| 15. | Chennai Bench | (i) State of Tamil Nadu<br>(ii) Union Territory of Puducherry. |
| 16. | Mumbai Bench | (i) State of Maharashtra<br>(ii) State of Goa<br>(iii) Union territory of Dadra and Nagar Haveli<br>(iv) Union territory of Daman and Diu. |
| 17. | Patna Bench | (i) State of Bihar<br>(ii) State of Jharkhand". |

[F. No. A-11019/2/2020-AT]
RASHMI CHOWDHARY, Jt. Secy.

**NOTE :** The principal notification was published in the Gazette of India *vide* notification number G.S.R. 610(E), dated 26th July, 1985 and subsequently amended *vide*:

(i) G.S.R. No. 824(E) dated 31.10.1985,

(ii) G.S.R. No. 308(E) dated 20.02.1986,

(iii) G.S.R. No. 908(E) dated 25.06.1986,

(iv) G.S.R. No. 921(E) dated 27.06.1986,

(v) G.S.R. No. 897(E) dated 01.09.1988,

(vi) G.S.R. No. 525(E) dated 12.08.1991,

(vii) G.S.R. No. 631(E) dated 15.10.1991,

(viii) G.S.R. No. 418(E) dated 09.04.1992,

(ix) G.S.R. No. 646(E) dated 18.08.1994,

(x) G.S.R. No. 890(E) dated 23.11.2000, and

(xi)G.S.R. No. 683(E) dated 23.09.2014.

Uploaded by Dte. of Printing at Government of India Press, Ring Road, Mayapuri, New Delhi-110064
and Published by the Controller of Publications, Delhi-110054. ALOK KUMAR Digitally signed by ALOK KUMAR Date: 2020.04.29 18:16:21 +05'30'

T/C

Press Information Bureau
Government of India

ANNEXURE - P-5
50

Submit for Fact Check

Ministry of Personnel, Public Grievances & Pensions

# All service matters of Central Government and UT employees of J&K and Ladakh will be heard and disposed off in CAT bench in J&K itself.

Posted On: 01 MAY 2020 2:19PM by PIB Delhi

In the wake of the news reports appeared in a section of media that "GoI shifts all service matters of employees of J&K and Ladakh UTs to Chandigarh CAT", it is clarified that neither the petitioner nor the lawyer need to go to Chandigarh for filling petitionor appearing before the tribunalrelated to service matters of employees. The term Chandigarh circuit is being misinterpreted to mean that the petitioner/lawyer would have to go to Chandigarh, which is not so. All service matters of Central Government and UT employees of J&K and Ladakh will be heard and disposed off in CAT bench in J&K itself.

It is reiterated that earlier also, the CAT bench used to hold its sittings in Jammu & Kashmir to dispose off service matters related to Central Government employees of J&K. The only difference now is that it will also be disposing off matters related to UT employees and therefore will have more frequent sittings in UT of J&K.

The registration of cases can also be done locally either online or in the secretariat office of CAT to be set up locally after the UT Government provides appropriate facility. Disposal of cases through CAT in UT of J&K will ensure fare and objective delivery of justice.

<><><><><>

VG/SNC

(Release ID: 1619978) Visitor Counter : 604

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T/C

ANNEXURE-P-6
51

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

**BENCH-WISE LIST OF HON'BLE CHAIRMAN/MEMBERS OF C.A.T.**
**(AS ON DATE 06.03.2020 )**

| SL. No. | NAME OF HON'BLE THE CHAIRMAN/ MEMBERS | DATE OF BIRTH | DATE OF JOINING | DATE OF RETIREMENT |
|---|---|---|---|---|
| | **(1)PRINCIPAL BENCH** | | | |
| 1. | SH. JUSTICE L. NARASIMHA REDDY, CHAIRMAN | 01.08.1953 | 03.07.2018 | 31.07.2021 |
| 2. | MRS. JUSTICE VIJAY LAKSHMI – JM | 29.10.1956 | 25.10.2019 | 28.10.2021 |
| 3. | SH. S.N. TERDAL – J M | 10.07.1956 | 18.08.2017 | 09.07.2021 |
| 4. | SH. A. K. BISHNOI - AM | 02.05.1957 | 04.07.2018 (A/N) | 01.05.2022 |
| 5. | SH. PRADEEP KUMAR- A M | 01.07.1957 | 06.07.2018 | 30.06.2022 |
| 6. | MS. ARADHANA JOHRI – A M | 04.08.1956 | 17.07.2018 | 03.08.2021 |
| 7. | SH.MOHD. JAMSHED- AM | 30.06.1958 | 25.07.2018 (A/N) | 29.06.2023 |
| 8. | _ _ _ _ _ _ _ _ _-JM | VACANT | | |
| 9. | _ _ _ _ _ _ _ _ _ _-JM | VACANT | | |
| 10. | _ _ _ _ _ _ _ _ _ _-JM | VACANT | | |
| 11. | _ _ _ _ _ _ _ _ _ _-AM | VACANT | | |
| 12. | _ _ _ _ _ _ _ _ _ _-AM | VACANT | | |
| | **(2) AHMEDABAD BENCH** | | | |
| 1. | SH. M C VERMA –J M | 21.08.1958 | 01.08.2018 | 31.07.2023 |
| 2. | _ _ _ _ _ _ _ _ _ _-AM | VACANT | | |
| | **(3)ALLAHABAD BENCH** | | | |
| 1. | SH. JUSTICE BHARAT BHUSHAN-JM | 04.10.1955 | 09.07.2018 | 03.10.2020 |
| 2. | SMT. AJANTA DAYALAN— AM | 06.06.1956 | 04.07.2018(A/N) | 05.06.2021 |
| 3. | SH. RAKESH SAGAR JAIN – J M | 10.03.1957 | 05.07.2018 (A/N) | 09.03.2022 |
| 4. | -JM | VACANT | | |
| 5. | _ _ _ _ _ _ _ _ _ _-JM | VACANT | | |
| 6. | _ _ _ _ _ _ _ _ _ _ -- AM | VACANT | | |
| 7. | _ _ _ _ _ _ _ _ _ -- AM | VACANT | | |
| 8. | _ _ _ _ _ _ _ _ _ -- AM | VACANT | | |

| | | | | |
|---|---|---|---|---|
| **(4) BANGALURU BENCH** | | | | |
| 1. | SH. C V SANKAR -- AM | 02.07.1956 | 02.08.2018 (A/N) | 01.07.2021 |
| 2. | _ _ _ _ _ _ _ _ _ -JM | VACANT | | |
| 3. | _ _ _ _ _ _ _ _ _ -AM | VACANT | | |
| 4. | _ _ _ _ _ _ _ _ _ -JM | VACANT | | |
| **(5)CHENNAI BENCH** | | | | |
| 1. | SH. P MADHAVAN--JM | 13.05.1957 | 12.07.2018 | 12.05.2022 |
| 2. | SH. T JACOB – AM | 29.05.1958 | 10.08.2018 | 28.05.2023 |
| 3. | _ _ _ _ _ _ _ _ _ -AM | VACANT | | |
| 4. | _ _ _ _ _ _ _ _ – J M | VACANT | | |
| **(6) CHANDIGARH BENCH** | | | | |
| 1. | SH. SANJEEV KUMAR KAUSHIK-- JM | 18.08.1969 | 30.11.2010 | 29.11.2020 |
| 2. | _ _ _ _ _ _ _ _ – A M | VACANT | | |
| 3. | _ _ _ _ _ _ _ _ – A M | VACANT | | |
| 4. | _ _ _ _ _ _ _ _ – J M | VACANT | | |
| **(7) CUTTACK BENCH** | | | | |
| 1. | SH. GOKUL CHANDRA PATI – AM | 15.11.1955 | 28.07.2017 (A/N) | 14.11.2020 |
| 2. | SH. SWARUP KUMAR MISHRA--J M | 14.07.1958 | 01.08.2018 | 13.07.2023 |
| **(8) ERNAKULAM BENCH** | | | | |
| 1. | SH.ASHISH KALIA-- J M | 25.05.1963 | 16.07.2018 | 15.07.2023 |
| 2. | _ _ _ _ _ _ _ _ - AM | VACANT | | |
| 3. | _ _ _ _ _ _ _ _ - AM | VACANT | | |
| 4. | _ _ _ _ _ _ _ _ – J M | VACANT | | |
| **(9) GUWAHATI BENCH** | | | | |
| 1. | MS. MANJULA DAS - JM | 29.09.1957 | 28.09.2011<br>13.09.2017 | 27.09.2016<br>12.09.2022 |
| 2. | SH. NEKKHOMANG NEIHSIAL-AM | 01.03.1957 | 30.07.2018 | 28.02.2022 |
| **(10) HYDERABAD BENCH** | | | | |
| 1. | SH. B V SUDHAKAR - AM | 18.04.1957 | 23.07.2018 | 17.04.2022 |
| 2. | MS. NAINI JAYASEELAN-A M | 14.01.1957 | 27.07.2018(A/N) | 13.01.2022 |
| 3. | _ _ _ _ _ _ _ _ – J M | VACANT | | |
| 4. | _ _ _ _ _ _ _ _ – J M | VACANT | | |
| **(11) JABALPUR BENCH** | | | | |
| 1. | SH. NAVIN TANDON - AM | 01.01.1956 | 24.07.2017 | 31.12.2020 |
| 2. | SH. RAMESH SINGH THAKUR-- J M | 27.08.1961 | 04.09.2017 | 03.09.2022 |

| | | | | |
|---|---|---|---|---|
| **(12) JAIPUR BENCH** | | | | |
| 1. | SH. SURESH KUMAR MONGA – JM | 03.08.1963 | 04.09.2017 | 03.09.2022 |
| 2. | SH. A MUKHOPADHAYA - AM | 18.06.1957 | 05.07.2018 | 17.06.2022 |
| **(13) JODHPUR BENCH** | | | | |
| 1. | SMT. HINA P. SHAH - JM | 08.09.1963 | 05.07.2018 (A/N) | 05.07.2023 |
| 2. | MS. ARCHANA NIGAM - A M | 01.05.1957 | 10.07.2018 | 30.04.2022 |

| | | | | |
|---|---|---|---|---|
| **(14) KOLKATA BENCH** | | | | |
| 1. | MS. BIDISHA BANERJEE-JM | 28.01.1970 | 22.09.2011<br>14.09.2017 (A/N) | 21.09.2016<br>13.09.2022 |
| 2. | DR. NANDITA CHATTERJEE-AM | 01.07.1957 | 26.07.2017 | 30.06.2022 |
| 3. | _ _ _ _ _ _ _ _--JM | VACANT | | |
| 4. | _ _ _ _ _ _ - AM | VACANT | | |
| **(15) LUCKNOW BENCH** | | | | |
| 1. | SMT. JASMINE AHMED-JM | 20.06.1965 | 24.12.2012(A/N)<br>07.08.2018(R/A) (A/N) | 03.07.2018<br>07.08.2023 |
| 2. | SH. DEVENDRA CHAUDHRY– AM | 07.05.1958 | 04.07.2018(A/N) | 06.05.2023 |
| **(16) MUMBAI BENCH** | | | | |
| 1. | SH. R VIJAY KUMAR-AM | 23.09.1955 | 23.08.2017(A/N) | 22.09.2020 |
| 2. | DR. BHAGWAN SAHAI-AM | 02.01.1958 | 05.07.2018 | 01.01.2023 |
| 3. | SH. R N SINGH—JM | 20.01.1962 | 12.07.2018 | 11.07.2023 |
| 4. | SMT. RAVINDER KAUR--JM | 26.04.1957 | 19.07.2018(A/N) | 25.04.2022 |
| **(17) PATNA BENCH** | | | | |
| 1. | Sh. JAYESH V. BHAIRAVIA—JM | 02.02.1965 | 24.08.2017 | 23.08.2022 |
| 2. | SH. DINESH SHARMA – AM | 03.11.1957 | 05.07.2018 (A/N) | 02.11.2022 |
| 3. | _ _ _ _ _ _ _ _ _--AM | VACANT | | |
| 4. | _ _ _ _ _ _ _ _--JM | VACANT | | |

**CENTRAL ADMINISTRATIVE TRIBUNAL**
**PRINCIPAL BENCH**

**LIST SHOWING VACANCY POSITION OF HON'BLE CHAIRMAN/MEMBERS OF THE CENTRAL ADMINISTRATIVE TRIBUNAL AS ON 06.03.2020**

| | |
|---|---|
| **Chairman** | **1 (Filled)** |
| **Total No. of Members** | **65** |
| **In Office** | **37** |
| **Available vacancies** | **28** |

| Sl. No. | Name of the Bench | Sanction strength of Hon'ble Members | Member (A) | | Member (J) | | Remarks |
|---|---|---|---|---|---|---|---|
| | | | Filled | Vacant | Filled | Vacant | |
| 1 | Principal Bench | 11 | 04 | 02 | 02 | 03 | |
| 2 | Ahmedabad Bench | 02 | -- | 01 | 01 | -- | |
| 3 | Allahabad Bench | 08 | 01 | 03 | 02 | 02 | |
| 4 | Bangalore Bench | 04 | 01 | 01 | 00 | 02 | |
| 5 | Chennai Bench | 04 | 01 | 01 | 01 | 01 | |
| 6 | Chandigarh Bench | 04 | -- | 02 | 01 | 01 | |
| 7 | Cuttack Bench | 02 | 01 | -- | 01 | -- | |
| 8 | Ernakulum Bench | 04 | 00 | 02 | 01 | 01 | |
| 9 | Guwahati Bench | 02 | 01 | -- | 01 | -- | |
| 10 | Hyderabad Bench | 04 | 02 | -- | 00 | 02 | |
| 11 | Jabalpur Bench | 02 | 01 | -- | 01 | -- | |
| 12 | Jaipur Bench | 02 | 01 | -- | 01 | -- | |
| 13 | Jodhpur Bench | 02 | 01 | -- | 01 | -- | |
| 14 | Kolkata Bench | 04 | 01 | 01 | 01 | 01 | |
| 15 | Lucknow Bench | 02 | 01 | -- | 01 | -- | |
| 16 | Mumbai Bench | 04 | 02 | -- | 02 | -- | |
| 17 | Patna Bench | 04 | 01 | 01 | 01 | 01 | |
| | **TOTAL** | 65 | 19 | 14 | 18 | 14 | |

T/C

**IN THE SUPREME COURT OF INDIA**

**(CIVIL ORIGINAL JURISDICTION)**

**WRIT PETITION (CIVIL) NO. OF 2020**

**(Under Article 32 of the Constitution of India)**

**IN THE MATTER OF:**

Asheesh Singh Kotwal & Ors ...Petitioners

Versus

Union of India & Ors. ... Respondents

**APPLICATION FOR STAY**

**To**

**THE CHIEF JUSTICE OF INDIA AND**
**HIS COMPANION JUSTICES OF THE**
**HON'BLE SUPREME COURT OF INDIA**

**THE HUMBLE APPLICATION OF**
**THE APPLICANT ABOVE NAMED**

**MOST RESPECTFULLY SHEWETH:**

1. The petitioners are filing the present writ petition under Article 32 of the constitution seeking A writ of Mandamus for quashing of notification no. G.S.R. 267 (E) dated 29.04.2020 issued by Ministry of Personnel, Public Grievance and Persons, Department of Personnel and

Training conferring jurisdiction to the Ld. Central Administrative Tribunal, Chandigarh over all service matters of the employees of the Union Territory of Jammu and Kashmir, and also seeking establishment of a permanent bench of the Central Administrative Tribunal at the Union Territory of Jammu and Kashmir with complete infrastructure and adequate strength of Hon'ble Members.

2. The facts and circumstances giving rise to the accompanying writ petition are set out therein in detail and are not repeated here for the sake of brevity. The Petitioners craves leave of this Hon'ble Court to treat the same as an integral part of the present application as well.

3. The issue which arises is that when this Hon'ble Court in L. Chandra Kumar has held that jurisdiction of the High Court is not taken away and in fact it cannot be abrogated, and to that extent Section 28 of the Administrative Tribunals Act has been read down and declared ultra vires, the High Court even now retains its constitutional jurisdiction to adjudicate the cases. The jurisdiction of High Court remains intact notwithstanding the fact that the employees become Central

Government employees and there shall be Administrative Tribunal for dealing with their service matters High Court.

4. In such a situation the High Court ought not to have initiated the procedure for transferring the cases in such a hasty manner without ascertaining to itself that a permanent full fledged bench of the Central Administrative Tribunal is not only established but made fully functional and operational so that the access to justice is not jeopardized. As far as Jammu & Kashmir is concerned, there is no permanent Bench of the Ld. CAT established. It is foremost requirement to establish a proper Bench and then only transfer the cases to Bench of the CAT ought to have been done.

5. It is thus being prayed that the High court should transfer the cases only after a bench has been constituted for Jammu & Kashmir and it has become fully functional. The adhoc arrangement of holding circuit bench by the Bench of Chandigarh is not a substitute or even a proper arrangement for dealing with such huge number of cases.

6. It is submitted that, even if a circuit bench is constituted for Jammu and Kashmir, it would be highly ineffective for the reasons that; Firstly, the place and frequency of Circuit

Benches are normally determined by the Vice-Chairman of the Bench who takes into account various factors such as the number of Members available in the Bench, workload of cases at a particular place, convenience of the litigants, availability of accommodation, etc. A merged number of approximately 35,000 to 40,000 cases are pending before the Jammu and Kashmir High Court which would be transferred to Ld. CAT. This is a fairly high number of cases considering that the bench will assemble to hear the cases only once in few months.

7. Secondly, there is only one judicial member catering to administrative disputes of 5 individual States/UT's.

8. Thirdly, the idea behind establishment of tribunals was to provide speedy and efficient justice to all. Constitution of Circuit benches would not only delay the output of justice system rather it would multiply administrative problems for litigants and lawyers. There is usually a huge gap between two sittings of Circuit Benches and most importantly, the constitution of Circuit Benches changes on every visit resulting in matters being reheard every time. Therefore,

there would be lack of consistency and uniformity in the cases being heard.

9. It is submitted that in order to streamline the conduct and to improve the efficiency of Central Administrative Tribunal, there is need for a permanent bench of Central Administrative Tribunal in Union Territory of J&K with adequate infrastructure and strength to hear and dispose cases.

10. It is submitted that the access to justice and justice at doorstep are concepts enshrined under the Fundamental Rights of a citizen of India. The need for a Tribunal or a Special Court to be situated within the territory of the State has been emphasised time and again.

11. It is submitted that mere setting up of institutions for providing relief is not enough. There are many factors that plague the judicial system and its reach to a common man. Such factors, if not addressed in its entirety would lead to inefficient judicial reach and therefore, denial of justice. It is not mere access to law, rather access to justice which should be seen to be fair, just, economically viable and fast.

12. The present application is bonafide and in the interest of justice of all state and central employees of the Union Territory of J&K.

13. The Petitioners have a prima facie case in their favour and the balance of convenience is in favour of the Petitioners and against the Respondents. The Petitioners would be prejudiced if the present application is not allowed.

## PRAYER

In the facts and circumstances the above Petitioner respectfully prays that this Hon'ble Court may be graciously pleased to: -

**a.** Stay the effect and operation of Notification no. G.S.R. 267 (E) dated 29.04.2020 issued by Ministry of Personnel, Public Grievance and Persons, Department of Personnel and Training to the extent that it confers jurisdiction to the Central Administrative Tribunal, Chandigarh Bench over the Union Territory of Jammu and Kashmir.

**b.** Restrain the High Court of Jammu and Kashmir from transferring any case pending before it to the Central

Administrative Tribunal during the pendency of the present Petition.

**c.** Issue an interim direction to the High Court of Jammu and Kashmir to continue to receive any fresh 'Service' Writs and continue to adjudicate fresh and old 'Service' Writ Petitions during the pendency of the present Petition;

**d.** Pass an ad-interim ex-parte order in terms of prayers (a) to (c) hereinabove;

**e.** pass any other order(s)/direction which this Hon'ble Court may deem fit and proper in the facts and circumstances of the present case.

**AND FOR THIS ACT OF KINDNESS THE PETITIONERS AS IN DUTY BOUND SHALL EVER PRAY.**

**(ARJUN GARG)**
**ADVOCATE FOR THE PETITIONERS**

**NEW DELHI**
**DATE: 08.05.2020**

**IN THE SUPREME COURT OF INDIA**

**(CIVIL ORIGINAL JURISDICTION)**

**WRIT PETITION (CIVIL) NO. OF 2020**

**(Under Article 32 of the Constitution of India)**

**IN THE MATTER OF:**

Asheesh Singh Kotwal & Ors ...Petitioners

Versus

Union of India & Ors. ... Respondents

**APPLICATION FOR EXEMPTION FROM FILING AFFIDAVIT**

**To**

**THE CHIEF JUSTICE OF INDIA AND**
**HIS COMPANION JUSTICES OF THE**
**HON'BLE SUPREME COURT OF INDIA**

**THE HUMBLE APPLICATION OF**
**THE APPLICANT ABOVE NAMED**

**MOST RESPECTFULLY SHEWETH:**

1. The petitioners are filing the present writ petition under Article 32 of the constitution seeking a writ of Mandamus for quashing of notification no. G.S.R. 267 (E) dated 29.04.2020 issued by Ministry of Personnel, Public Grievance and

Persons, Department of Personnel and Training conferring jurisdiction to the Ld. Central Administrative Tribunal, Chandigarh over all service matters of the employees of the Union Territory of Jammu and Kashmir, and also seeking establishment of a permanent bench of the Central Administrative Tribunal at the Union Territory of Jammu and Kashmir with complete infrastructure and adequate strength of Hon'ble Members.

2. The facts and circumstances giving rise to the accompanying writ petition are set out therein in detail and are not repeated here for the sake of brevity. The Petitioners craves leave of this Hon'ble Court to treat the same as an integral part of the present application as well.

3. Since, the Petition is filed urgently, the Petitioner seeks leave of this Hon'ble Court for exemption from filing the affidavit of the Petitioner on the ground that the Petitioner is a resident of Jammu, there is a nationwide lockdown going on and all postal services are suspended or severely affected currently in view of COVID-19 therefore, it will not possible to file the affidavit.

4. That the present application is bonafide and in the interest of justice.

**PRAYER**

In the facts and circumstances the above Petitioner respectfully prays that this Hon'ble Court may be graciously pleased to: -

a) Exempt the petitioner from filing affidavit; and

b) Pass such other and further order or orders as may be deemed just and proper by this Hon'ble court on the facts and in the circumstances of the case.

**AND FOR THIS ACT OF KINDNESS THE PETITIONERS AS IN DUTY BOUND SHALL EVER PRAY.**

**(ARJUN GARG)**
**ADVOCATE FOR THE PETITIONERS**

**NEW DELHI**
**DATE: 08.05.2020**