
TRIBUNALISATION OF JUSTICE: ASSESSING THE RELEVANCE AND CHALLENGES OF THE CENTRAL ADMINISTRATIVE TRIBUNAL IN INDIA

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ABSTRACT

When India introduced the Central Administrative Tribunal (CAT) under Article 323A, the idea was simple and appealing: give government employees a faster, specialised forum for service disputes, and ease the burden on overcrowded High Courts. This seminar paper asks whether CAT has actually delivered on that promise. Using a doctrinal and analytical approach, it begins with the story of how tribunalisation took shape, from the pre-constitutional period through the Swaran Singh Committee and the Forty-Second Amendment, and then explains how CAT is built, what it can decide, who sits on it and how it works.

The paper then follows the Supreme Court's long and often uneasy dialogue with the tribunal system. Starting with *S.P. Sampath Kumar* and *R.K. Jain*, it moves through *L. Chandra Kumar*, *R. Gandhi*, the National Tax Tribunal case, *Roger Mathew* and the Madras Bar Association cases, up to the ongoing challenge to the Tribunals Reforms Act, 2021. Against this backdrop, it takes an honest look at how CAT functions on the ground: executive influence over appointments and tenure, long-standing vacancies, a backlog of 80,545 pending cases as on 31 December 2022, weak infrastructure, inconsistent rulings and the rising cost of access for ordinary litigants.

The paper concludes that CAT is constitutionally valid and still needed, but its independence is compromised by executive control, and the High Court review mandated after *L. Chandra Kumar* has added another layer of litigation that undercuts its efficiency. To restore its purpose, the paper suggests a fixed five-year tenure, a judicially led selection process, an independent National Tribunals Commission, time-bound filling of vacancies, completion of the Judicial Impact Assessment and greater consistency in precedent.

Keywords: Tribunalisation, Central Administrative Tribunal, Article 323A, Judicial Independence, *L. Chandra Kumar*, Tribunals Reforms Act 2021.

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INTRODUCTION

1.1 Significance of the Study

The present study is significant for several interlocking reasons.

First, CAT remains the paradigmatic Article 323A tribunal, and any assessment of its functioning necessarily illuminates the broader constitutional debate concerning the limits of tribunalisation as a legislative technique for reallocating adjudicatory power away from constitutional courts. A rigorous study of CAT therefore has value extending beyond CAT itself.

Second, the enactment of the TRA 2021, and its immediate and continuing constitutional challenge, demonstrates that the questions first raised in *Sampath Kumar*² concerning appointment, tenure, and executive control over tribunal administration remain unresolved rather than historical. A study undertaken at this juncture is therefore positioned to capture a live, rather than settled, constitutional controversy.

Third, the Supreme Court's direction in *Rojer Mathew v. South Indian Bank Ltd.* for a Judicial Impact Assessment of the tribunal system³, a direction that has not, to date, been substantially implemented, underscores the absence of a comprehensive empirical account of how tribunals such as CAT actually function. This study contributes toward closing that gap by drawing together verified Parliamentary Standing Committee data, recent Supreme Court orders on CAT vacancies, and the doctrinal case law into a single, integrated assessment.

Fourth, existing scholarship on CAT tends to fall into one of two categories: descriptive statutory commentary explaining the provisions of the ATA 1985, or narrow case-law digests summarising individual decisions without connecting them to CAT's institutional performance. This study seeks to bridge that divide by treating constitutional doctrine and institutional fact as mutually informing rather than separately treated subjects.

Fifth, the study has practical significance for policy-making. Its findings and reform proposals including the case for a National Tribunals Commission and for a staggered-tenure

² S.P. Sampath Kumar v. Union of India, AIR 1987 SC 386 (India).

³ *Rojer Mathew v. South Indian Bank Ltd.*, (2020) 6 SCC 1, 255–260 (India).

appointment mechanism⁴ are directly relevant to ongoing legislative and judicial deliberation on tribunal reform in India.

1.2 Scope and Extent of the Study

This study is confined, in its primary focus, to the Central Administrative Tribunal as constituted under the ATA 1985, examined within the broader constitutional matrix of Articles 323A and 323B of the Constitution. The study proceeds along the following defined boundaries:

(a) The study examines CAT's constitutional basis, statutory framework, jurisdiction, composition, appointment process, procedure, and relationship with the High Courts. It examines the doctrine of judicial review as developed through Supreme Court decisions bearing on tribunal independence, including decisions arising in contexts other than CAT (for example, the National Company Law Tribunal and the erstwhile National Tax Tribunal), to the extent that such decisions have articulated constitutional standards of general application subsequently extended to CAT.

(b) The study traces the historical genesis of tribunalisation from the pre-constitutional period and the First Administrative Reforms Commission (1966–1970)⁵, through the Forty-Second Amendment of 1976 and the enactment of the ATA 1985, to the most recent developments, including the TRA 2021 and the pending constitutional challenge in *Madras Bar Ass'n v. Union of India*, W.P. (C) No. 1018 of 2021⁶.

(c) While the study references other Article 323A/323B tribunals comparatively principally the National Company Law Tribunal, the Customs, Excise and Service Tax Appellate Tribunal, and the erstwhile National Tax Tribunal such references are confined to points at which Supreme Court doctrine developed in those contexts bears directly upon CAT's own constitutional standing. The study does not purport to offer an independent, freestanding assessment of any tribunal other than CAT.

(d) Brief comparative references to the United Kingdom's Tribunals, Courts and Enforcement

⁴ *Union of India v. R. Gandhi*, (2010) 11 SCC 1, 120 (India).

⁵ “Admin. Reforms Comm'n, Report on Personnel Administration (1969)”.

⁶ “*Madras Bar Ass'n v. Union of India*, W.P. (C) No. 1018 of 2021 (S.C., Nov. 19, 2025) (India)”.

Act 2007⁷ and the United States' Administrative Procedure Act, 1946⁸ are included solely as interpretive aids to sharpen the analysis of CAT's institutional design; they do not constitute an independent comparative-law study and are not intended to suggest that either foreign model should be transplanted uncritically into the Indian context.

(e) The study does not examine State Administrative Tribunals in independent detail, save to the extent that Section 15 of the ATA 1985 bears on CAT's own federal-cooperative jurisdictional design. It does not undertake an independent assessment of tribunals dealing with subject-matters unrelated to public service disputes (for example, environmental, competition, or securities tribunals), except where such tribunals have generated case law of general application to the independence doctrine.

1.3 Literature Review

The existing body of literature relevant to this study may be organised into four broad categories.

(a) The Law Commission of India's 162nd Report, Review of Functioning of Central Administrative Tribunal Customs, Excise and Gold (Control) Appellate Tribunal and Income Tax Appellate Tribunal (1998)⁹, remains the most direct official assessment of CAT's early institutional performance, documenting concerns regarding appointment practices and infrastructural deficiencies. The Law Commission's 215th Report, L. Chandra Kumar Be Revisited by Larger Bench of Supreme Court (2008), subsequently questioned whether the reintroduction of High Court appellate scrutiny over tribunal decisions had defeated the efficiency rationale for tribunalisation, and recommended reconsideration by a larger Bench¹⁰ a recommendation that has not, to date, been acted upon. More recently, the Department-Related Parliamentary Standing Committee on Personnel, Public Grievances, Law and Justice has, in its 2023 report to Parliament, documented specific, verifiable pendency and vacancy data for CAT, establishing that 80,545 cases remained pending across CAT Benches as on 31 December 2022, including 1,350 cases pending for more than ten years, attributable

⁷ "Tribunals, Courts and Enforcement Act 2007, c. 15 (Eng.)."

⁸ "Administrative Procedure Act, 5 U.S.C. §§ 551–559 (2018)."

⁹ "Law Commission of India, Review of Functioning of Central Administrative Tribunal — Customs, Excise and Gold (Control) Appellate Tribunal and Income Tax Appellate Tribunal, Report No. 162 (1998)."

¹⁰ Law Commission of India, L. Chandra Kumar Be Revisited by Larger Bench of Supreme Court, Report No. 215 (2008)."

substantially to staffing shortages against a sanctioned strength of seventy members.¹¹

(b) The case law itself constitutes a primary and continuously developing body of "literature" on the subject, beginning with *S.P. Sampath Kumar v. Union of India*¹² and *R.K. Jain v. Union of India*¹³, proceeding through the watershed reconsideration in *L. Chandra Kumar v. Union of India*¹⁴, and extending through *Union of India v. R. Gandhi*¹⁵, *Madras Bar Ass'n v. Union of India* (the National Tax Tribunal case)¹⁶, *Roger Mathew v. South Indian Bank Ltd.*,¹⁷ and the successive Madras Bar Association decisions on tribunal member tenure and appointment culminating in the pending challenge to the TRA 2021.¹⁸

(c) Leading treatises, including M.P. Jain's *Treatise on Administrative Law* and H.M. Seervai's *Constitutional Law of India*¹⁹, provide foundational doctrinal analysis of the Article 323A/323B framework, though both were substantially authored prior to the most recent wave of litigation culminating in *Roger Mathew* and the TRA 2021 challenge, and accordingly do not address the most current phase of the independence controversy.

(d) More recent scholarship, including the Vidhi Centre for Legal Policy's study of the impact of the 2014 National Tax Tribunal judgment²⁰ on the broader tribunal ecosystem, has begun to document the practical, on-the-ground consequences of successive rounds of tribunal invalidation and reform, a line of inquiry this study extends specifically to CAT by incorporating verified 2022–2023 empirical data on vacancies and pendency.

1.4 Research gap

Taken together, this literature reveals a persistent gap: doctrinal commentary on the constitutional validity of tribunalisation exists largely in isolation from the empirical record of

¹¹ "Dep't-Related Parliamentary Standing Comm. on Pers., Pub. Grievances, Law & Justice, Rajya Sabha, Report on the Functioning of the Central Administrative Tribunal (2023), as reported in Par Panel Asks CAT to Dispose of Cases Pending for Over 10 Yrs on Priority, Bus. Standard (Apr. 2, 2023)".

¹² "S.P. Sampath Kumar v. Union of India, supra note 1".

¹³ "R.K. Jain v. Union of India, AIR 1993 SC 1769 (India)".

¹⁴ "L. Chandra Kumar v. Union of India, (1997) 3 SCC 261 (India)".

¹⁵ "Union of India v. R. Gandhi, supra note 3".

¹⁶ "Madras Bar Ass'n v. Union of India, (2014) 10 SCC 1 (India)".

¹⁷ "Roger Mathew v. South Indian Bank Ltd., supra note 2".

¹⁸ "Madras Bar Ass'n v. Union of India, 2020 SCC OnLine SC 962 (India). Madras Bar Ass'n v. Union of India, W.P. (C) No. 502 of 2021 (S.C., July 14, 2021) (India). Madras Bar Ass'n v. Union of India, supra note 5".

¹⁹ "M.P. Jain, *Treatise on Administrative Law* (2017); H.M. Seervai, *Constitutional Law of India* (4th ed. 1991)".

²⁰ "Arijeet Ghosh, Diksha Sanyal, Raunaq Chandrashekar & Reshma Sekhar, *Reforming the Tribunals Framework in India: An Interim Report*, Vidhi Ctr. for Legal Policy (Apr. 2018)".

CAT's institutional performance, and vice versa. No existing study, to the knowledge of this researcher, integrates the full arc of Supreme Court doctrine from Sampath Kumar to the pending TRA 2021 challenge with verified, recent institutional data on CAT's own vacancies, pendency, and administrative functioning. This study is designed to address that gap.

1.5 Objectives of the Study

The study is guided by the following objectives:

1. To trace the historical and constitutional genesis of tribunalisation in India, with particular reference to Articles 323A and 323B of the Constitution and the Administrative Tribunals Act, 1985, and to situate CAT within the broader typology of Indian tribunals.
2. To critically analyse the trajectory of Supreme Court jurisprudence on the constitutional validity of tribunals and the doctrine of judicial review, from S.P. Sampath Kumar through L. Chandra Kumar, R. Gandhi, the National Tax Tribunal case, Rojer Mathew, and the Madras Bar Association line of cases, with specific focus on principles of direct application to CAT.
3. To examine, in doctrinal and institutional detail, the jurisdiction, composition, appointment process, procedure, and administrative structure of CAT under the ATA 1985 and the TRA 2021.
4. To identify and critically evaluate, on the basis of verified empirical data, the contemporary structural and functional challenges confronting CAT's independence, accessibility, and effectiveness, including vacancies, pendency, and institutional fragility.
5. To propose evidence-based, implementable legislative, administrative, and procedural reforms to strengthen CAT's constitutional legitimacy and institutional performance.

1.6 Hypothesis

Although the Central Administrative Tribunal was conceived as, and remains, a constitutionally permissible mechanism of tribunalisation validated through a sustained line of

Supreme Court decisions, its continued dependence on executive control over appointments, tenure, and administration evidenced by the recurring pattern of legislative reintroduction of appointment and tenure provisions previously invalidated by the Supreme Court, and by the documented vacancy and pendency crisis culminating in the Supreme Court's 2022 invocation of Article 142 to prevent CAT's operational collapse²¹ has structurally compromised its institutional independence and adjudicatory effectiveness, such that CAT today functions as an additional tier of litigation rather than the swift, independent alternative to High Court adjudication originally envisaged under Article 323A.

1.7 Research Methodology

The present study adopts a predominantly doctrinal and analytical methodology, involving systematic examination of constitutional provisions, statutes, judicial decisions, Law Commission Reports, and other primary legal materials bearing on the Central Administrative Tribunal and the wider constitutional framework of tribunalisation under Articles 323A and 323B. The doctrinal method is supplemented, where necessary, by historical-legislative analysis to reconstruct the legislative intent underlying the Forty-Second Constitutional Amendment and the Administrative Tribunals Act, 1985, and by documentary analysis of verified Parliamentary Standing Committee reports and Supreme Court orders to ground the institutional critique in demonstrable, source-verified fact rather than impression or anecdote.

1.8 Sources of Data

Primary Sources:

- The Constitution of India, 1950 (Articles 323A, 323B, 14, 21, 32, 226, 227, 136, 311).²²
- The Administrative Tribunals Act, No. 13 of 1985, and the Central Administrative Tribunal (Procedure) Rules, 1987.²³
- The Tribunals Reforms Act, No. 33 of 2021, and Rules framed thereunder.²⁴

²¹ “Cent. Admin. Trib. (Principal Bench) Bar Ass’n v. Union of India, Order (S.C., May 13, 2022) (India)”.

²² “India Const. arts. 323A, 323B, 14, 21, 32, 226, 227, 136, 311”.

²³ “The Administrative Tribunals Act, No. 13 of 1985, India Code (1985); Central Administrative Tribunal (Procedure) Rules, 1987”.

²⁴ “The Tribunals Reforms Act, No. 33 of 2021, India Code (2021)”.

- The Constitution (Forty-Second Amendment) Act, 1976.²⁵
- The National Tax Tribunal Act, No. 49 of 2005 (subsequently struck down).²⁶
- Reported and pending Supreme Court decisions, including *S.P. Sampath Kumar v. Union of India*, *R.K. Jain v. Union of India*, *L. Chandra Kumar v. Union of India*, *Union of India v. R. Gandhi*, *Madras Bar Ass'n v. Union of India* (2014, 2020, 2021), *Roger Mathew v. South Indian Bank Ltd.*, the Central Administrative Tribunal (Principal Bench) *Bar Association v. Union of India* orders of 2022, and the pending *Madras Bar Ass'n v. Union of India*, W.P. (C) No. 1018 of 2021.
- Reports of the Department-Related Parliamentary Standing Committee on Personnel, Public Grievances, Law and Justice.
- Official vacancy circulars issued by the Department of Personnel and Training, Ministry of Personnel, Public Grievances and Pensions.

Secondary Sources:

- Law Commission of India, Report Nos. 162 (1998) and 215 (2008).
- Books: M.P. Jain, *Treatise on Administrative Law*; H.M. Seervai, *Constitutional Law of India*.
- Peer-reviewed journal articles and policy studies, including the Vidhi Centre for Legal Policy's study of the impact of the 2014 National Tax Tribunal judgment.
- Contemporary news reportage of Supreme Court proceedings and Parliamentary Standing Committee findings, used strictly as a documentary trail to primary orders and reports.
- Comparative administrative law literature on the UK Tribunals, Courts and Enforcement Act 2007 and the US Administrative Procedure Act, 1946.

²⁵ “The Constitution (Forty-Second Amendment) Act, 1976, India Code (1976)”.

²⁶ “The National Tax Tribunal Act, No. 49 of 2005, India Code (2005) (subsequently struck down)”.

1.9 Limitations of the Study

This study is subject to the following limitations, disclosed here for methodological transparency.

(a) Doctrinal, not empirical, methodology. The study does not undertake independent empirical fieldwork such as structured interviews with CAT members, litigants, or Bar Association representatives, or an independently commissioned statistical audit of pendency across all Benches. Where institutional data is presented, it is drawn from secondary compilation of Parliamentary Standing Committee reports, Supreme Court orders, and official circulars, rather than from primary data collection by the researcher.

(b) Confined institutional focus. The study is confined to CAT as constituted under the ATA 1985. Other Article 323A/323B tribunals are examined only comparatively, and only to the extent that Supreme Court doctrine developed in their context bears directly on CAT; the study does not purport to offer an independent assessment of the institutional performance of any other tribunal.

(c) Limited comparative scope. Comparative references to the United Kingdom and United States administrative adjudication systems are illustrative and interpretive only; the study does not undertake a systematic, ground-level comparative institutional study of either jurisdiction's tribunal system.

(d) Reliance on secondary reportage for certain primary facts. Certain institutional facts for example, precise, contemporaneous vacancy figures are drawn from Parliamentary Standing Committee reports as reported in secondary press coverage, since the underlying primary reports were not independently verified against the original parliamentary record for every cited figure; the study accordingly recommends that any figure of this kind be independently confirmed before being relied upon in a formal submission.

1.10 Scheme of Presentation

Chapter I: Introduction

This chapter sets out the significance, scope, literature review, research gap, objectives, hypothesis, methodology and limitations of the study. It frames the central question: has CAT

remained an independent and efficient alternative to High Court adjudication?

Chapter II: Tribunalisation of Justice in India: Concept, Rationale and Constitutional Basis

This chapter explains the meaning and rationale of tribunalisation (efficiency, expertise and docket relief). It traces its history from the pre-constitutional period through the Swaran Singh Committee and the 42nd Amendment, and examines Articles 323A and 323B. It also gives a brief UK and US comparative context.

Chapter III: Constitutional and Statutory Framework of the Central Administrative Tribunal

This chapter examines the Administrative Tribunals Act, 1985, covering CAT's establishment, composition, jurisdiction, appointment process and procedure. It also explains CAT's relationship with the High Courts after L. Chandra Kumar.

Chapter IV: Judicial Review and the Doctrine of Tribunal Independence

This chapter analyses the Supreme Court's jurisprudence from Sampath Kumar, R.K. Jain and L. Chandra Kumar to R. Gandhi, the National Tax Tribunal case and Rojer Mathew. It also covers the Madras Bar Association cases and the pending challenge to the Tribunals Reforms Act, 2021.

Chapter V: Institutional Challenges and Critical Assessment of CAT

This chapter critically evaluates executive influence, appointment and tenure issues, vacancies and pendency (80,545 pending cases), infrastructure gaps, inconsistency in adjudication and accessibility. It concludes by weighing administrative efficiency against judicial independence.

Chapter VI: Conclusion and Suggestions

This chapter summarises the findings: CAT is constitutionally valid but structurally compromised in its independence. It proposes reforms, including a five-year fixed tenure, a National Tribunals Commission, time-bound vacancy filling, the Judicial Impact Assessment and harmonised precedent.

Chapter II: Tribunalisation of Justice in India Concept, Rationale and Constitutional Basis

2.1 Meaning and Rationale of Tribunalisation

Tribunalisation, as a matter of constitutional design, involves three interlocking elements: (i) the identification of a category of disputes considered suitable for specialised adjudication; (ii) the creation, by statute, of a body combining judicial and administrative/technical membership; and (iii) a corresponding, either partial or complete, ouster of the jurisdiction that courts would otherwise have exercised over that category of disputes. The Law Commission of India identified three principal justifications for this model: administrative efficiency (faster disposal through simplified procedure), subject-matter expertise (adjudicators possessing technical or administrative knowledge unavailable to generalist judges), and docket relief (freeing High Courts to concentrate on constitutional and general civil litigation). Each of these justifications, while facially persuasive, generates the very independence and quality concerns examined critically in. It is useful, for analytical purposes, to distinguish a strong form of the efficiency justification (tribunals will decide disputes faster and better than courts because of specialisation) from a weak form (tribunals will, at minimum, relieve courts of caseload even if their own performance is imperfect). Much of the criticism examined in this dissertation targets the strong form of the justification without necessarily undermining the weak form a distinction that becomes important when evaluating whether CAT should be reformed or, more radically, whether its core rationale should be reconsidered.

2.2 Pre-Constitutional and Early Constitutional Antecedents

Administrative adjudication in India did not begin with the Forty-Second Amendment. Under the Government of India Act, 1935, disciplinary proceedings against civil servants were governed by statutory rules enforceable, ultimately, through ordinary courts.²⁷ After the commencement of the Constitution, Article 311 provided civil servants with a constitutional guarantee against dismissal, removal or reduction in rank without an inquiry, enforceable by writ petition before the High Courts under Article 226.²⁸ This pre-tribunalisation regime placed the entirety of service litigation within the ordinary court hierarchy, a position that persisted until 1977. It is worth noting that Article 311 itself was never repealed or amended by the

²⁷ “Government of India Act, 1935, 26 Geo. 5, c. 2 (U.K.)”.

²⁸ “India Const. art. 311; India Const. art. 226”.

Forty-Second Amendment; rather, Articles 323A and 323B operated alongside Article 311, transferring the forum of adjudication while leaving the underlying substantive constitutional protection intact. This is an important, and sometimes overlooked, structural feature: CAT does not adjudicate a lesser or diluted version of the Article 311 guarantee, but the same substantive guarantee in a different institutional setting a point that sharpens, rather than dilutes, the independence concerns discussed later in this study, since a forum adjudicating a constitutional guarantee ought, a fortiori, to possess independence commensurate with the seriousness of the right at stake.

2.3 Docket Explosion and the Case for Specialised Forums

By the early 1970s, service matters constituted a disproportionately large share of the civil writ docket of most High Courts. Parliamentary and Law Commission material from the period records concern that ordinary judges, trained generally in civil and criminal law, were required to adjudicate technical questions of departmental promotion policy, recruitment rules and disciplinary procedure without specialised administrative expertise, and that this combination of volume and complexity contributed materially to mounting arrears.²⁹ It is analytically important to note that this diagnosis conflated two distinct problems volume (too many cases) and complexity (cases requiring specialised knowledge) that do not necessarily call for the same institutional remedy. A purely volume-driven problem might have been addressed by increasing the sanctioned strength of the High Courts or creating additional generalist Benches; the specific choice of a specialised, mixed-membership tribunal reflects an additional, separable policy judgment about the value of administrative expertise in adjudication, a judgment whose empirical validity is tested against CAT's actual record.

2.4 The Swaran Singh Committee and the Political Context of the Forty-Second Amendment

The Congress Party's Committee on Constitutional Amendments, chaired by Sardar Swaran Singh, recommended, among other constitutional changes, the creation of administrative and other tribunals to relieve the burden on the judiciary.³⁰ It is important, for a properly critical analysis, to situate this recommendation within its historical moment: the Committee reported

²⁹ “Law Commission of India, Structure and Jurisdiction of the Higher Judiciary, Report No. 58 (1974)”.

³⁰ “Report of the Committee on Constitutional Amendments (Swaran Singh Committee) (1976), cited in L. Chandra Kumar v. Union of India, (1997) 3 SCC 261,2 (India)”.

during the Emergency period (1975–1977), and the Forty-Second Amendment as a whole has been the subject of sustained scholarly criticism for its centralising tendencies and its curtailment of judicial review in other respects (for example, the since-repealed Articles 32A, 131A and 226A, and the substantial curtailment of the scope of judicial review over constitutional amendments effected by the insertion, and later deletion, of clauses (4) and (5) of Article 368). While Articles 323A and 323B survived this general reversal, the historical association is relevant context for understanding why the Supreme Court, in *Minerva Mills Ltd. v. Union of India* and subsequently in *L. Chandra Kumar*, treated any statutory attempt to exclude judicial review with particular constitutional suspicion.³¹ This historical framing also explains, in part, why subsequent Constitution Benches have been comparatively reluctant to read Articles 323A/323B expansively: a provision born of an era generally hostile to judicial review was always likely to be construed narrowly once ordinary constitutional conditions were restored.

2.5 Articles 323A and 323B: Scope, Distinction and Legislative Intent

Article 323A (1) empowers Parliament, by law, to provide for the adjudication of disputes relating 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. Article 323A (2) enumerates the permissible content of such legislation, including, under sub-clause (d) as originally enacted, the power to exclude the jurisdiction of "all courts, except the jurisdiction of the Supreme Court under Article 136," with respect to such disputes. The Statement of Objects and Reasons accompanying the Forty-Second Amendment Bill recorded the object as being "to reduce the mounting arrears in High Courts and to secure the speedy disposal of service matters, revenue matters and certain matters of special importance in the context of the socio-economic development and progress."³²

Article 323B, by contrast, is considerably broader in scope and empowers both Parliament and State Legislatures to constitute tribunals for the adjudication of disputes relating to taxation, foreign exchange, industrial and labour disputes, land reforms, ceiling on urban property, elections to Parliament and State Legislatures, and other specified matters.³³ It should also be

³¹ "*Minerva Mills Ltd. v. Union of India*, (1980) 3 SCC 625 (India)".

³² "India Const. art. 323A; Statement of Objects and Reasons, The Constitution (Forty-Second Amendment) Bill, 1976, quoted in *Madras Bar Ass'n v. Union of India*, W.P. (C) No. 502 of 2021, 2 (S.C., July 14, 2021) (India)".

³³ "India Const. art. 323B(2)".

noted that the National Tax Tribunal, struck down in its entirety in the 2014 Madras Bar Association judgment, was constituted not under Article 323A or 323B directly but under Parliament's residuary and taxation-related legislative competence, illustrating that tribunalisation in India has, in practice, drawn on multiple constitutional sources beyond Part XIV-A, even as the substantive independence standards applied to all such bodies have converged through the case law.³⁴

2.6 Growth of the Tribunal System: An Overview

Pursuant to Article 323A, Parliament enacted the ATA 1985, establishing CAT with a Principal Bench at New Delhi and numerous regional and circuit Benches. Under Article 323B, Parliament and State Legislatures have since established a wide array of tribunals, including the Income Tax Appellate Tribunal (predating Article 323A/B but often discussed alongside it), the Customs, Excise and Service Tax Appellate Tribunal, State Administrative Tribunals under Section 15 of the ATA 1985, and, following the Companies Act, No. 18 of 2013, the National Company Law Tribunal and National Company Law Appellate Tribunal.³⁵ Parliament's 2005 attempt to create a National Tax Tribunal to displace the High Courts' jurisdiction over substantial questions of law arising from tax appeals represents an instructive counter-example: unlike CAT, which survived constitutional challenge (albeit in modified form), the National Tax Tribunal was struck down in its entirety in 2014, the Supreme Court holding that the transfer of adjudication over "substantial questions of law"³⁶ as opposed to questions of fact or mixed questions requiring administrative expertise to a body outside the regular judicial hierarchy was constitutionally impermissible, since such questions properly belong to the constitutional courts. This distinction between questions of law (reserved to courts) and technical/factual questions (properly delegable to tribunals) offers a useful analytical lens, for assessing whether CAT's own jurisdiction has, in practice, respected or blurred this line. The TRA 2021 subsequently undertook a broader rationalisation exercise, abolishing several appellate tribunals (including, for instance, the Airports Economic Regulatory Authority Appellate Tribunal and the Film Certification Appellate Tribunal) and transferring their jurisdiction to High Courts or to other existing tribunals, on the stated ground

³⁴ "Madras Bar Ass'n v. Union of India, supra note 15, 15–20".

³⁵ "The Companies Act, No. 18 of 2013, §§ 408–410, India Code (2013)".

³⁶ "Madras Bar Ass'n v. Union of India, supra note 15, 1–20".

of reducing the multiplicity and cost of the tribunal system.³⁷

2.7 Comparative Global Context in Brief

Indian tribunalisation is not *sui generis*; it forms part of a broader global movement toward specialised administrative adjudication. In the United Kingdom, the Franks Committee Report of 1957 recommended that tribunals be characterised by "openness, fairness and impartiality," a formulation that anticipated, by three decades, the Indian Supreme Court's independence jurisprudence.³⁸ This was eventually consolidated in the Tribunals, Courts and Enforcement Act 2007, c. 15 (Eng.), which created a unified, two-tier First-tier Tribunal and Upper Tribunal structure under the administrative oversight of an independent Tribunals Service, insulated from the sponsoring government departments whose decisions the tribunals review.³⁹ In the United States, the Administrative Procedure Act, 5 U.S.C. §§ 551–559 (2018), institutionalised the office of Administrative Law Judge, with statutory protections against removal designed to secure decisional independence from the employing agency.⁴⁰ A notable structural difference is that both the UK and US models place primary emphasis on insulating the individual adjudicator through tenure and removal protections, whereas the Indian model, at least until the R. Gandhi line of cases, focused predominantly on the composition of the appointing body, arguably a less direct safeguard of decisional independence. These comparative frameworks are referenced here only to illuminate, by contrast, the distinctive administrative-control structure that characterises CAT a matter developed fully in Chapters 3 and 5 and not as an independent object of study.

Chapter III: Constitutional and Statutory Framework of the Central Administrative Tribunal

3.1 Enactment and Objects of the Administrative Tribunals Act, 1985

The ATA 1985 was enacted "to 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

³⁷ "The Tribunals Reforms Act, No. 33 of 2021, sched., India Code (2021)".

³⁸ "Report of the Committee on Administrative Tribunals and Enquiries (Franks Committee), Cmnd. 218 (1957) (U.K.)".

³⁹ "Tribunals, Courts and Enforcement Act 2007, *supra* note 6".

⁴⁰ "Administrative Procedure Act, *supra* note 7".

a State and for matters connected therewith or incidental thereto." The preamble and statement of objects make explicit reference to the constitutional authority conferred by Article 323A, situating the Act as implementing legislation rather than freestanding statutory policy.⁴¹

3.2 Establishment, Composition and Structure

Section 4 of the ATA 1985 establishes CAT as a body corporate with a Principal Bench and such other Benches as the Central Government may, by notification, establish.⁴² Section 5 provides for the composition of Benches, ordinarily comprising one Judicial Member and one Administrative Member, reflecting the "mixed" character that is a defining structural feature of tribunals generally. Section 5 also empowers the Chairman to constitute a Bench of a single member in appropriate cases and to transfer members between Benches a power whose exercise has itself, as noted in Chapter 5, contributed to concerns about unpredictability of hearing schedules and continuity of adjudication. Section 6 prescribes qualifications for appointment: a Judicial Member must, ordinarily, be or have been a Judge of a High Court, or have held certain specified judicial or legal offices; an Administrative Member must possess prescribed experience in the administration of the Central or State Government, including having held a post carrying a specified pay scale for a specified minimum period.

3.3 Jurisdiction and Powers of CAT

Section 14 of the ATA 1985 confers upon CAT original jurisdiction to adjudicate disputes and complaints concerning recruitment and conditions of service of persons appointed to public services in connection with the affairs of the Union, including members of the All-India Services, civilian employees of the defence services, and holders of civil posts under the Union.⁴³ Section 15 provides a mechanism, unusual in India's largely unitary judicial structure, whereby a State Government may, by notification and with the concurrence of the Central Government, extend the jurisdiction of CAT (or establish a State Administrative Tribunal) to State government employees introducing a federal-cooperative dimension to the tribunal's operation that is often overlooked in purely doctrinal treatments. Section 19 prescribes the procedure for filing an application before CAT, and Section 20 requires exhaustion of statutory or departmental remedies of appeal or representation prior to approaching the Tribunal, save

⁴¹ "The Administrative Tribunals Act, No. 13 of 1985, pmbL., India Code (1985)".

⁴² "The Administrative Tribunals Act, No. 13 of 1985, §§ 4–6, India Code (1985)".

⁴³ "The Administrative Tribunals Act, No. 13 of 1985, §§ 14, 15, 19, 20, 22, India Code (1985)".

in specified circumstances a requirement that, while intended to ensure that CAT functions as a genuine forum of adjudication rather than a first port of call for every administrative grievance, has also been criticised as adding a further procedural layer before a litigant can access even the first-instance tribunal. Section 22 confers upon CAT, for the purpose of discharging its functions, all the powers of a civil court under the Code of Civil Procedure, No. 5 of 1908, including the power to summon and enforce the attendance of witnesses, require the discovery and production of documents, receive evidence on affidavits, and requisition public records.

Section 28 of the ATA 1985, as originally enacted, purported to exclude the jurisdiction of "all courts (except the Supreme Court under Article 136 of the Constitution)" with respect to matters falling within CAT's jurisdiction.⁴⁴ This provision, read together with Article 323A(2)(d), formed the principal object of constitutional challenge in *S.P. Sampath Kumar* and, definitively, in *L. Chandra Kumar* a trajectory analysed in full in Chapter 4. Following *L. Chandra Kumar*, Section 28 survives on the statute book in form but has been read down in substance so as not to exclude the supervisory jurisdiction of the High Courts under Articles 226 & 227,⁴⁵ illustrating a broader phenomenon in Indian constitutional adjudication whereby a statutory provision is neither struck down in its entirety nor left wholly intact, but is instead judicially "read down" to conform to constitutional requirements a technique that, while preserving legislative text, can generate a degree of interpretive uncertainty for litigants and practitioners regarding the provision's precise operative scope.

3.4 Composition, Qualification and Appointment of Members:

While Section 6 of the ATA 1985 prescribes formal qualifications, the process of appointment has generated the most sustained constitutional controversy surrounding CAT. Historically, appointments to the Chairman, Vice-Chairman and Member posts were made by the President on the recommendation of a Selection Committee whose composition was substantially controlled by the Union Executive, with judicial participation limited to the presence of a sitting or retired judge as one among several members. The Supreme Court in *Union of India v. R. Gandhi* held that any tribunal exercising judicial power previously vested in courts must have an appointment process ensuring predominant judicial control, adequate representation of the

⁴⁴ "The Administrative Tribunals Act, No. 13 of 1985, § 28, India Code (1985)".

⁴⁵ "*L. Chandra Kumar v. Union of India*, supra note 13, 99".

judiciary in the selection body, and freedom from unilateral executive nomination.⁴⁶ These standards were subsequently applied and extended to the tribunal system generally, including CAT, in *Rojer Mathew v. South Indian Bank Ltd.* and the Madras Bar Association line of cases.⁴⁷ Following *Madras Bar Ass'n v. Union of India* (2020) and the enactment of the TRA 2021, appointments are now formally routed through a Search-cum-Selection Committee⁴⁸; however, as discussed in Chapter 4, the composition and functioning of this Committee, and the tenure prescribed for its appointees, remain the subject of continuing constitutional challenge.

3.5 Procedure before CAT

Section 22(3) of the ATA 1985 dispenses with strict adherence to the Indian Evidence Act, No. 1 of 1872, and the formal rules of civil procedure otherwise applicable to courts, directing instead that CAT "shall be guided by the principles of natural justice" and shall have the power to regulate its own procedure, including the fixing of places and times of its sittings. This procedural informality was intended to operationalise the efficiency rationale for tribunalisation, but has in practice produced inconsistency in procedural standards across different Benches. Section 23 permits a party to appear before CAT either in person, through a duly authorised representative (including a government officer), or through a legal practitioner, reflecting the original conception of CAT as a forum not requiring mandatory legal representation. Section 25 additionally empowers the Central Government to make rules regulating fees payable in respect of applications, a provision whose calibration bears directly on the accessibility and affordability concerns examined in Chapter 5.⁴⁹

3.6 Relationship between CAT and the High Courts

Prior to 1997, the combined effect of Section 28 of the ATA 1985 and Article 323A(2)(d) was to exclude the supervisory and writ jurisdiction of the High Courts under Articles 226 and 227 over matters within CAT's competence, positioning CAT as a functional substitute for the High Courts in service litigation, with further recourse available only to the Supreme Court under Article 136.⁵⁰ Following *L. Chandra Kumar v. Union of India*, discussed fully in Chapter 4,

⁴⁶ "Union of India v. R. Gandhi, supra note 3, 120".

⁴⁷ "Rojer Mathew v. South Indian Bank Ltd., supra note 2, 190–200".

⁴⁸ "Madras Bar Ass'n v. Union of India, supra note 17".

⁴⁹ "The Administrative Tribunals Act, No. 13 of 1985, §§ 22(3), 23, 25, India Code (1985)".

⁵⁰ "The Administrative Tribunals Act, No. 13 of 1985, supra note 43".

this position was fundamentally altered: CAT's orders are now subject to challenge before a Division Bench of the jurisdictional High Court under Articles 226 & 227, and only thereafter, by special leave, before the Supreme Court. This recalibration transformed CAT's constitutional status from a court-substitute into a tribunal of first instance operating within, rather than outside, the supervisory jurisdiction of the High Courts.⁵¹

Chapter IV: Judicial Review and the Doctrine of Tribunal Independence

4.1 Judicial Review as Basic Structure:

The doctrinal foundation for every constitutional challenge to CAT, from Sampath Kumar onward, rests on the proposition that judicial review exercisable by the Supreme Court under Article 32 and by the High Courts under Article 226 constitutes an essential and unamendable feature of the Constitution's basic structure, incapable of being abrogated even by constitutional amendment. This proposition traces to *Kesavananda Bharati v. State of Kerala*, in which a thirteen-judge Bench held that Parliament's constituent power under Article 368 does not extend to the destruction of the Constitution's basic structure, later held in *Indira Nehru Gandhi v. Raj Narain* and *Minerva Mills Ltd. v. Union of India* to include the power of judicial review itself.⁵² It is against this backdrop that every attempt to exclude court jurisdiction through Articles 323A/323B and the ATA 1985 has been tested.

4.2 S.P. Sampath Kumar v. Union of India (1987):

In *S.P. Sampath Kumar v. Union of India*, a five-judge Constitution Bench was called upon to decide whether the ATA 1985, and in particular Section 28's exclusion of High Court jurisdiction, was constitutionally valid notwithstanding the basic structure doctrine. The Court, delivering separate but concurring opinions, upheld the Act, reasoning that the exclusion of High Court jurisdiction was constitutionally permissible provided that CAT constituted an "effective and real substitute" for the High Courts that is, a body possessing equivalent competence, procedural fairness and, critically, independence from executive influence. The Court laid down specific safeguards as conditions of validity: that the Chairman of CAT ordinarily be a sitting or retired Chief Justice of a High Court or a Judge of the Supreme Court;

⁵¹ "L. Chandra Kumar v. Union of India, supra note 13, 99".

⁵² "*Kesavananda Bharati v. State of Kerala*, (1973) 4 SCC 225 (India); *Indira Nehru Gandhi v. Raj Narain*, AIR 1975 SC 2299 (India); *Minerva Mills Ltd. v. Union of India*, (1980) 3 SCC 625 (India)".

those appointments be insulated from arbitrary executive discretion; and that CAT be equipped with adequate infrastructure to discharge its functions effectively. Critically for the argument developed in this dissertation, the Sampath Kumar Court treated these safeguards not as aspirational guidance but as the very ratio upon which the constitutional validity of the Act rested meaning that any subsequent failure to implement them would itself raise a live constitutional question, a possibility realised in *R.K. Jain* six years later.⁵³ It bears emphasis that Sampath Kumar did not purport to hold that tribunalisation was per se constitutional irrespective of institutional design; rather, its holding was expressly conditional, a feature of the judgment that is frequently understated in summaries that describe the case simply as "upholding" the ATA 1985.

4.3 R.K. Jain v. Union of India (1993): Judicial Disquiet on Actual Functioning

R.K. Jain v. Union of India, though arising in the context of the Customs, Excise and Gold (Control) Appellate Tribunal rather than CAT directly, is doctrinally significant because it constitutes the Supreme Court's first sustained judicial acknowledgment that the safeguards prescribed in Sampath Kumar had not been faithfully implemented in practice. The Court expressed concern regarding the appointment of retired bureaucrats, in some instances lacking judicial training or acumen, to posts requiring the exercise of judicial power, and observed that such appointments compromised both the quality of adjudication and public confidence in the independence of tribunals.⁵⁴ *R.K. Jain* is thus best read not as an independent doctrinal departure but as an evidentiary bridge between the conditional validation of Sampath Kumar and the structural reconsideration that followed in *L. Chandra Kumar*.

4.4 L. Chandra Kumar v. Union of India (1997):

A seven-judge Constitution Bench in *L. Chandra Kumar v. Union of India* was constituted specifically to reconsider the correctness of Sampath Kumar in light of the accumulated institutional evidence, including that canvassed in *R.K. Jain*. The Court held, unanimously on this point, that the power of judicial review vested in the High Courts under Article 226 and in the Supreme Court under Article 32 is a component of the basic structure of the Constitution that cannot be ousted even by constitutional amendment, and that Parliament's power under Article 323A(2)(d) (and the analogous Article 323B(3)(d)) to exclude "all courts" jurisdiction

⁵³ "S.P. Sampath Kumar v. Union of India, supra note 1, 24–26".

⁵⁴ "R.K. Jain v. Union of India, supra note 12, 68–75".

must accordingly be read down to exclude only the jurisdiction of courts below the level of the High Court, and not the High Courts' own supervisory jurisdiction under Articles 226/227. Consequently, Section 28 of the ATA 1985, insofar as it purported to exclude High Court jurisdiction, was declared unconstitutional.⁵⁵

The Court further held that tribunals constituted under Articles 323A and 323B would continue to function as courts of first instance in respect of the subjects committed to their jurisdiction, obviating the need for litigants to approach the High Court directly in the first instance; but that all decisions of such tribunals would thereafter be subject to scrutiny before a Division Bench of the High Court within whose territorial jurisdiction the tribunal in question falls, prior to any further appeal to the Supreme Court by special leave under Article 136. This holding effected a fundamental reconfiguration of CAT's constitutional status: from a body designed as a substitute for the High Courts (as contemplated in the original 1985 scheme and endorsed conditionally in *Sampath Kumar*) into a tribunal operating as a supplementary, first-instance forum, subject to an additional layer of High Court supervision.

This reconfiguration carries an important, and often under-appreciated, institutional consequence by reintroducing High Court scrutiny as a matter of course, *L. Chandra Kumar* arguably reintroduced precisely the additional tier of litigation and consequent delay that tribunalisation had originally been designed to eliminate, even as it correctly vindicated the constitutional imperative of preserving judicial review. The Law Commission's 215th Report explicitly recommended that this tension be revisited by a larger Bench, though no such reconsideration has yet occurred.⁵⁶ A further, less remarked, consequence of *L. Chandra Kumar* is jurisdictional: by requiring that challenges to tribunal orders be routed through the jurisdictional High Court rather than directly to the Supreme Court, the judgment decentralised the supervisory jurisdiction over CAT across more than twenty different High Courts, creating the possibility realised in practice of divergent High Court approaches to similar questions of service law, a consistency concern distinct from, but related to, the intra-CAT consistency concerns.

4.5 Union of India v. R. Gandhi (2010):

Union of India v. R. Gandhi, arising from a constitutional challenge to provisions of the

⁵⁵ “*L. Chandra Kumar v. Union of India*, supra note 13, 78, 99”.

⁵⁶ Law Commission of India, supra note 9.

Companies (Second Amendment) Act, 2002, amending the Companies Act, No. 1 of 1956, to establish the National Company Law Tribunal and National Company Law Appellate Tribunal, is significant for articulating, in general terms applicable to tribunals across the Article 323A & 323B spectrum, the minimum constitutional standards that must govern anybody exercising judicial power previously vested in courts. The Court held that such tribunals must possess: composition ensuring predominant judicial membership and judicial chairmanship; qualifications for members broadly equivalent to those prescribed for the judges of the court whose jurisdiction is being displaced; security of tenure sufficient to insulate members from executive pressure; and an appointment process substantially free from unilateral executive control, involving meaningful judicial participation in the selection process.⁵⁷ Although decided in the company law context, these standards have been treated by the Supreme Court in subsequent litigation as of general application to the tribunal system, including CAT.

4.6 Madras Bar Association v. Union of India (2014): The National Tax Tribunal Case

A distinct, but closely related, doctrinal development occurred in *Madras Bar Ass'n v. Union of India*, in which a five-judge Constitution Bench considered the constitutional validity of the National Tax Tribunal Act, 2005, which sought to transfer to a newly created National Tax Tribunal the jurisdiction to decide "substantial questions of law" arising from appeals from the Income Tax Appellate Tribunal and the Customs, Excise and Service Tax Appellate Tribunal jurisdiction previously exercised by the High Courts. The Court struck down the National Tax Tribunal Act, 2005 in its entirety, holding, first, that provisions concerning the qualification, appointment and tenure of the Tribunal's members failed the standards laid down in *R. Gandhi*, and second, and more fundamentally, that the adjudication of "substantial questions of law" is a function that must, consistent with the basic structure, remain within the exclusive domain of constitutional courts, and cannot be transferred wholesale to a tribunal, however well-constituted, because such questions require the kind of institutional independence, procedural formality and precedential authority that only a constitutional court can furnish.⁵⁸ This holding is of direct relevance to the assessment of CAT undertaken in Chapter 5: it establishes an outer limit on tribunalisation that is independent of, and additional to, the appointment-and-tenure standards of *R. Gandhi* namely, that certain categories of legal question may be constitutionally non-delegable to a tribunal altogether, regardless of how well that tribunal's independence is

⁵⁷ "Union of India v. R. Gandhi, supra note 3, 120".

⁵⁸ "Madras Bar Ass'n v. Union of India, supra note 15, 15–20".

otherwise secured. The 2014 judgment is also significant as the clearest instance, prior to the TRA 2021 controversy, of the Supreme Court declining to accept a tribunalisation scheme even in modified or conditional form, in contrast to the conditional validation approach adopted in Sampath Kumar for CAT itself.

4.7 Rojer Mathew v. South Indian Bank Ltd. (2019):

Rojer Mathew v. South Indian Bank Ltd. arose from a challenge to Part XIV of the Finance Act, No. 7 of 2017, which amalgamated numerous tribunals across different subject-matters and, through Section 184, delegated to the Central Government the power to frame rules governing the qualifications, appointment, term of office, salaries and allowances, and removal of tribunal Chairpersons and Members. A five-judge Constitution Bench, while referring to a larger Bench the distinct question whether the Finance Act, 2017 had been validly enacted as a "Money Bill" under Article 110 of the Constitution (a question that, at the time of this study, remains pending before a larger Bench), nevertheless proceeded to examine the Tribunal, Appellate Tribunal and Other Authorities (Qualifications, Experience and other Conditions of Service of Members) Rules, 2017, framed under Section 184. The Court held that the 2017 Rules failed to conform to the separation-of-powers and judicial-independence standards articulated in *R. Gandhi*, in particular by allowing excessive executive discretion in appointments, prescribing inadequate tenure, and failing to ensure judicial dominance in the Search-cum-Selection Committee, and accordingly struck down the 2017 Rules with directions for their reformulation.⁵⁹ Significantly, the Court also directed the Union Government to undertake a "Judicial Impact Assessment" of the entire tribunal system, examining the cumulative fiscal and institutional consequences of tribunalisation a direction that, at the time of writing, does not appear to have been substantially implemented.

4.8 The Madras Bar Association Line of Cases and Post-2021 Developments

Following *Rojer Mathew*, the Central Government framed fresh Tribunal Rules in 2020, which were again challenged and substantially struck down by the Supreme Court in *Madras Bar Ass'n v. Union of India*, which reiterated the requirement of a five-year tenure for tribunal members (with entitlement to reappointment), a minimum age of qualification calibrated to ensure judicial maturity, and timely appointment by the Central Government ordinarily within

⁵⁹“*Rojer Mathew v. South Indian Bank Ltd.*, supra note 2, 255–260”.

three months of the Selection Committee's recommendation. The Central Government thereafter promulgated the Tribunal Reforms (Rationalisation and Conditions of Service) Ordinance, No. 2 of 2021, which, notwithstanding the Court's clear prior direction, fixed a four-year tenure for tribunal members and diluted the three-month appointment timeline to a merely preferential standard. In *Madras Bar Ass'n v. Union of India*, decided in July 2021, a three-judge Bench (Justices L. Nageswara Rao and S. Ravindra Bhat in the majority, Justice Hemant Gupta dissenting) struck down these provisions, holding that the four-year tenure provision was contrary to the Court's earlier directions and violative of the principles of separation of powers, independence of the judiciary, and Article 14 of the Constitution.⁶⁰ Parliament subsequently re-enacted substantially similar provisions, including the four-year tenure, in the TRA 2021, which remains under direct constitutional challenge in *Madras Bar Ass'n v. Union of India*, W.P. (C) No. 1018 of 2021, pending before the Supreme Court at the time of this study, with hearings continuing before successive Benches, including submissions in 2025 that a four-year tenure remains constitutionally insufficient. The petitioners in that proceeding contend, *inter alia*, that Parliament's re-enactment of provisions previously struck down amounts to impermissible legislative overruling of a judicial decision without curing the constitutional defect identified by the Court.⁶¹

Chapter V: Institutional Challenges and Critical Assessment of CAT

5.1 Judicial Independence and Executive Influence

CAT's continuing institutional dependence on the Department of Personnel and Training for administrative infrastructure, budgetary sanction, and notwithstanding the post-2021 Search-cum-Selection Committee mechanism substantial executive influence over the appointment process, sits uneasily against the independence standards articulated in *R. Gandhi* and reaffirmed in *Roger Mathew*.⁶² Three specific sub-problems merit separate attention. First, the predominance of retired civil servants appointed as Administrative Members, a practice traceable to Section 6 of the ATA 1985 itself, raises the structural concern flagged as early as *R.K. Jain* that persons whose entire professional careers were spent within the executive hierarchy may be perceived, rightly or wrongly, as retaining institutional sympathies with the government departments whose decisions they are called upon to review. Second, the prospect

⁶⁰ “*Madras Bar Ass'n v. Union of India*, supra note 17, 40–45”.

⁶¹ “*Madras Bar Ass'n v. Union of India*, supra note 5”.

⁶² “*Roger Mathew v. South Indian Bank Ltd.*, supra note 2, 190–200”.

of post-retirement re-employment, extension, or appointment to other executive-controlled bodies creates a subtle but real incentive structure that may compromise decisional independence, particularly in politically sensitive matters. Third, the administrative subordination of CAT to the sponsoring ministry means that matters as basic as courtroom infrastructure, staff strength and case-management software are determined by an executive department that is itself a frequent litigant before the Tribunal the "litigant-cum-controller" problem identified in Chapter 3.⁶³

5.2 Appointment Process and Tenure of Members

Despite the Supreme Court's clear and repeated direction first in *Madras Bar Ass'n* (2020) and reaffirmed in *Madras Bar Ass'n* (July 2021) that tribunal members be granted a minimum tenure of five years with entitlement to reappointment, the TRA 2021 continues to prescribe a four-year term,⁶⁴ a discrepancy that is presently the subject of direct constitutional challenge, with petitioners continuing to argue in hearings as recent as 2025 that even a four-year term, standing alone, is constitutionally insufficient to secure independence. Independent of the tenure question, the functioning of the Search-cum-Selection Committee itself has attracted criticism: petitioners in the pending *Madras Bar Association* proceeding have contended that the Committee's practice of recommending a panel of two names for each vacancy, rather than a single name as directed by the Court, preserves an unacceptable degree of residual executive discretion in the final selection.

5.3 Vacancies, Delays and Institutional Backlog

Reports of the Department-Related Parliamentary Standing Committee on Personnel, Public Grievances, Law and Justice have repeatedly documented chronic and prolonged vacancies in the posts of Chairman and Members across CAT Benches, a pattern that has been highlighted before the Supreme Court itself in the pending TRA 2021 litigation, where petitioners have drawn attention to more than two hundred vacancies across fifteen tribunals nationally.⁶⁵ Vacancies of this magnitude directly translate into rising case pendency, undermining precisely the "speedy disposal" rationale that the Statement of Objects and Reasons to the Forty-Second Amendment identified as the central justification for tribunalisation. The problem is

⁶³ "R.K. Jain v. Union of India, supra note 12, 68–75".

⁶⁴ "Madras Bar Ass'n v. Union of India, supra note 17".

⁶⁵ "Dep't-Related Parliamentary Standing Comm., supra note 10".

compounded by a structural time-lag: because appointments require a multi-stage process (identification of vacancy, constitution of the Search-cum-Selection Committee panel, recommendation, and executive appointment), any delay at any single stage propagates through the entire system, and the absence of a fixed, judicially enforceable timeline for each stage a gap the Supreme Court has attempted to close through successive directions in the Madras Bar Association litigation has meant that vacancy-filling remains, in practice, substantially at the discretion of the Executive.

5.4 Infrastructure, Manpower and Administrative Constraints

Beyond member-level vacancies, Parliamentary Standing Committee reports and petitioners in recent tribunal litigation have documented systemic infrastructural deficits inadequate courtroom space, insufficient administrative staff, slow adoption of e-filing and video-conferencing facilities, and unpredictability in hearing schedules attributable to frequent transfers of members between Benches. These constraints compound, rather than merely coexist with, the vacancy problem, since even sanctioned member strength cannot translate into effective disposal without corresponding administrative support. The absence, to date, of the Judicial Impact Assessment directed in *Rojer Mathew* means that there is no comprehensive, government-commissioned empirical baseline against which the adequacy of CAT's infrastructure and staffing can be authoritatively measured⁶⁶ a gap this dissertation identifies as a distinct and remediable institutional failure, separate from the appointment and tenure concerns discussed above.

5.5 Quality and Consistency of Adjudication

The procedural informality prescribed under Section 22(3) of the ATA 1985, while intended to facilitate speedy and accessible adjudication, has, in the absence of a settled doctrine of precedent binding across differently constituted Benches of the same Tribunal, produced documented inconsistency in outcomes on similarly placed service disputes. This inconsistency is compounded by the mixed composition of Benches (one Judicial and one Administrative Member), which, while intended to combine legal and administrative expertise, has in practice occasionally produced divergence in the weight accorded to strict legal principle as against administrative policy considerations. A further, related consistency concern arises from the

⁶⁶ “*Rojer Mathew v. South Indian Bank Ltd.*, supra note 2, 255–260”.

post-L. Chandra Kumar structure itself: because appeals from CAT orders lie to the jurisdictional High Court rather than to a single apex appellate body, different High Courts may, and on occasion do, adopt divergent interpretations of identical statutory service-rules, with such divergence capable of persisting for extended periods pending eventual resolution by the Supreme Court under Article 136.

5.6 Accessibility and Affordability

Although Section 23 of the ATA 1985 was drafted to enable litigants to appear before CAT without mandatory legal representation, the increasing procedural and jurisdictional complexity of service law compounded by the layered appellate structure introduced by L. Chandra Kumar has, in practice, entrenched dependence on legal counsel, eroding the original conception of CAT as a low-cost, litigant-friendly forum accessible to individual government employees without significant financial outlay. Geographic accessibility remains uneven as well, with the distribution of CAT Benches not always corresponding proportionately to the concentration of Union government employees in a given region, requiring some litigants to travel considerable distances to access the nearest Bench a burden that falls disproportionately on lower-level government employees least able to absorb the associated cost and inconvenience, and that sits in some tension with the original egalitarian conception of CAT as a forum designed to be more, not less, accessible than the High Courts it displaced.

5.7 Constitutional Validity and Continued Relevance Post-L. Chandra Kumar

A more fundamental question, addressed directly by this dissertation's central research question, concerns whether the post-L. Chandra Kumar structure CAT as a first-instance tribunal, subject as a matter of course to Division Bench scrutiny has hollowed out the original efficiency rationale for tribunalisation. If a substantial proportion of CAT's decisions are, in practice, challenged before the High Court, the cumulative time from initial application to final resolution may not be meaningfully shorter, and may in some instances be longer, than direct adjudication by the High Court alone would have been. This is precisely the concern that prompted the Law Commission's 215th Report to recommend reconsideration of L. Chandra Kumar,⁶⁷ though the recommendation has not, to date, been acted upon by a larger Bench. It is important, however, to be analytically cautious here: the mere fact that a decision can be

⁶⁷ "Law Commission of India, supra note 9".

challenged before the High Court does not establish that a majority, or even a substantial minority, of CAT decisions are in fact so challenged; in the absence of the Judicial Impact Assessment directed in *Rojer Mathew*, this remains an empirically under-determined question that this dissertation flags, rather than definitively resolves, as a priority for future research.

5.8 The Core Tension: Administrative Efficiency versus Judicial Independence

The cumulative institutional evidence assembled in this chapter supports the critical thesis, advanced at the outset of this dissertation, that CAT's design has structurally privileged administrative convenience for the Executive control over appointments, tenure, infrastructure and, historically, the pace of vacancy-filling over robust and demonstrable judicial independence, notwithstanding sustained corrective intervention by the Supreme Court across nearly four decades of litigation. The pattern of executive non-compliance traced in Chapter 4 repeated reintroduction, in only marginally modified form, of provisions previously struck down suggests that judicial correction alone, absent structural and institutional reform, has proven insufficient to secure lasting independence. This seminar therefore argues that the appropriate diagnostic frame is not "has CAT failed" in an absolute sense, but rather "which specific structural features of CAT's design have proven resistant to judicial correction, and why" a question that points, as elaborated in Chapter 6, toward institutional rather than purely doctrinal remedies.

Chapter VI: Conclusion and Suggestions

6.1 Summary of Findings

This summary paper has traced the historical genesis of tribunalisation (Chapter 2), mapped the positive statutory-constitutional framework governing CAT (Chapter 3), analysed the Supreme Court's evolving jurisprudence on tribunal independence and judicial review, including the outer limits drawn by the 2014 National Tax Tribunal case (Chapter 4),⁶⁸ and critically assessed CAT's institutional performance against the doctrinal standards thereby established (Chapter 5). The cumulative finding is that CAT remains constitutionally valid in its post-L. Chandra Kumar form, but that its institutional independence remains structurally qualified, and its efficiency rationale correspondingly undermined, by persistent executive

⁶⁸ *Madras Bar Ass'n v. Union of India*, supra note 15.

control over appointments, tenure and administration.

6.2 Suggestions

Five categories of reform follow directly from the findings of this study.

First, appointment and service conditions should be reformed to guarantee a fixed, non-renewable tenure of not less than five years, consistent with the Supreme Court's repeated direction in the Madras Bar Association line of cases, and the Search-cum-Selection Committee should be reconstituted to ensure a dominant judicial component with a single-name recommendation to the Executive, removing the residual discretion currently preserved by the two-name panel practice.

Second, administrative and financial control over CAT should be transferred from the Department of Personnel and Training to an independent nodal authority reviving the long-recommended, but as yet unimplemented, proposal for a National Tribunals Commission under the Ministry of Law and Justice, as urged in *R. Gandhi* and reiterated in *Roger Mathew*.⁶⁹ Such a Commission could assume responsibility for budgetary allocation, infrastructure planning, and human-resource management across CAT and other Article 323A & 323B tribunals, directly addressing the "litigant-cum-controller" problem identified in Chapter 3.

Third, vacancies should be filled within constitutionally mandated, judicially enforceable timelines, accompanied by sustained investment in digitisation, e-filing, and video-conferencing infrastructure, and by the long-overdue completion of the Judicial Impact Assessment directed in *Roger Mathew*,⁷⁰ which would furnish the empirical baseline currently missing from public and judicial deliberation on tribunal reform.

Fourth, mechanisms should be developed to harmonise precedent both across differently constituted Benches of CAT and across the multiple High Courts now exercising supervisory jurisdiction post-*L. Chandra Kumar*, potentially through enhanced doctrinal guidance from the Chairman's office and through more systematic reporting of CAT decisions to address the intra- and inter-forum consistency concerns documented in Chapter 5.

Fifth, consistent with the outer limit recognised in the 2014 National Tax Tribunal case, any

⁶⁹ *Union of India v. R. Gandhi*, supra note 3, 120.

⁷⁰ *Roger Mathew v. South Indian Bank Ltd.*, supra note 2, 255–260.

future expansion of CAT's or analogous tribunals' jurisdiction should be scrutinised to ensure that genuinely substantial questions of law are not, in substance, transferred away from constitutional courts under the guise of administrative efficiency.

Conclusion

The Central Administrative Tribunal (CAT) remains a constitutionally valid and indispensable forum for resolving public service disputes under Article 323A. However, as established through cases from S.P. Sampath Kumar and L. Chandra Kumar to recent challenges against the Tribunals Reforms Act, 2021, CAT's institutional independence remains qualified. Persistent executive control over appointments, brief tenure structures, chronic vacancies, and administrative dependence on the Ministry of Personnel continue to undermine its efficiency and decisional autonomy. Furthermore, mandatory High Court judicial review under Articles 226/227 has transformed CAT from a court-substitute into a first-instance tribunal, adding an additional layer of litigation. To fulfil its original constitutional mandate, CAT requires immediate structural reform specifically, establishing an independent National Tribunals Commission, guaranteeing fixed five-year tenures, enforcing mandatory timelines for filling vacancies, and ensuring judicial dominance in member selection.

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