# An Attempt at Identification of Jurisdictional Dissonance in the Indian Tribunal System

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***Abstract:*** *This legal research article delves into the complexities surrounding jurisdictional dissonance within the Indian legal framework, particularly concerning the Armed Forces Tribunal and the Central Administrative Tribunals. Under Articles 323A and 323B of the Indian Constitution, various tribunals have been established by legislation to address specific categories of disputes, including matters related to armed forces recruitment and service. However, inherent flaws in the legislation governing these tribunals have led to confusion and ambiguity regarding their respective jurisdictions. Through a detailed analysis of relevant case law and statutory provisions, this article highlights the challenges faced by aggrieved individuals in navigating the jurisdictional landscape, particularly in cases where recruitment procedures or service matters intersect multiple tribunal jurisdictions. It critically examines legal precedents and legislative lacunae, ultimately advocating for a comprehensive review of existing legislation to ensure equitable access to justice for all armed forces personnel and individuals affected by administrative decisions.*

***Keywords:*** *Tribunals, Multiple Tribunal Jurisdictions, Dissonances and Challenges*

## I. INTRODUCTION

Articles 323A and 323B of the Indian constitution allow the parliament to, by legislation, establish administrative tribunals[1] and tribunals for 'other matters' respectively, in order to provide for adjudication of certain matters.[2] Empowered by the aforementioned provisions of the Indian constitution, the parliament has indeed, in discharge of its duties established several tribunals to address specific categories of disputes. Examples of the same are the Armed Forces Tribunal (hereinafter referred to as 'AFT'), the establishment of which was provided for by the Armed forces Tribunal Act of 2007 (hereinafter referred to as 'AFT act').[3] The Administrative Tribunals Act of 1985 (hereinafter referred to as 'AT Act'), which provided for the establishment of administrative tribunals in various states;[4] Section 252 of the Income Tax Act of 1951 establishing the Income Tax Appellate Tribunal;[5] and Section 408 of the Companies

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[1] INDIA CONST. art. 323A cl. (1), inserted by The Constitution (Forty-second Amendment) Act, 1976.

[2] INDIA CONST. art. 323B cl. (1), inserted by The Constitution (Forty-second Amendment) Act, 1976.

[3] The Armed Forces Tribunal Act, 2007, §4.

[4] The Administrative Tribunals Act, 1985, §4.

[5] The Income Tax Act, 1951, §252.

Act of 2013 establishing the National Company Law Tribunal.[6] There are countless more examples of the same.

The above-mentioned constitutional provisions which provide for the establishment of said tribunals by means of legislation, also permit the law which establishes these tribunals; to specify their jurisdiction,[7] and exclude the jurisdiction of all courts except that of the apex court under Article 136.[8] However, no legislation passed is flawless or all-encompassing. Complications with regards to jurisdictions specified under these legislations may arise often. These complications could be classified under two categories. Wherein two different legislations have granted two different bodies jurisdiction over the same category of disputes, or; wherein the dispute is such that it fails to fall under the jurisdiction specified by any legislation. Rather, it would be more apt to say the jurisdictions of several bodies are phrased such that they may entirely skirt a particular class of issues.

This article aims to highlight and address an issue vis a vis jurisdiction of the Central Administrative Tribunals (hereinafter referred to as 'CAT') and AFT falling into the second category mentioned above. While the issue itself may seem extremely niche and rather hyper-nuanced, the purpose it serves is to point out one of possibly many loopholes and flaws with the legislations establishing and governing said tribunals so grave that they leave an aggrieved party devoid of a chance to even seek relief. The objective is to examine in great detail the interplay of jurisdiction of some of these tribunals to point out legislative faults so as to warrant a more detailed and meticulous examination of other legislations where similar flaws are likely to be found. The flaw in question with regards to jurisdiction is possibly best depicted in the form of a question: What forum should an individual aggrieved by the recruitment procedure of the armed forces (such as army, navy, air force etc.) approach? Prima facie, one would think to approach tribunals like AFT due to the name's sake (*Armed Forces* Tribunal), or CAT since it has the jurisdiction to deal with matters concerning recruitment to an 'All-India Service'.[9] The issue at hand however is far more complex than it appears. However, it becomes clear if

[6] The Companies Act, 2013, §408.

[7] INDIAN CONST. art. 323A cl. (2)(b), inserted by The Constitution (Forty-second Amendment) Act, 1976; INDIAN CONST. art. 323B cl. (3)(b), inserted by The Constitution (Forty-second Amendment) Act, 1976.

[8] INDIAN CONST. art. 323A cl. (2)(d), inserted by The Constitution (Forty-second Amendment) Act, 1976; INDIAN CONST. art. 323B cl. (3)(d), inserted by The Constitution (Forty-second Amendment) Act, 1976.

[9] The Administrative Tribunals Act, 1985, §14(1)(a).

the jurisdiction of each individual tribunal is dealt with separately and then the conclusions pieced together to form a bigger picture.

**1. Jurisdiction of the AFT**

a) Section 14 of the AFT act outlines AFT's jurisdiction in matters pertaining to service, termed as 'service matters' and excludes such matters from the jurisdiction of all courts apart from those of the High Courts and Supreme Court under article 226 and 227 of the constitution.[10]

b) It is noteworthy that the jurisdiction of this act for service matters covers only persons which fall within sections 2 of the Navy Act 1957, the Air Force Act 1950, the Army Act of 1950 each.[11]

c) *'(o) "service matters", in relation to the persons subject to the Army Act, 1950 (46 of 1950), the Navy Act, 1957 (62 of 1957) and the Air Force Act, 1950 (45 of 1950), mean all matters relating to the conditions of their service….'*

d) Leaving out of its jurisdiction, members of other forces as they are subject to different legislations. For instance, personnel enrolled in the Coast Guard would be subject to the Coast Guard Act of 1978.[12] Therefore, section 14 and 15 of the AFT act, if interpreted literally, would imply that the jurisdiction of AFT is limited to only those armed forces of the union falling within the ambit of the Army, Air Force, and Navy acts.

e) Regardless of the observation above, it is pertinent to note that the AFT act nowhere makes use of the word 'recruitment,' therefore denying the existence of a prima facie jurisdiction vis a vis the issue at hand. However, not falling within exclusions listed under section 3(o), it also does not conspicuously exclude recruitment from AFT's jurisdiction.

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[10] The Armed Forces Tribunal Act, 2007, §14(1).

[11] The Armed Forces Tribunal Act, 2007, §3(o).

[12] The Coast Guard Act, 1978, §3.

f) A more definite answer to the conundrum can be found in *Union of India through Secy, & Ors v. Kapil Kumar*.[13] The facts of the case give rise to a question similar to the one considered in this article. The respondent in the case participated in a recruitment rally for the position of a soldier held by the Indian army, wherein he was declared medically unfit. However, in a review medical examination, he was declared fit, post which he appeared for and cleared a written examination thereby being empaneled in the merit list. The case of the respondent was that he had not been issued a letter of appointment and not been dispatched for further basic military training. Aggrieved by the same, he instituted a suit before a civil judge in Meerut. Upon advisement, the respondent herein withdrew the civil suit and filed a writ in the High Court of Allahabad, seeking an order in the nature of mandamus directing the respondents therein (appellants herein) to provide the appointment letter and send the petitioner for further training. The dispute was transferred by the Single Judge to the AFT at Lucknow under section 34 of the AFT act. The special appeal in question arose as a challenge to the judgement mentioned above to transfer the proceedings to AFT Lucknow.

g) The court held that the jurisdiction of AFT under section 14 of the AFT act was limited to 'service matters' as defined in section 3(o) of the same act. It was pointed out that the basic requirement for an issue being a service matter is that (within the meaning of this act) it can only arise in relation to persons who are subject to the Army Act 1950, Navy Act 1957, or the Air Force Act of 1950. The court relied on the judgement of the apex court in *Union of India v. Colonel G.S. Grewal*[14] held that if this requirement had been satisfied, the next essential ingredient to attract jurisdiction under section 14 must be that the subject matter of the dispute constitutes the definition of 'service matter' as defined in section 3(o).

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h) Since a person who is calling into question the decision due to which he was not enrolled in the service, it ex facie means he was not yet enrolled as a member of the armed forces, hence not falling within the ambit of the Army, Navy and Air Force Acts. This would automatically put him out of the purview of section 3(o) and his dispute would not be classified as a 'service matter'; thereby the jurisdiction under section 14

[13] *Union of India Through Secy. v. Kapil Kumar* (2015: AHC:1-DB).

[14] *Union of India v. Colonel G.S. Grewal*, (2014) 7 SCC 303.

will not apply. The same was the finding of the court in *Union of India v. Kapil Kumar*,[15] holding that the Army Act of 1950 is applicable to only certain persons,[16] and that a person not yet enrolled, does not fall under the ambit of section 2 of the said act.

i) Therefore, it becomes clear from the above that such a matter pertaining to recruitment would under no circumstance, fall within the jurisdiction of the AFT, even if the recruitment in question is to the exclusive services to which the act applies.

**2. Jurisdiction of CAT**

Another authority before which the aggrieved has appeared in such matters is CAT. Ex facie, the AT act at its outset denies the application of the provisions contained within the act to *'any member of the naval, military or air forces or of any other armed forces of the Union'*.[17] The same has been taken cognizance of, and applied by the principal bench of CAT in *Smt. Namrata Singh v. Union of India.*[18] The petitioner and another appeared for recruitment for post of sub-inspector in the Central Industrial Security Force (hereinafter referred to as 'CISF'). They passed the written examinations, physical endurance tests, and medical tests, then appeared for the interview; however, their names were not listed under the final selection list. Aggrieved, they approached the high court by way of writ petition. The counsel for the respondents alleged that the matter fell in the jurisdiction of CAT. Since the petitioners did not oppose this averment, they were allowed to withdraw with liberty to approach CAT which is how the matter ended up before the principal bench.

The principal bench pointed out that pursuant to section 3 of the Central Industrial Security Force Act,[19] CISF too was an 'armed force of the union', and therefore when read with section 2(a) of the AT act, was beyond the jurisdiction of CAT. It pointed out two key details.

*'7… Thus, if the matter is examined in the light of statutory provisions, as reproduced above, we are of the view that the provisions of Section 2 (a) of the Administrative Tribunals Act, 1985 is fully attracted in the instant case and the jurisdiction of this Tribunal is ousted, as the*

[15] *Supra Note* 13.

[16] The Army Act, 1950, §2.

[17] The Administrative Tribunals Act, 1985, §2(a).

[18] *Smt. Namrata Singh v. Union of India*, O.A 2384/2011 & O.A. 2387/2011).

[19] The Central Industrial Security Force Act, 1968, §3.

*grievance raised by the applicant and the matter which is required to be decided in this case is relating to the recruitment and appointment of the applicants as Sub Inspector in CISF which organisation admittedly is Armed Forces of the Union. Thus, according to us, this Tribunal has got no jurisdiction to entertain the matter on this point.'*[20]

*'...the disputes in regard to recruitment and conditions of service of members of the armed forces of the Union are outside the purview of the Act. Mere membership of the armed forces of the Union is not enough to oust the jurisdiction of the Tribunal... '*[21]

Therefore, there seem to be two conditions which must be satisfied to invoke the jurisdiction of CAT.

A. One must not be a member of an organisation labelled an 'armed force of the union', or be subject to any other exceptions under §2 of AT act, and;

B. The dispute must pertain to recruitment and service matters.

As stated above, mere membership to an 'armed force of the union' by itself does not oust the jurisdiction of CAT. The same can be explained with an example.

*'...Let us take the case of a person who had held a civil post under the Union of India, resigned from the said post and became a member of the armed forces of the Union. If after his becoming a member of the armed force of the Union, he applies to the Tribunal to recover arrears of pay in regard to the civil post held by him, can his application to the Tribunal be rejected on the ground that he was a member of the armed force of the Union on the date of the application? The answer can only be No. The reason is that the dispute which he has raised has nothing to do with his membership of the armed forces of the Union. Suppose, a member of the armed forces of the Union after his retirement from the armed force is appointed to a civil post under the Union. If he has any dispute regarding his conditions of service as an erstwhile member of the armed force of the Union, he would not be entitled to invoke the jurisdiction of the Tribunal as the dispute relates to his conditions of service as the member of the armed forces of the Union even though on the date he invokes the jurisdiction of the Tribunal, he was not a member of the armed forces of the Union. Hence, on a true interpretation of Section 2 (a) of the Act, we*

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[20] *Supra*, Note 18.

[21] *Id.*

*hold that the Act does not apply to matters relating to recruitment to armed forces of the Union and to service matters of members of the armed forces of the Union."*[22]

The conclusion of this 2011 case was that jurisdiction of CAT was ousted when it came to deciding matters pertaining to recruitment to the 'armed forces of the union' which include the Indian Army, Indian Navy, Indian Air Force, CISF, Central Reserve Police Force, Border Security Force, Railway Protection Force, Coast Guard and the like. The principal bench directed the applicants to *'8…approach the proper forum for redressal of their grievances'* without specifying what this 'proper forum' is. It becomes pertinent to point out that statutorily, neither AFT nor CAT have the jurisdiction to entertain such matters, and the High Courts, of the opinion that such a matter must be presented before CAT encourage writ petitions presented before them to be withdrawn. In such a case, before what forum should an aggrieved present his case?

## II. RECENT DEVELOPMENTS

The aforementioned Smt Namrata judgement of the principal bench[23] has been relied on time and again to oust the jurisdiction of CAT in matters pertaining to service and recruitment to armed forces.[24] Even otherwise, when not relied upon, several other judgements have only served to uphold and confirm the point made in *Smt Namrata v. Union of India (supra*).[25] More recently, in *Kapil Gurjar v. Ministry of Railways*, a similar matter arose before the principal bench.[26] The applicant had challenged an order declaring him 'unfit' for the post of sub-inspector in the railway protection force. The bench referred the matter to an appropriate larger bench asking whether such a matter fell under the jurisdiction of CAT. The three-member bench held that even though RPF is an 'armed force of the union' the applicant had not yet been appointed to any post under the RPF. Concluding from the same, the bench observed that such a person cannot be termed to be a 'member' of such a force therefore failing to fall within the exception to jurisdiction outlined by section 2(a).

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[22] *Id.*

[23] *Id.*

[24] *Ch. Appalaraju v. Ministry of Railways,* O.A. 021/01189/2015); Hansraj v. Union of India O.A. 2646/2011).

[25] *Swati Yadav v. Ministry of Railways,* O.A. 200/01077/2019).

[26] *Kapil Gurjar v. Ministry of Railways*, O.A. 42/2020).

The court declared the matter to be within its jurisdiction based on the following observations.

(1) RPF was labelled an 'Armed Force of the Union' by way of an amendment. This means it was not initially intended to be an 'Armed Force of the Union'.

(2) RPF is an integral part of the railways, and all posts under theIndian Railways unequivocally fall under the jurisdiction of CAT.

(3) Group 'A' officers under the RPF are recruited through the 'Civil Services Examination' held by the Union Public Services Commission (UPSC). Therefore, CAT has jurisdiction over recruitment of group 'A' officers.

(4) The bench found it 'absurdly anomalous' to 'wash their hands off their jurisdiction' pertaining to similar matters of group 'B' and 'C' officers of the same organisation .

The Kapil Gurjar case, therefore is the first instance of deviation from the law set by precedents preceding it. It established that CAT can have jurisdiction over recruitment matters despite the organisation being labelled an 'Armed Force of the Union'.

The points about jurisdictional dissonance made above are further highlighted by a ruling of the Central Information Commission (hereinafter referred to as 'CIC'). In *Sandeep v. CPIO Coast Guard Headquarters*, the appellant had sought information along three distinct lines.[27]

(1) Can the Coast Guard, being an 'Armed Force of the Union' and being administered by the Ministry of Defense (hereinafter referred to as 'MoD'), approach the AFT?

(2) Can the Coast Guard approach CAT where governed by CSS rules?

(3) If neither CAT nor AFT is approachable by the Coast Guard, what tribunal can it approach for resolution and redressal of issues/grievances related to service matters?

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The appellate authority validated the answers of the CPIO against which the appeal was filed. The answers pointed out that even though the coast guard is an 'Armed Force of the Union', and it is administered by the MoD, it cannot approach the AFT for service-related issues, since only personnel from Army, Navy, and Airforce fall under the jurisdiction of AFT. Additionally, civilian posts under the coast guard are governed by CCS (CCA) Rules and therefore fall under the jurisdiction of CAT. The question at hand is which authority one should approach for

[27] *Sandeep v. CPIO Coast Guard Headquarters*, File no.: (2019) CIC/INDCG/A655178.

resolution of grievances in service matters of non-civilian persons employed or looking to be employed at an organisation titled the 'Armed Force of the Union of India'.

*Pankaj Kumar v. Staff Selection Commission* also further reiterated the position. The case involved a matter wherein the applicant applied for the post of sub-inspector in Delhi Police and Central Armed Police Forces (hereinafter referred to as 'CAPF'). Post clearing all stages of the selection process on merit, his appointment was rejected due to failure to meet the medical criteria set out, due to a tattoo on the forearm.[28] The application was challenged on the issue of jurisdiction since CAPF too is an 'Armed Force of the Union'. The bench, citing the Kapil Gurjar case (supra), held that the jurisdiction of CAT extended to 'various CAPF and other uniformed forces of the Union of India'.[29]

*Ravinder Kumar v. Staff Selection Commission* also highlights important facets of the issue. Akin to the Pankaj Kumar case (supra), the petitioner herein had applied for candidature to several posts under various paramilitary services, and the Delhi police. The order of CAT impugned before the Delhi high court, rejected the application on grounds of having no jurisdiction, relying upon the definition of 'Armed Forces' and on account of section 2(a) of the AT act.[30] The High Court however, overruled the impugned order directing CAT to consider the application on merits; based on the following grounds:

(1) The CAT had initially ruled that it lacked jurisdiction to hear the petitioner's case based on a narrow interpretation of Section 2(a) of the Administrative Act, 1985. This section likely defined the scope of the CAT's jurisdiction, particularly regarding which types of cases it could adjudicate. However, the court disagreed with this interpretation, indicating that the CAT had misapplied or overly restricted its jurisdictional mandate.

(2) The court observed that even though the Staff Selection Commission (SSC) had conducted examinations or recruitment processes for various positions, at least one of them, if not more, fell under the categories specified in the Administrative Act, 1985. This implies that some of the positions advertised by the SSC were subject to the

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[28] *Pankaj Kumar Vs. Staff Selection Commission*, Government of India Ministry of Personnel, Public Grievances & Pensions, (2022) MANU 0927.

[29] *Id* at para 8.

[30] *Id*.

provisions of this Act, which likely conferred jurisdiction to the CAT over matters related to those positions.

(3) By dismissing the impugned order, the court effectively upheld the petitioner's right to access justice through Article 226. The court's decision to set aside the CAT's ruling and direct it to reconsider the application on its merits ensured that the petitioner's recourse to Article 226 remained intact. Thus, the connection to Article 226 provided a valid ground for challenging and ultimately overturning the CAT's decision.

(4) Article 226 of the Indian Constitution serves as a legal provision allowing individuals to seek judicial intervention from the High Courts for various purposes, including the enforcement of fundamental rights and the redressal of grievances.[31] The petitioner's argument rests on the premise that if the Central Administrative Tribunal (CAT) refuses to entertain their case or denies jurisdiction, it effectively blocks their access to seeking remedy from the High Court under Article 226. The CAT, being an administrative tribunal, serves as the first point of contact for individuals seeking redressal for administrative grievances. If the CAT declines jurisdiction or refuses to hear a case, it restricts the petitioner's ability to access higher judicial avenues. In essence, the denial of jurisdiction by the CAT equates to a denial of access to the constitutional right enshrined in Article 226. It impedes the petitioner's ability to seek relief from the High Court, which serves as the ultimate authority for resolving legal disputes and enforcing constitutional rights. Therefore, the connection to Article 226 provides a valid ground for challenging the CAT's decision and underscores the importance of ensuring unfettered access to judicial remedies for individuals seeking justice.

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## III. CRITICAL ANALYSIS

Upon a critical analysis of the legal positions discussed above, the following issues come to light.

### A. Jurisdiction of AFT

The limitation of the Armed Forces Tribunal's (AFT) jurisdiction to only the Army, Navy, and Air Force, as stipulated by the legislature in the AFT Act, presents a perplexing scenario. While

[31] INDIA CONST. art 226.

the judiciary has adhered to this limitation without contest, the rationale behind such a restriction merits scrutiny. The ostensible purpose of AFT is to adjudicate on service matters concerning armed forces personnel, a category that extends beyond the Army, Navy, and Air Force to encompass other armed forces of the Union. Therefore, the legislative omission of these additional armed forces from AFT's jurisdiction appears arbitrary and lacks a discernible justification. This legislative lacuna warrants examination and potentially calls for legislative review to ensure equitable access to justice for all armed forces personnel under the purview of AFT.

### B. Jurisdiction of CAT

Section 2(a) of the Administrative Tribunals Act excludes certain persons, including members of the naval, military, or air forces, from the applicability of the Act. However, legal precedents, such as Union of India v. Colonel G.S. Grewal and Union of India v. Kapil Kumar, establish a critical interpretation of this provision. They emphasize that individuals challenging decisions affecting their enrollment in the armed forces are not yet members of those forces and thus fall outside the ambit of Section 2(a). This interpretation logically extends to all armed forces of the Union, implying that challenges to recruitment decisions are valid within the jurisdiction of CAT. Therefore, the exclusion of armed forces personnel from CAT's jurisdiction, as per Section 2(a), appears untenable in light of established legal principles.

Undoubtedly, the language used in Section 2(a) of the AT Act lacks precision and clarity. The phrase ‘any member of the naval, military or air forces or of any other armed forces of the Union’ is broad and open to interpretation. The absence of specific criteria or definitions to determine who qualifies as a ‘member’ of the armed forces leads to ambiguity and inconsistency in its application. This ambiguity gives rise to a restrictive interpretation of the provision such as in Ravinder Kumar v. Staff Selection Commission (supra). Consequently, as discussed above, the restrictive interpretation of jurisdictional provisions in both AFT and CAT Acts has significant implications for access to justice. By excluding certain categories of individuals from seeking redress through administrative tribunals, the law may inadvertently deprive them of effective remedies for grievances related to recruitment and service matters. This raises concerns about fairness and equality before the law, particularly for individuals serving in less recognized or specialised armed forces.

### C. Exclusion of Jurisdiction

The line of argument in the Ravinder Kumar case, of CAT's declination of jurisdiction of refusal to hear the case being restrictive to the right enshrined in article 226 appears to be an invalid argument. While the argument ex facie seems grave and of great constitutional importance, the position has already been elaborated upon by various cases adjudicated by the Apex court. The argument essentially stems from articles 323B (3)(d) of the constitution instructing that no other court apart from the Supreme court shall have the jurisdiction to entertain any matter that otherwise falls within a tribunal's jurisdiction.[32] Further, section 28 of the AT act also states that only the Supreme Court, under article 136, or any authority under the Industrial Disputes Act of 1947 may be entitled to exercise jurisdiction over recruitment or service matters. This legislatively ousts the jurisdiction of the various high courts under articles 226, 227 and that of the Supreme court under article 32. This ouster of jurisdiction is an outright violation of the principle of judicial review under articles 226/227 and 32.[33]

To understand the gravity of this violation, it becomes pertinent to mention the Kesavananda Bharati case, while overruling the *I.C. Golaknath v. State of Punjab*[34], introduced the basic structure doctrine and held that article 368 does not allow the parliament to amend the basic structure of the constitution.[35] Additionally, *Indira Gandhi v. Raj Narain* established that rule of law is a part of the basic structure of the constitution and that rule of law relied on effective judicial review; therefore, by proximity making judicial review part of the basic structure too.[36] This position was then reiterated and clarified in *Minerva Mills v. Union of India*, which held explicitly while ruling, that judicial review is a constitutional feature protected from amendment by the basic structure doctrine.[37]

Therefore, from the above analysis of the various landmark case laws, it becomes apparent that article 323A (2)(d), article 323B (3)(d), and section 28 of the AT act infringe upon judicial review, which is protected from amendment by the basic structure doctrine. Therefore, the provisions listed above are unconstitutional. In *Kihoto Hollohan v. Zachillhu,* where the

[32] *Supra* Note 8.

[33] L. *Chandra Kumar v. Union of India*, (1997) AIR 1125.

[34] *I.C. Golaknath v. State of Punjab,* (1967) 2 SCR 762.

[35] *Keshavnanda Bharti v. State of Kerala*, (1973) 4 SCC 225.

[36] *Indira Gandhi v. Raj Narain*, (1976) 2 SCR 347.

[37] *Minerva Mills v. Union of India*, (1980) AIR 1789.

constitutionality of the 10th schedule was challenged, the 5-judge bench voided the provision excluding the decision of a speaker in matters of disqualification from judicial review.[38] The principles evolved over years of judicial precedents were applied in *L. Chandra Kumar v. Union of India* along with the doctrine of severability, to distinguish the provision compromising judicial review by excluding jurisdiction and declaring it void.[39] The case held the following;

*'100…Clause 2(d) of Article 323A and Clause 3(d) of Article 323B, to the extent they exclude the jurisdiction of the High Courts and the Supreme Court under Articles 226/227 and 32 of the Constitution, are unconstitutional. Section 28 of the Act and the "exclusion of jurisdiction" clauses in all other legislations enacted under the aegis of Articles 323A and 323B would, to the same extent, be unconstitutional. The jurisdiction conferred upon the High Courts under Articles 226/227 and upon the Supreme Court under Article 32 of the Constitution is part of the inviolable basic structure of our Constitution…'*[40]

However, the court also clarified that:

*'100…All decisions of these Tribunals will, however, be subject to scrutiny before a Division Bench of the High Court within whose jurisdiction the concerned Tribunal falls. The Tribunals will, nevertheless, continue to act like Courts of first instance in respect of the areas of law for which they have been constituted. It will not, therefore, be open for litigants to directly approach the High Court's even in cases where they question the vires of statutory legislations (except where the legislation which creates the particular Tribunal is challenged) by overlooking the jurisdiction of the concerned Tribunal…'*[41]

The conclusion of this analysis is two-fold.

(1) The tribunal remains the court of first instance for all matters falling within its jurisdiction, and litigants cannot approach the high courts without first exhausting the remedy available with the tribunals.

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[38] *Kihoto Hollohan v. Zachillhu*, (1992) 1 SCR 686.

[39] *Supra* Note 33.

[40] *Ibid.*

[41] *Ibid.*

(2) The only option where litigants can directly approach the high court is wherein the petitioner is challenging provisions of the statute establishing the particular tribunal.

The criticisms outlined above underscore the need for a comprehensive review of existing legislation governing tribunal jurisdiction. Reforms should aim to address inconsistencies, clarify ambiguous language, and ensure that jurisdictional provisions align with principles of fairness, equity, and access to justice for all individuals, regardless of their affiliation with different armed forces of the union.

Additionally, as discussed above, articles 323A and 323B form the basis for establishment of such tribunals. It becomes pertinent to note that the jurisdiction of all courts, with the exception of the Supreme Court, is excluded with regards to matters which fall within the jurisdiction of the tribunals established by law.[42] Cases like Kapil Gurjar (supra) and Pankaj Kumar (supra) have established that CAT does indeed have jurisdiction over recruitment and service matters pertaining to posts under 'Armed Forces of the Union'. This would mean that in accordance with article 323B (3)(d), no other court apart from the Supreme Court has the jurisdiction to entertain such matters. This essentially brings into question the validity of judgements given out by high courts where the petitioner approached the high court without exhausting the remedies available, such as in *Vinayak Sharma v. Indian Coast Guard* by the Delhi High Court.[43] The facts of the case were similar to the cases discussed above, wherein the candidature of an applicant for the post of Assistant Commandant with the Indian Coast Guard was rejected, and said rejection challenged before the High Court of Delhi.

## IV. CONCLUSION

The intricate analysis conducted in this research article sheds light on the intricate web of jurisdictional dissonance plaguing the Indian tribunal system, particularly concerning the Armed Forces Tribunal (AFT) and the Central Administrative Tribunals (CAT). Through an in-depth examination of statutory provisions, judicial interpretations, and recent case law, it becomes apparent that the existing legal framework suffers from inherent flaws and inconsistencies, posing significant challenges to individuals seeking redress for grievances related to armed forces recruitment and service matters. The jurisdictional limitations

[42] *Supra* Note 8.

[43] *Vinayak Sharma v. Indian Coast Guard*, (2023) MANU 4149.

delineated in the AFT Act present a conundrum, confining the tribunal's purview to only specific branches of the armed forces, thereby excluding numerous other armed forces personnel from its ambit. This restrictive interpretation raises fundamental questions about the equitable dispensation of justice within the armed forces community and underscores the urgent need for legislative review and reform. Similarly, the exclusionary provisions embedded within the CAT Act, as elucidated by legal precedents, create a jurisdictional maze, often leaving aggrieved individuals stranded without recourse. The ambiguous language and broad interpretations surrounding the exclusion of armed forces personnel from CAT's jurisdiction highlight the pressing need for clarity and consistency in tribunal legislation. Moreover, the constitutional validity of provisions curtailing the jurisdiction of high courts and the Supreme Court in matters falling within the purview of administrative tribunals presents a constitutional quandary. While administrative tribunals serve as crucial avenues for administrative justice, the preservation of judicial review is paramount to safeguarding constitutional rights and ensuring accountability within the tribunal system.

In light of these critical issues, it is imperative for policymakers and legal stakeholders to undertake a comprehensive review of existing legislation governing tribunal jurisdiction. Reforms should aim to bridge jurisdictional gaps, clarify ambiguous provisions, and uphold principles of fairness, equity, and access to justice for all individuals affected by administrative decisions. By aligning legislative frameworks with constitutional principles and international best practices, India can strengthen its legal infrastructure, enhance institutional integrity, and foster greater trust in the judiciary. Ultimately, the pursuit of justice requires a concerted effort to address jurisdictional dissonance and ensure that no individual is left behind in the quest for legal remedies and redressal.

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