



## General Studies-2; Topic: Statutory, regulatory and various quasi-judicial bodies

### Tribunals in India

#### Introduction

- Tribunal is a **quasi-judicial institution** that is set up to resolve administrative or tax-related disputes.
- The tribunals have carved out a distinct position in the Indian landscape by adjudicating several interesting issues.
- **Part XIV-A** of the Constitution which consist of **two articles 323A and 323B** deals with Tribunals.

#### Tribunals and their mandate

- The original Constitution did not contain provisions with respect to tribunals.
- The 42nd Amendment Act of 1976 added a new Part XIV- A to the Constitution.
- This part is entitled as 'Tribunals' and consists of only two Articles—Article 323 A dealing with administrative tribunals and Article 323 B dealing with tribunals for other matters.

#### Tribunals and judicial efficiency

- Tribunals goes by the principle of natural justice.
- Its procedures are simple and can be easily understood by a layman.
- They take a load off the already overburdened courts. They hear disputes related to the environment, armed forces, tax and administrative issues.
- **To reduce the pendency of cases in various Courts**, Tribunals have been established under different Statutes.
- Administrative tribunals have become the most appropriated means of administrative action.

## Constraints faced by tribunals in India

- The **manner of appointment of its members, performance appraisal, remuneration, terms of service, are all outside the oversight of the judiciary.**
- **Executive interference in the functioning of tribunals** is often seen in matters of appointment and removal of tribunal members, as well as day-to-day functioning of the tribunals.
- Administrative tribunals, with their separate laws and procedures often made by themselves, puts a limitation upon the principles of Rule of Law.
- Most of the tribunals do not enjoy the same amount of independence of the Executive as do the Courts and the judges.
- **Rising number of vacancies in various law tribunals** across the country.
- **Administrative tribunals are manned by administrators and technical heads** who may not have the background of law or training of judicial work.
- In Chandra Kumar case, SC held that the appeals to tribunals lies before the court and hence defeats the whole purpose of reducing burden of the superior courts.
- Since the tribunals are mainly chaired by the retired judges, the **present judges in courts may favour government** in certain matter to gain appointment to such tribunals after retirement.
- **Lack of adequate infrastructure** to work smoothly and perform the functions originally envisioned.

## National tribunal commission – a way forward

- The idea of an NTC was first mooted by the Supreme Court in L. Chandra Kumar v. Union of India (1997).
- NTC is envisaged to be an independent umbrella body to supervise the functioning of tribunals, and to take care of administrative and infrastructural needs of the tribunals.
- The NTC could pave the way for the separation of the administrative and judicial functions carried out by various tribunals.
- NTC could function as an independent recruitment body to operationalise the procedure for disciplinary proceedings and appointment of tribunal members.
- **The independence of tribunals was described as a fundamental feature of the Indian Constitution in the case of Rojer Mathew's decision.**
- This fundamental feature must be encapsulated and maintained in reality through the creation of the NTC.