

ESTABLISHMENT AND OPERATION OF  
ADMINISTRATIVE TRIBUNALS IN BANGLADESH

BY

S. M. HASSAN TALUKDER

COURSE SUPERVISOR : DR. M. ERSHADUL BARI  
PROFESSOR  
DEPARTMENT OF LAW  
UNIVERSITY OF DHAKA

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A THESIS SUBMITTED FOR THE DEGREE OF DOCTOR OF PHILOSOPHY  
IN THE DEPARTMENT OF LAW, UNIVERSITY OF DHAKA  
BANGLADESH

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**SEPTEMBER 2007**

ঢাকা  
বিশ্ববিদ্যালয়  
সম্মুখাগার

DEPARTMENT OF LAW  
UNIVERSITY OF DHAKA  
DHAKA-1000, BANGLADESH  
Phone : 00 880 2 9661920-73/6810  
Fax : 00 880 2 8615583  
E-mail : duregstr@bangla.net



আইন বিভাগ  
ঢাকা বিশ্ববিদ্যালয়  
ঢাকা-১০০০, বাংলাদেশ  
ফোন : ৯৬৬১৯২০-৭৩/৬৮১০  
ফ্যাক্স : ০০ ৮৮০ ২ ৮৬১৫৫৮৩  
E-mail : duregstr@bangla.net

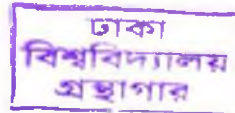
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## CERTIFICATE

This is to certify that S. M. Hassan Talukder has carried out the thesis entitled "ESTABLISHMENT AND OPERATION OF ADMINISTRATIVE TRIBUNALS IN BANGLADESH" under my close supervision, direction and guidance for the degree of Doctor of Philosophy in Law at the University of Dhaka, Bangladesh. To the best of my knowledge, this is for the first time such an in depth study has been carried out on the topic concerned.

(Dr. M. Ershadul Bari)  
Professor  
Department of Law  
University of Dhaka

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## ABSTRACT

The principal aim of this thesis is to offer a legal analysis of the establishment and operation of Administrative Tribunals in Bangladesh. It is divided into six chapters.

The introductory chapter examines the various meanings of Administrative Tribunal. The distinctiveness of Administrative Tribunal from Courts as well as Tribunals have been outlined. The necessity of establishing Administrative Tribunals in a modern democratic State has been discussed.

The second chapter traces the historical development of Administrative Tribunals in the United Kingdom, France, and the Subcontinent.

Chapter III considers the composition, jurisdiction and procedure of Administrative Tribunals in Bangladesh. It examines the qualifications required for the appointment of the members of the Tribunals. It deals with the terms and conditions of service including pay and allowances of the members of these bodies. The provisions concerning appeal against the decisions of Administrative Tribunals have been elucidated.

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Chapter IV, which forms a main part of the study, discloses the nature as well as number of cases instituted in, and disposed of by Administrative Tribunals in Bangladesh. The operation of Administrative Tribunal in Bangladesh under Martial

Law Government has been examined. The execution of the decisions of Administrative Tribunals has been dealt with.

The fifth chapter examines certain cases concerning Compulsory Retirement and Dismissal tried by Administrative Tribunal and Contempt disposed of by the Administrative Appellate Tribunal in Bangladesh.

The last chapter summarises general conclusions. An attempt has been made in this chapter to make an overall assessment of the establishment and operation of Administrative Tribunals in Bangladesh. Some recommendations have been made to improve the functioning of the Administrative Tribunal system in Bangladesh.

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S. M. Hassan Talukder

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## CHAPTER ONE

# INTRODUCTION

### I. Concept of Administrative Tribunal

Apart from the courts of law, which are the regular means of resolving conventional disputes, there are other means<sup>1</sup> of settling contentions of special nature. Administrative Tribunal is one of such a means established by law and developed in a piecemeal manner with the advent of welfare states. For, with the increasing growth of welfare states, more and more hitherto unregulated areas<sup>2</sup> started to be regulated under various enactments passed from time to time. These enactments became potential sources of dispute, which the existing courts were not in a position to deal with properly because of the increased number of disputes of special nature. Accordingly, it was keenly felt that a separate forum, Administrative Tribunal, to be established to deal with such a conflict. In fact, its development and proliferation are essentially a twentieth century phenomenon.

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<sup>1</sup> Other means are: 1) Administrative Tribunals; 2) ministerial decision after statutory inquiry; and 3) ministerial decision in which the minister uses his discretion without any prescribed procedure.

<sup>2</sup> These areas are, among others, social security, unemployment benefits, industrial injury compensation, unfair dismissal, compulsory purchase and landlord & tenant problems.

The word 'Tribunal' is used in two senses: wide and narrow. In wide sense, it has been defined to mean "the seat of a judge"<sup>3</sup> and, as such, 'Tribunal' includes in it the court of law. It should be kept in mind that although Tribunal resembles court in determining controversies, it is not court in the real sense. It exercises judicial power and decides special matters and disputes brought before it judicially or quasi-judicially, but the courts are invested with the judicial powers as a part of the ordinary hierarchy of the regular courts of law.<sup>4</sup>

In narrow sense, the sense it is used in Administrative Law, the word 'Tribunal' is defined as an adjudicating body or authority other than a court or executive department, which exercises some judicial powers of the State in resolving special disputes between the parties under certain special laws. As the Indian Supreme Court in Harinagar Sugar Mills Ltd. Vs. Shyam Sundar Jhunjhunwala<sup>5</sup> observed:

'Tribunals' mean those bodies of men who are appointed to decide controversies arising under certain special laws.

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<sup>3</sup> Wharton: *Law Lexicon*, (1976 Reprint Edn.) 1012; quoted in Hoque, Azizul : *The Bangladesh Supreme Court Digest*, III (1980-81) 133.

<sup>4</sup> Aiyar, K.J. : *Judicial Dictionary*, (1998) 343.

<sup>5</sup> AIR 1961 SC 1669.

In the same vein, the Supreme Court of Bangladesh observed in the case of Bangladesh Vs. Dharendra Nath Sarker<sup>6</sup> thus:

‘Tribunals’ mean those bodies of men who are appointed to decide controversies arising under certain special laws between parties.

Thus, the principal test to determine as to whether a particular authority is a Tribunal or not is that “whether that authority is empowered to exercise any adjudicating power of the State and whether the same has been conferred on it by any statute or statutory rule”.<sup>7</sup> In fact, in order to be a Tribunal, a particular authority is required to fulfill the following essential conditions:

- i) it is established by a particular statute;<sup>8</sup>
- ii) it is established as an adjudicating body clothed with a part of the judicial function of the State;<sup>9</sup> and
- iii) it is empowered to resolve disputes of special nature arising between parties under certain special laws.

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<sup>6</sup> 1981 BLD (AD) 378.

<sup>7</sup> A.P.H.L. Conference, Shillong Vs. W.A. Sangma, AIR 1977 SC 2155.

<sup>8</sup> In order to be a tribunal, it is essential that its authority must be derived from a statute and not from an agreement between the parties. A ‘Domestic Tribunal’, which is a private body, set up by the agreement between the parties and designated as ‘tribunal’ is really not a ‘tribunal’.

<sup>9</sup> Gupta, Balram : *Need for Administrative Tribunals*, AIR, 1983 (Journal) 49.

Initially, all types of Tribunals were collectively called Administrative Tribunals.<sup>10</sup> No distinction was made between Tribunal and Administrative Tribunal. Unlike in the U.K.,<sup>11</sup> a clear distinction between Tribunal and Administrative Tribunal is now maintained in India, Pakistan and Bangladesh. But this distinction is recognised either in supreme laws or in ordinary laws of these countries of the Subcontinent.

In India, the 1949 Constitution recognises the distinction between Tribunal and Administrative Tribunal in its Articles 323A and 323B.<sup>12</sup> As Article 323A of the Constitution has empowered the Parliament to enact laws providing for the establishment of Administrative Tribunals to deal with disputes and complaints relating to the recruitment and conditions of services of public servants and other officials appointed in connection with the affairs of the Union or any State or of any local or other authority in the territory of India or under the control of Government of India or of

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<sup>10</sup> Because, all tribunals were designed to be part of some schemes of administration. Wade, H.W.R. and Forsyth, G.F.: *Administrative Law*, (7<sup>th</sup> Edn.) 904.

<sup>11</sup> In the U.K., there are no separate Administrative Tribunals to deal with disputes pertaining to service matters of civil servants. For detail see infra at 33-34.

<sup>12</sup> Arts. 323A and 323B have been inserted in the Constitution of India by the Constitution (42<sup>nd</sup> Amendment) Act, 1976.

any corporation owned and controlled by the Government.<sup>13</sup> On the other hand, under Article 323B, Parliament of India or any State Legislature has been given the mandate to pass laws providing for the establishment of Tribunals for the adjudication of disputes, complaints or offences with respect to matters relating to levy, assessment, collection, enforcement of any tax, foreign exchange, import and export across customs, frontiers, industrial and labour disputes, ceiling on urban property, etc. depending upon their legislative competence.

Therefore, it is evident that whereas Article 323A speaks of the Administrative Tribunal to resolve disputes relating to the recruitment and condition of services of civil servants, Article 323B provides for the establishment of Tribunal to deal with disputes relating to levy, assessment or collection of any tax, foreign exchange or customs, industrial and labour disputes, etc.

Unlike the Indian Constitution, which makes a distinction between Administrative Tribunal and other Tribunals, the

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<sup>13</sup> In compliance with the Art. 323A, the Indian Parliament has enacted the Administrative Tribunals Act, 1985. And the Administrative Tribunals Act, 1985, by its sec. 14, has empowered the Administrative Tribunal to deal with matters relating to the terms and conditions of service of persons appointed to public service or any body controlled by the Government.



Constitution of Pakistan, 1973,<sup>14</sup> merely speaks of the establishment of the Administrative Tribunal with wide and extensive powers including even the jurisdiction to settle down the disputes in connection with the acquisition, administration and disposal of enemy property under any law. As Article 212 of the Constitution has empowered the Federal Parliament and the Provincial Assemblies to enact laws for the establishment of Administrative Courts or Tribunals to deal with exclusively the matters relating to the terms and conditions of services of civil servants;<sup>15</sup> claims arising from tortious acts of Government, or its servants while acting in exercise of their duties, or of any local or other authorities empowered to levy any tax or cess;<sup>16</sup> or the acquisition, administration and disposal of enemy property under any law.<sup>17</sup>

But, the Service Tribunals Act passed by the Federal Parliament in 1973 in pursuance of the provisions of Article 212 of the Constitution provides for the establishment of Administrative Tribunal (named in the law as Service Tribunal) with limited powers to resolve only disputes relating to the terms and conditions of

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<sup>14</sup> *The Constitution of the Islamic Republic of Pakistan.*

<sup>15</sup> Art. 212 (1) (a), *ibid.*

<sup>16</sup> Art. 212 (1) (b), *ibid.*

<sup>17</sup> Art. 212 (1) (c), *ibid.*

services of civil servants including their disciplinary matters.<sup>18</sup> Therefore, the Service Tribunal's power and jurisdiction have been confined merely to deal with service matters of civil servants. Thus the Tribunal has not been given the authority to settle disputes relating to claims arising from tortious acts of the Government or its employees or in respect of matters relating to the acquisition, administration and disposal of enemy property. Although the Constitution of Pakistan does not contain provision regarding the establishment and jurisdiction of any other Tribunals except Administrative Tribunals, the Federal Parliament, besides passing the Service Tribunals Act in 1973 for the establishment and operation of Administrative Tribunals, has also passed many other Acts in a piecemeal manner for the establishment of other Tribunals especially to resolve disputes of special nature between contesting parties. These other Tribunals are, among others, Election Tribunal established under the Representation of People Act, Mines Tribunal established under the Mines Act, Railway Rates Tribunal established under the Pakistan Railways Act, etc.

Like the Constitution of Pakistan, the Constitution of Bangladesh does not recognise any distinction between

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<sup>18</sup> Sec. 3, the Service Tribunals Act, 1973.

Administrative Tribunal and Tribunal. It speaks merely of Administrative Tribunals and is absolutely silent as to the setting up of other Tribunals. As Article 117 (1) of the Bangladesh Constitution empowers the Parliament to make laws for the establishment of one or more Administrative Tribunals to deal with matters relating to the terms and conditions of persons in the service of the Republic;<sup>19</sup> the acquisition, administration, management and disposal of any property vested in or managed by the Government and service in any nationalised enterprise or statutory public authority;<sup>20</sup> and any law mentioned in the First Schedule to the Constitution.<sup>21</sup>

But, the Administrative Tribunals Act, passed in 1981,<sup>22</sup> has empowered the Administrative Tribunals to resolve disputes only relating to or arising out of the terms and conditions of service of persons in the service of the Republic or of any statutory public authority.<sup>23</sup> Despite the constitutional provisions, the Administrative Tribunals have not been vested with the power to deal with matters

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<sup>19</sup> Art. 117 (1) (a), *the Constitution of the People's Republic of Bangladesh*.

<sup>20</sup> Art. 117 (1) (b), *ibid*.

<sup>21</sup> Art. 117 (1) (c), *ibid*.

<sup>22</sup> The Administrative Tribunals Act, 1980, was tabled before the legislature in 1980 and it was passed in 1981 and as such it is numbered as Act No. VII of 1981. It received the assent of the Acting President on 5.6.1981 and was also published in the Bangladesh Gazette on the same date. It came into force on 01.02.1982.

<sup>23</sup> Sec. 4, the Administrative Tribunals Act, 1980.

relating to the acquisition, administration, management and disposal of any property vested in or managed by the Government, service in any nationalised enterprise and any law mentioned in the First Schedule to the Constitution.<sup>24</sup> Apart from enacting the Administrative Tribunals Act in 1981 under the Constitution of Bangladesh for the establishment and operation of Administrative Tribunals, Parliament has also passed several others Acts from time to time for the establishment and operation of other Tribunals in Bangladesh with a view to resolve disputes of special nature. The other Tribunals established are, among others, Labour Court<sup>25</sup> and Labour Appellate Tribunal established under the 'Bangladesh Sromo Ain, 2006'; Taxes Appellate Tribunal established under the Income Tax Ordinance, 1984; Customs, Excise and VAT Appellate Tribunal established under the Customs Act, 1969 (amended in 1995); etc.

Taking into account the provisions of the Constitutions of India, Pakistan and Bangladesh concerning jurisdiction of Administrative Tribunals and the various enactments passed accordingly providing for the establishment and defining jurisdiction

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<sup>24</sup> Arts. 117(1)(b) and 117(1)(c), *the Constitution of the People's Republic of Bangladesh*.

<sup>25</sup> In Pubali Bank Vs. Chairman, Labour Court, Dhaka, (1992) 44 DLR (AD) 40, it was clearly held by the Appellate Division of the Bangladesh Supreme Court that Labour Court is not to be considered as a court; as such, it is a tribunal.

of Administrative Tribunals, the term 'Administrative Tribunal' may be defined as the Tribunal which exercises judicial or quasi-judicial powers and resolves litigation relating to the terms and conditions of service of persons appointed in the public service or in any statutory body controlled by the government. In this sense, the expression 'Administrative Tribunal', as established in Bangladesh under the Administrative Tribunals Act, 1980 (Act No. VII of 1981), has been used in the present research work which has been given the authority to settle disputes relating to or arising out of the terms and conditions of service of persons in the service of the Republic or of any statutory public authority. It is neither a court nor is it an executive body, which stands somewhere midway.<sup>26</sup> It has the character of court but it is deeply enmeshed in the administrative machinery of the State.<sup>27</sup> It is an outcome of compromise between the executive and judiciary.

## II. Necessity for Establishing Administrative Tribunals<sup>28</sup> in a Modern Democratic State

The concept and reality of modern democratic State has brought with it many new rights and duties and caused unexpected growth in governmental activities, which ultimately created many

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<sup>26</sup> Kesari, U.P.D. : *Lectures on Administrative Law*, (1985) 92.

<sup>27</sup> Wade, H.W.R. : *Administrative Law*, (1967) 955.

<sup>28</sup> In this part of the Chapter, the concept of Administrative Tribunal has been used in wide sense, which includes all types of Tribunals.

new areas of disputes of special nature between individuals, groups and State agencies. Besides, technological developments and intensive industrialisation also created multiple disputes of special nature, the solution of which essentially required technical and expert knowledge, which the judges of ordinary courts seriously lacked. The judges of ordinary courts are generalists and it is very difficult for a generalist judge to determine the technical facts.<sup>29</sup> In the perspective of increased socio-economic functions of a modern democratic State, e.g. planning, social services, labour welfare, health, transport, employment, education, and other activities aimed at community welfare, there have emerged hundreds of disputes under the multifarious social legislation that required speedy justice which the ordinary courts, over-burdened with work, were unable to deliver.<sup>30</sup>

Moreover, most of these disputes are minor and of technical kind, where cheap and expert adjudication is desirable, but the judicial procedure of ordinary courts is expensive and full of intricate laws bristling with technicalities and formalities.<sup>31</sup> So, a proper and suitable forum to resolve these disputes of special nature

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<sup>29</sup> Jain, M.P. and Jain, S.N.: *Principles of Administrative Law* (1986) 181.

<sup>30</sup> Donoughmore Report of the Committee on Minister's Powers, 1932, Cmnd. 4060, 97. Quoted in Kesari, U.P.D.: *Lectures on Administrative Law*, (1985) 87.

<sup>31</sup> Joshi, K.C.: *Administrative Law*, (1984) 88.

was keenly felt which ultimately led to the creation of Administrative Tribunals with the task of performing judicial and quasi-judicial functions,<sup>32</sup> an appropriate forum to ensure cheapness, accessibility, freedom from technicality, expedition, expert knowledge, policy-oriented decision and privacy, if necessary, in dispensation of justice.<sup>33</sup> In the words of Hood Phillips and Paul Jackson-

The reasons why parliament increasingly confers powers of adjudication on tribunals rather than on the ordinary courts may be stated positively as showing the greater suitability of such tribunals, or negatively as showing the inadequacy of the ordinary courts for particular kinds of work that has to be done.<sup>34</sup>

The practical factors which, according to Wade and Phillips,<sup>35</sup> have favoured the setting up of Administrative Tribunals rather than of ordinary courts are: the desire for a procedure which avoids the formality of the ordinary courts, on the ground that litigious procedure does not produce the right atmosphere for working of a social insurance scheme; the need for specialised knowledge on the part of the Administrative Tribunal which an

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<sup>32</sup> Kautilya : *Administrative Law*, (1993) 83.

<sup>33</sup> Seervai, H. M.: *Constitutional Law of India*, (1967) 896.

<sup>34</sup> Phillips, O. Hood and Jackson, Paul : *Constitutional and Administrative Law*, (1978) 577.

<sup>35</sup> Wade, E. C. S. and Phillips, G. Godfrey : *Constitutional and Administrative Law*, (1977) 637.

ordinary court with a wide general jurisdiction might not acquire; and the danger of imposing too many additional burdens on the ordinary courts.

The reasons for the development of an Administrative Tribunal may be examined under the heads of (i) Expert Knowledge, (ii) Policy-oriented Decision, (iii) Cheapness, (iv) Accessibility, (v) Informality, (vi) Flexibility, (vii) Privacy, and (viii) Speedy Justice.

*i) Expert Knowledge*

Many of the important questions that have to be decided under modern social legislation call for an expert knowledge of matters.<sup>36</sup> Administrative Tribunal is, in actual practice, an adjudicating forum where specially qualified people make decisions as experts of particular subject. Generally it is consisted of a Chairperson (who will be legally trained) and two other non-legally qualified people, who have some particular expertise in the particular field over which the Administrative Tribunal has jurisdiction. For example, the Labour Court established in Bangladesh to settle industrial disputes is composed of a legally qualified Chairman, and one representative from the workmen and one person to represent

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<sup>36</sup> Phillips, O. Hood and Jackson, Paul : *Constitutional and Administrative Law*, (1978) 577.



the views of the employers.<sup>37</sup> The experts, therefore, sit on the decision-making Board, and are not simply called to give expert evidence, as would be the case in an ordinary court.

*ii) Policy-oriented Decision*

Ordinary courts do not decide disputes on the basis of the policy. They look at the strict wording of the legislation. As such, they cannot properly resolve many of the disputes of modern times, which require policy - oriented decision. But, Administrative Tribunal is the only forum, which can meet this requirement, as it does not look at the strict wording of the legislation. Rather, it examines the spirit and policy of the legislation so as to ensure that its decision would give effect to that policy.<sup>38</sup> In this context, Pakistan Law Reform Commission (1967-70), in its Report on Administrative Tribunals, observes:

It is generally complained by the executive that the courts take too technical a view of the matter with the result that they fail to appreciate the administration's point of view. . . . The courts have to function not only within the bounds of the power conferred on them by the law and the Constitution, but they have also themselves imposed certain limitations for regulating the exercise of this power. It is for these reasons that sometimes the court's verdict fails to give complete relief to the aggrieved person. . . .

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<sup>37</sup> Sec. 214, 'Bangladesh Sromo Ain, 2006'.

<sup>38</sup> Fletcher, Marcus : *Principles of English Law*, 1985 (Textbook) 131.

The establishment of administrative tribunals, it is said, will remedy this situation as it will no longer be possible for the administration to plead that its viewpoint has not been given due consideration in implementing the decisions of such tribunals, which would be able to do substantial justice, as they would not be bound by any technical and rigid rules.<sup>39</sup>

### iii) Cheapness

Ordinary civil courts in certain cases charge fees: tribunals do not. For example, Rent Tribunals and National Insurance Tribunals in the United Kingdom emphasize lack of expense. People appearing before these tribunals can be represented by persons other than lawyers, and this also helps reduce expenses. Further, a person who loses an action in a tribunal does not have to pay the costs of the other side i.e. opposite party. Whatever the result, each party pays its own costs.<sup>40</sup> As regards cheapness, the Pakistan Law Reform Commission (1967-70), in its Report on Administrative Tribunals, comments as follows:

Litigation before the administrative tribunals is not as expensive as under the common law system, because the procedure followed by the former is inquisitorial, which does not oblige the petitioner, who has challenged the administrative action, to collect evidence or

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<sup>39</sup> Report of the Pakistan Law Reform Commission (1967-70) on Administrative Tribunals, Chap. XXVII. Quoted in Rahman, Syed Lutfur : *Administrative Tribunals Manual*, (1991) 53-54.

<sup>40</sup> Fletcher, Marcus : *Principles of English Law*, 1985 (Textbook) 132.

even retain a counsel. A party under the inquisitorial system does not suffer because of his inability to engage a good lawyer to plead his case.<sup>41</sup>

*iv) Accessibility*

A common characteristic of Administrative Tribunals compared with ordinary courts is that the legal profession does not have a monopoly of the right to represent those appearing before the Administrative Tribunals. This fact alone makes the Administrative Tribunals more accessible to the public than the ordinary courts, since a trade union official, an accountant, a doctor, a social worker or a friend may often present an individual's case effectively.<sup>42</sup>

*v) Informality*

In actual practice, Administrative Tribunals are as informal as is consistent with an orderly conduct of their affairs. An attempt is usually made to create an atmosphere in which people who appear in tribunal will not feel ill or nervous. Further, Administrative Tribunals are not bound by such complex rules of procedure or such stringent rules of evidence as prevail in the

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<sup>41</sup> Report of the Pakistan Law Reform Commission (1967-70) on Administrative Tribunals, Chap. XXVII. Quoted in Rahman, Syed Lutfur : *Administrative Tribunals Manual*, (1991) 58.

<sup>42</sup> Wade, E. C. S. and Phillips, G. Godfrey : *Constitutional and Administrative Law*, (1977) 637.

ordinary courts. They may admit hearsay evidence; they must observe the principles of natural justice, but cross-examination is not essential. Procedural rules of varying degrees of completeness are prescribed for some of those bodies, but the sources from which they derive their information are not usually restricted.<sup>43</sup>

*vi) Flexibility*

Although every body of men that has to make decisions evolves in course of time general working principles, and government departments tend to follow their own precedents, the new Administrative Tribunals are not hampered by the rigid doctrine of binding precedent adhered to by the courts. They thus have greater freedom to develop new branches of law on the basis of modern social legislation and suitable to the needs of the welfare state. This does not mean that the decisions of Administrative Tribunals are entirely capricious and unpredictable. There is a growing practice for some of them to publish selected decisions.<sup>44</sup>

*vii) Privacy*

It is the basic principle of common law that court should be open to the public, so that they may attend at any time. This,

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<sup>43</sup> Phillips, O. Hood and Jackson, Paul : *Constitutional and Administrative Law*, (1978) 578.

<sup>44</sup> Ibid.

indeed, does not always suit the parties who may prefer to have the matter heard in private. Administrative tribunals have this additional flexibility and advantages that they may meet in private in case of necessity.<sup>45</sup>

*i) Speedy Justice*

Administrative Tribunal cases come on quickly and are usually dealt with within the day. Many tribunals even fix the time and the day on which the case will be heard. So, those concerned need only to attend for a minimum length of time and are not kept waiting.<sup>46</sup>

Therefore, it is evident that Administrative Tribunals can operate more quickly than the courts; they are much cheaper than the courts; they operate in a specialised field and can build up an expertise in that area which no court could hope to achieve; they are more flexible than the courts and do not work through precedent (though, of course, the tribunal will try to be consistent); and they operate less formally than the courts and they in a modern democratic State present a new system for dispensation of justice as a compelling necessity.

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<sup>45</sup> Fletcher, Marcus : *Principles of English Law*, 1985 (Textbook) 132.

<sup>46</sup> Ibid.

It is relevant to mention here that the status and importance of Administrative Tribunals have not been recognised by Dicey's theory of Rule of Law. According to his theory, the functions of deciding disputes between parties should only belong to ordinary courts of law. But, this is not completely possible today. The governmental functions have practically increased so widely that the ordinary courts of law are not in a position to effectively decide all disputes of special nature arising in the changed socio-economic conditions of life and society. In these circumstances, Administrative Tribunals are the only answer thereto and their great importance finally exists therein.<sup>47</sup>

### III. Conclusions

The foregoing discussion reveals that the term 'Administrative Tribunal,' in its wide sense, is a generic name that includes all types of tribunals, and is commonly used to mean an adjudicating body that disposes of disputes arising in connection with the administration of legislative schemes normally of a welfare or regulatory nature.<sup>48</sup> But in narrow sense, it is an adjudicating body that resolves litigation only relating to the terms and conditions of

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<sup>47</sup> Mahmood, Ehtsham: *Principles of Administrative Law*, (1998) 82.

<sup>48</sup> The United Kingdom is an example where the term 'Administrative Tribunal' is used in wide sense.

service of persons employed to public service or any statutory body controlled by the government.<sup>49</sup>

The term 'Administrative Tribunal' is used in India, Pakistan and Bangladesh in restricted sense to mean only that tribunal which has been established to settle disputes relating to the terms and conditions of service of persons appointed in the public service or in any statutory body controlled by the government. In this sense, the expression 'Administrative Tribunal' has been used in the present research work excepting the context of the United Kingdom.

Judicial functions and judicial powers are one of the essential attributes of a Sovereign State, and, on consideration of policy, the State transfers its judicial functions and powers mainly to the ordinary courts of law as regular means of settling disputes of conventional nature and partly to the Administrative Tribunals by entrusting to them the task of adjudicating upon special matters and disputes between contesting parties. Inadequacy of ordinary courts to respond to this new challenge is one of the reasons that has led to the establishment and development of Tribunals. Furthermore, the judicial procedure of ordinary courts is technical, expensive and

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<sup>49</sup> India, Pakistan and Bangladesh are the genuine examples where the term 'Administrative Tribunal' is used in narrow sense.

dilatory. It is unworkable where the subject matter is dynamic and requires not only adjudication but development also, as in cases of industrial disputes. Therefore, in cases where the need is fair disposition and not merely disposition on file, Administrative Tribunals seem to be the only answer to give quality and quantity of performance as tribunals have certain characteristics which often give them advantages over the courts. These are cheapness, flexibility, expedition, expertise, policy-oriented decision and privacy, if necessary.<sup>50</sup> As Robson says, "Administrative Tribunals do their work more rapidly, more cheaply, more efficiently than ordinary Courts . . . . possess greater technical knowledge and fewer prejudices against Government . . . . give greater heed to the social interests involved . . . . decide disputes with conscious effort at furthering social policy embodied in the legislation".<sup>51</sup>

Therefore, an attempt will be made in the next Chapter to trace the origin and development of Administrative Tribunals both outside the Indo-Pak-Bangladesh Subcontinent especially in Europe under the both French system and English system and inside the Subcontinent.

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<sup>50</sup> For detail see at 10-19 ante.

<sup>51</sup> Quoted in Zafar, Emmanuel : *Administrative Law*, (Lahore) 61. See also Fazal, M.A.: *Judicial Control of Administrative Action in India, Pakistan and Bangladesh*,(1990) 10.



**CHAPTER TWO**

**ORIGIN AND DEVELOPMENT OF  
ADMINISTRATIVE TRIBUNALS IN CERTAIN  
COUNTRIES OF EUROPE AND SUBCONTINENT**

It may be recalled here that the tribunals have developed gradually in a piecemeal manner to resolve particular type of disputes. In this chapter, an attempt will be made to study the origin and development of Administrative Tribunals in certain countries, e.g. the UK and France, of Europe and the Indo-Pak-Bangladesh Subcontinent.

**I. Origin and Development of Administrative Tribunals  
in France and the UK**

The French and English Legal Systems of Europe have exerted considerable influence in shaping Administrative Tribunals in the Indo-Pak-Bangladesh Subcontinent and the French system, with certain variations, appears to be in operation over the whole of Europe with the exception of the United Kingdom. An attempt is, therefore, made in this chapter to examine the origin and development of Administrative Tribunals under both the French and the English Legal Systems.

### i) Under the French Legal System

Under the French Legal System, there are two sets of judicial bodies, ordinary courts of law and Administrative Tribunals, independent of each other. The ordinary courts administer the ordinary law of the country as between private individuals. The Administrative Tribunals administer the law called *Droit Administratif*<sup>1</sup> as between a private individual and the State.<sup>2</sup> If an administrative authority by its act inflicts an injury upon a private individual by violating any provision of law, an action will only be before an Administrative Tribunal and not before an ordinary court of law. In France, presently there are two types of Administrative Tribunals. These tribunals are -

- a) *Conseil d'Etat* (1799 - to date); and
- a) *Tribunaux Administratif* (1953 - to date).

Before *Conseil d'Etat* came into existence, another sort of Administrative Tribunal called *Conseil du Roi* had functioned in

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<sup>1</sup> *Droit Administratif*, ordinarily known as French system of Administrative Law, is a body of rules that determine the organisation and the duties of public administration and which regulate the relation of administration with citizens of the State. It consists of rules developed by the judges of administrative tribunals and does not represent the principles and rules laid down by the French Parliament.

<sup>2</sup> Takwani, C. K.: *Lectures on Administrative Law*, (1998) 21.

France.<sup>3</sup> An attempt is made below to trace the development of these tribunals in France.

### *Conseil du Roi*

In the pre-revolutionary France,<sup>4</sup> *Conseil du Roi* had to perform various functions viz., legal, executive and judicial. Among others, it advised the King in legal and administrative matters. It also discharged judicial functions in resolving disputes between great nobles.

After the French Revolution of 1789, a major change was brought in the legal system. The first step taken by the revolutionaries was to curtail the power of the executive in pursuance of the theory of 'Separation of Powers' propounded by French writer Montesquieu. *Conseil du Roi* was abolished and the King's powers were curtailed. Napoleon, who became the first consul, favoured freedom for the administration and also favoured reforms. He wanted an institution to give relief to the people against the excesses of the administration. Therefore, in 1799 *Conseil d'Etat* was established.<sup>5</sup>

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<sup>3</sup> Massey, I. P. : *Administrative Law*, (1985) 21.

<sup>4</sup> French Revolution was held in 1789.

<sup>5</sup> Massey, I.P. : *Administrative Law*, (1985) 21.

### *Conseil d' Etat*

At the beginning, *Conseil d' Etat* was not an independent adjudicating body. It was an appendage of the executive. Its main task was to advise the minister with whom the complaint was to be lodged. In fact, the minister was the judge and the *Conseil d' Etat* administered only advisory justice. It did not have public sessions. It had no power to pronounce judgments.<sup>6</sup>

In 1872, *Conseil d' Etat* was empowered to give independent decision against the administration. Its formal power to give judgment was established. Subsequently, in the year 1889, a significant change was brought out in the justice approach of *Conseil d' Etat*. The minister was deprived of his powers to hear the complaint, and the complainant was allowed a direct access to *Conseil d' Etat* subject to the condition that he was to state the cause that led to his grievance.<sup>7</sup>

But, with the ever-expanding activity of administration, the *Conseil d' Etat* worked successfully till 1945, when the number of cases began to grow disproportionately. Later, its work was bifurcated into eight sub-sections, but still it fell behind in its race to

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<sup>6</sup> Massey, I.P. : *Administrative Law*, (1985) 21.

<sup>7</sup> Chhabra, Sunil : *Administrative Tribunals*, (1990) 7.

go with the speed of litigation. By the end of 1953 as many as 26000 cases were pending before it.<sup>8</sup> To remedy the situation, its work on the original side was assigned to local courts, which were named as *Tribunaux Administratif*.

### *Tribunaux Administratif*

Initially, the object of *Tribunaux Administratif* was to quicken the process of justice and reduce the workload of *Conseil d'Etat*, though the *Conseil* exercised the appellate jurisdiction over the newly created *Tribunaux Administratif*. All other matters, which fell beyond the jurisdiction of *Tribunaux Administratif*, could be brought before the *Conseil*. Thus, the Reform of 1953 conferred a new jurisdiction and new status upon these local adjudicating bodies.

As regards the system of recruitment to the *Tribunaux Administratif*, it was limited to the graduates of National School of Administration besides a few posts to be filled up from the cadre of the senior administrator. By way of promotion, the persons from the *Tribunaux Administratif* could be appointed to the *Conseil d'Etat*.<sup>9</sup> In case of conflict between the ordinary courts and the Administrative

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<sup>8</sup> Wraith and Hutchesson : *Administrative Tribunals*, (1973) 33.

<sup>9</sup> Chhabra, Sunil : *Administrative Tribunals*, (1990) 8.

Tribunals regarding jurisdiction, the matter is decided by the *Tribunal des Conflicts*.

### *Tribunal des Conflicts*

*Tribunal des Conflicts* consists of an equal number of ordinary and administrative judges, and is presided over by the Minister of Justice. It was established in France in 1871.<sup>10</sup>

Thus, France, with its experience of administrative courts extending over nearly two centuries, offers a very useful guidance to countries experimenting with Administrative Tribunals. Indeed, French system has its own peculiarities that have developed over the centuries. The system does not make elaborate provisions for appeal or revision, and at times administrative and judicial functions are mixed up. It is the traditions and practice that have raised *Conseil d'Etat* to the level of a prestigious judicial body.

The early common criticism of the *Droit Administratif* in France has been that it could not protect the private citizens from the excesses of the administration. But, later researches have shown that no single institution has done so much for the protection of

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<sup>10</sup> Report of the Pakistan Law Reform Commission (1967-70) on Administrative Tribunals, Chap. XXVII. Quoted in Rahman, Syed Lutfur: *Administrative Tribunals Manual*, (1991) 59.

private citizens against the excesses of the administration as has been done by the *Conseil d'Etat*,<sup>11</sup> As a matter of fact, the French system, though it retains traces of its origin in administrative justice, has come very close to a fully developed system of administrative courts.

## ii) Under the English Legal System

An important feature of the English Legal System is the establishment of various types of Administrative Tribunals<sup>12</sup> mainly in the 20<sup>th</sup> century as a by-product of the welfare state,<sup>13</sup> although some trace their origin before the 20<sup>th</sup> century.

Under the English legal system, the King's Council and the Court of Star Chamber are considered as the oldest among the tribunals established in the United Kingdom before the 20<sup>th</sup> century. The other important tribunals established before the 20<sup>th</sup> century are

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<sup>11</sup> Massey, I. P. : *Administrative Law*, (1985) 23.

<sup>12</sup> In this part of the Chapter, the term 'Administrative Tribunal' has been used in wide sense, which includes all types of Tribunals dealing with special matters under special laws between contesting parties. Under the English Legal System, there are, in narrow sense, no Administrative Tribunals to deal with disputes pertaining to service matters of government servants.

<sup>13</sup> The chief characteristics of welfare state are : i) a vast increase in the range and detail of government regulation of privately owned economic enterprise; ii) the direct furnishing of services by government to individual members of the community – the economic and social services as social security, low-cost housing, medical care, etc.; iii) increasing government ownership and operation of industries and business which, at an earlier time, were or would have been operated for profit by individuals or private corporations.

the Commissioner of Customs and Excise, the General Commissioner of Income Tax, and the Railway and Canal Commission, established by the Customs and Excise Act, 1860; the Income Tax Act, 1879; and the Railways Act, 1873, respectively and dealt with disputes relating to customs and excise, income tax and Railways respectively.

At the beginning of the 20<sup>th</sup> century, a number of tribunals were established by statutes, of which the Local Pension Committee and the Board of Education are worthy of note.<sup>14</sup> During the early years of the 20<sup>th</sup> century, several different authorities were given judicial powers to resolve various disputes under the Housing Act, 1919; the Unemployment Insurance Act, 1920; the Roads Act, 1920; the National Health Insurance Act, 1924; etc.

But in the year 1929, there was a sharp reaction against the growth of these adjudicating bodies. Lord Hewart, the then Chief Justice, wrote a book titled "The New Despotism" where he launched a scathing attack on the ousting of the court's jurisdiction and vesting it in the hands of bureaucracy.<sup>15</sup> The view of the learned Chief Justice had an impact on the thinking of the English Government, and it was

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<sup>14</sup> The Old Age Pensions Act, 1908, and the Education Act, 1921, established these tribunals respectively.

<sup>15</sup> Chhabra, Sunil : *Administrative Tribunals*, (1990) 4.



because of such a reaction that the British Parliament in the same year appointed a Committee on Minister's Power headed by Lord Donoughmore known as Donoughmore Committee.

### *Donoughmore Committee*

The Committee was asked to examine as to whether England should adopt a full-fledged system of Administrative Courts on French model. Describing the criticism by Lord Hewart against Administrative Tribunals as not well founded, the Committee submitted its report in 1932. In the report, the Committee gave its opinion against the proposal of Administrative Court on the French model on the ground that it was opposed to the flexibility of the English Constitution and the system of normal judicial control over administrative proceedings.<sup>16</sup> Instead, the Committee laid stress on the independence of Administrative Tribunals and, among others, recommended that -

- i) Administrative Tribunals should continue to function and exercise judicial powers;
- ii) the powers of the High Court to keep Administrative Tribunals within limit by prerogative writs should be retained;

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<sup>16</sup> Basu, Durga Das : *Administrative Law*, (1998) 308.

- iii) Administrative Tribunals should observe the rules of natural justice; and
- iv) there should be an appeal to the High Court on the point of law.

After the recommendations of the Donoughmore Committee, there has been an extensive growth of Administrative Tribunals in the United Kingdom that indeed took tremendous proportion after the Second World War. The National Service Act, 1945, the Town and Country Planning Act, 1945, the Family Allowances Act, 1945, the National Insurance Act, 1946, the National Assistance Act, 1946, the National Insurance (Industrial Injury) Act, 1946, the Transport Act, 1947, and the Agricultural Act, 1947, are considered as the vital among the Acts passed by the Parliament after the World War II. These Acts, indeed, have increased the number, enlarged the jurisdiction and raised the status of different kinds of Administrative Tribunals in the United Kingdom. In most cases, tribunals consisting of three persons have been set up. Their Chairmen are independent, but the other members represent the various interests involved. In some cases, even judicial powers have been given to ministers and superior tribunals have been appointed to hear and decide appeals from the lower tribunals.<sup>17</sup>

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<sup>17</sup> Mahajan, V. D. : *Select Modern Governments*, (1988) 149.

But there were many complaints from different quarters, especially from the Treasury against the working of these tribunals. And as a result of reaction from the Treasury, a Committee under the Chairmanship of Sir Oliver Franks, known as Franks Committee, was appointed in 1955 by the Lord Chancellor to report on the working of Administrative Tribunals engaged in different areas of State-activity vis-a-vis human relationship.

### *Franks Committee*

The Franks Committee submitted its Report in 1955. The Report, containing a number of recommendations, rejected the view of the Treasury that the Administrative Tribunals were a part of the administration and consequently were not judicial institutions. Rather, the Report justified that the Administrative Tribunals were independent organisations to settle legal claims and disputes.

The Report of the Franks Committee, published in 1957, gave the Administrative Tribunals a higher status than they had earlier enjoyed. The Committee accepted the principle of openness, fairness and impartiality as the very basis of the functioning of the tribunals. The Committee, among others, recommended a Council on Tribunals to supervise their workings. As a result, the British Parliament enacted the Tribunals and Inquiries Act in 1958.

### *The Tribunals and Inquiries Act, 1958*

In the history of the development of tribunal system in the UK, the role played by the Tribunals and Inquiries Act, 1958, is considered as crucial. The Act, indeed, provided for a control of the Administrative Tribunals by the courts of law and maintained the traditional Rule of Law. The Tribunals and Inquiries Act, 1958, was amended in 1959 and 1966. Later, it was consolidated first by the Tribunal and Inquiries Act in 1971, and then in 1992. Adequate judicial control over the Administrative Tribunals was provided for. The tribunals were established without affecting its special procedure and without introducing the system of administrative courts on the pattern of French Law. Thus, tribunalisation of justice was accepted as an important part of the judicial system of the United Kingdom.

At present, there are Administrative Tribunals in the United Kingdom to deal with personal welfare, service pension, education, employment, health service and immigration. There are also Administrative Tribunals, which deal with economic matters such as agriculture, commerce, transport, and housing. These are in addition to matters relating to revenue that cover taxation, statutory levies, industrial matters, etc.<sup>18</sup>

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<sup>18</sup> Chhabra, Sunil : *Administrative Tribunals*, (1990) 6.

Besides, the English legal system, which was traditionally averse to any separate courts or tribunals for administrative law matters, is slowly moving towards establishment of such tribunals, although there are no separate Administrative Tribunals in the UK to deal with cases relating to the terms and conditions of service of civil servants. Ordinary courts have been dealing with these matters and that also in a limited way in view of Crown's prerogative and doctrine of master and servant. Recent development (making unfair dismissal justifiable) has made the civil servants subject to the jurisdiction of Industrial Tribunals from which appeals lie to the Employment Appeal Tribunal. Civil servants are being dealt with at par with the workmen, but jurisdiction in their case is mostly limited to awarding compensation.<sup>19</sup>

## II. Origin and Development of Administrative Tribunals in the Subcontinent

The origin and development of Administrative Tribunals in the Subcontinent can be traced to the ancient<sup>20</sup> and medieval<sup>21</sup>

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<sup>19</sup> Rashid, Pirzada Mamoon : *Manual of Administrative Laws*, (1998) 51-52.

<sup>20</sup> Ancient Period begins with the earliest known civilizations and extends to the fall of the Western Roman Empire in A. D. 476.

<sup>21</sup> Medieval Period extends from the fall of the Western Roman Empire to the close of the 15<sup>th</sup> century, the period of Oceanic discoveries. Roughly, it extends from about A. D. 477 to about 1400.

periods although their extensive developments have been made during the modern period.<sup>22</sup>

During the ancient period, the King's Court was the highest court of appeal as well as original court in the cases of vital importance. In the King's Court, learned Brahmins, judges, ministers, elders and representatives of trading community advised the King. The Court of Chief Justice was below the King's Court. Legally, the Chief Justice was empowered to constitute special tribunals to deal with the disputes of special nature among traders, craftsmen, artisans and artists. These special tribunals consisted of three to five members one of whom was to act as the President. They were from both technical professions as well as from the judiciary.<sup>23</sup> The decisions of these tribunals, as legal history reveals, were made appealable to local courts; the second appeal lay to Royal Judges and sometimes a special appeal in extra ordinary circumstances was also provided to the King's Court.<sup>24</sup>

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<sup>22</sup> In historical use, it is commonly applied (in contradistinction to Ancient Period and Medieval Period) to the time subsequent to the Medieval Period. It extends from about A. D. 1401 to the present day.

<sup>23</sup> In the cases of disputes among traders, craftsmen, artisan, artists, etc., it was difficult for the courts to arrive at correct decisions in view of the technical problems involved. As such, the rule of associating technical experts in resolving disputes in such specialised fields had been recognised and adopted.

<sup>24</sup> Kulshreshtha, V. D. : *Landmarks in Indian Legal and Constitutional History*, (1981) 6.

During the medieval period, no important changes concerning tribunal system were made in the administration of justice. The earlier system, indeed, remained operative until the beginning of the modern period and the advent of the British in this Subcontinent.<sup>25</sup>

The British came to the Subcontinent in 1601 as a "body of trading merchants" in the name of East India Company.<sup>26</sup> At the beginning, the East India Company did not bother much about the administration of justice. In subsequent years the Company, when maintained its stronghold over the soil of the Subcontinent, began to think in terms of setting up courts at the three presidencies, viz., Bombay, Calcutta and Madras. As a result, Courts were established at the three presidencies. But, the matter regarding the establishment of tribunals for specified matters and disputes did not receive the attention of the British in the 17<sup>th</sup> and 18<sup>th</sup> centuries; the basic idea of the foreign rulers was to capture power and not to impart justice to the people of the Subcontinent.<sup>27</sup>

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<sup>25</sup> Chhabra, Sunil : *Administrative Tribunals*, (1990) 9.

<sup>26</sup> The first Englishman to set foot on Indian soil was Thomas Stephens. He set sail to India from Lisbon in April 1579, and reached Goa in October 1579. Kulshreshtha, V. D. : *Landmarks in Indian Legal and Constitutional History*, (1981) 37.

<sup>27</sup> Chhabra, Sunil : *Administrative Tribunals*, (1990) 9.

The East India Company's rule in India came to an end in 1858 and the Subcontinent was brought under the direct control of the British Government.<sup>28</sup> Thereafter, the enactment of the Indian High Courts Act in 1861 was the first major step in imparting justice to the people. Under the Indian High Courts Act, 1961, High Courts were established in some of the States.<sup>29</sup> These High Courts were empowered to decide all civil and criminal cases of civil servants. All the cases of serving personnel relating to different fields like labour, industry, income tax, railway and transport and commercial transaction fell within the overall jurisdiction of High Courts.

It was in the subsequent years that a thought was given to take some specialised matters out of the jurisdiction of the court to confer on tribunals. As a result, a number of tribunals were established in the Subcontinent under the British rule,<sup>30</sup> of which the Railway Rates Tribunal, Motor Accident Claim Tribunal and

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<sup>28</sup> With the passing of the Government of India Act in 1858, the Government of India was transferred from the East India Company to the British Crown.

<sup>29</sup> On the basis of the authority given by the Indian High Courts Act of 1861, the Crown issued Letters Patent dated 14 May 1862, establishing the High Court of Judicature at Calcutta. The Letters Patent establishing the High Courts at Bombay and Madras were issued on 26 June 1862. As the Letters Patent of 1862 were found defective in certain respects, fresh Letters Patent were granted in 1865 that revoked the earlier Letters Patent. They were identical in terms, and defined the jurisdiction and powers of the three Presidency High Courts.

<sup>30</sup> The British rule in the Subcontinent was ended in August 1947.



Commissioner for Workmen's Compensation are noteworthy and important.<sup>31</sup>

The enactment of the Indian Independence Act in 1947 constitutionally ended about two hundred years' British rule in the Subcontinent in August 1947. As a result, two independent States, India and Pakistan came into existence in the geographical as well as political map of the world on 15 and 14 August, 1947, respectively. Since then the process of development of tribunals continued under two separate legal systems of India and Pakistan. As such, an attempt is made in this part to examine the origin and development of Administrative Tribunals under both the Indian Legal System and Pakistan Legal System.

#### **i) Under the Indian Legal System**

In the post-independence era, some new tribunals have been established in India. Among the tribunals established, the Industrial Tribunal, the Copyright Board, the Rent Control Tribunal and the Income Tax Appellate Tribunal are of vital importance.<sup>32</sup>

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<sup>31</sup> The Railways Act, 1890; and the Motor Vehicle Act, 1939; and the Workmen's Compensation Act, 1923, established the tribunals concerned.

<sup>32</sup> The Industrial Disputes Act, 1947; the Copyright Act, 1951; the Delhi Rent Control Act, 1958; and the Income Tax Act, 1961, have established the tribunals concerned.

A new phase of development of tribunal system began in India with the passing of its Constitution (42<sup>nd</sup> Amendment) Act, 1976. The Act, for the first time in the history of India, paved the way for the establishment of Administrative Tribunals to deal with disputes relating to service matters of civil servants.

### **Administrative Tribunal in India: New Phase of Development**

In 1976, the Indian Parliament passed the Constitution (42<sup>nd</sup> Amendment) Act, 1976. The Act inserted a new Article 323A in the Constitution empowering the Parliament to establish by law Administrative Tribunals to deal with disputes relating to service matters of civil servants.<sup>33</sup> Accordingly, the Indian Parliament, in pursuance of Article 323A, enacted the Administrative Tribunals Act, 1985. The Act came into force on 01 July 1985, and an Administrative Tribunal was established on 01 November 1985<sup>34</sup> with its benches in different parts of the country.

### **ii) Under the Pakistan Legal System**

After the establishment of Pakistan in 1947, statutes have established many new tribunals.<sup>35</sup> These are, among others, Labour

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<sup>33</sup> Art. 323 A(1), *the Constitution of India* (1949).

<sup>34</sup> Basu, Durga Das : *Administrative Law*, (1998) 636.

<sup>35</sup> By virtue of the Indian Independence Act, 1947, Pakistan, consisting of East Pakistan (now Bangladesh) and West Pakistan (now Pakistan) came into existence on 14 August, 1947, as an independent State.

Court and Labour Appellate Tribunal established under the Industrial Relations Ordinance; Railway Rates Tribunal established under the Pakistan Railways Act; Election Tribunals established under the Representation of People Act; Mines Tribunal established under the Pakistan Mines Act; and the Rent Controller appointed under the Rent Restriction Ordinance.

Most of the tribunals established in Pakistan normally consist of a Chairperson (legally trained) and two other non-legally qualified people, who have some particular expertise in the particular field over which the tribunal has jurisdiction. For example, Labour Court, established in Pakistan under the Industrial Relations Ordinance, 1969,<sup>36</sup> consists of a Chairman and two members to advise the Chairman. It resolves, among others, industrial disputes and disputes arising out of employment of labour. Against an award given by a Labour Court, an appeal may be taken to the Labour Appellate Tribunal for decision.

In Pakistan, a new phase of development of tribunal system began in 1972. For, the 1972 Interim Constitution of Pakistan, for the first time in the history of Pakistan as well as of the Subcontinent, provided provisions for the establishment of

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<sup>36</sup> Sec. 35, the Industrial Relations Ordinance, 1969.

Administrative Tribunals to deal with disputes relating to service matters of civil servants. The Interim Constitution of 1972, thus, paved the way for a new phase of development of Administrative Tribunals in Pakistan.

### **Administrative Tribunal in Pakistan : New Phase of Development**

In legal sphere, neither the 1956-Constitution nor the 1962-Constitution of Pakistan contained any provision for the establishment of Administrative Tribunals pertaining to service matters of civil servants. For the first time, as mentioned earlier, Article 216 of the Pakistan Interim Constitution, 1972, contained provisions for the establishment of Administrative Tribunals to resolve disputes concerning service matters of civil servants. Subsequently, the new Constitution of Pakistan, came into force on 12 April 1973, provided in Article 212 for the establishment of Administrative Courts or Tribunals to exercise exclusive jurisdiction in respect of matters relating to the terms and conditions of services of civil servants; claims arising from tortious acts of Government, or its servants while acting in exercise of their duties, or of any local or other authorities empowered to levy any tax or cess; or the acquisition, administration and disposal of enemy property under any law.

In pursuance of the provisions of Article 212 of the Constitution, the Service Tribunals Act, 1973, was enacted in Pakistan on 26 September, 1973, to provide for the establishment of Administrative Tribunals to exercise jurisdiction only in respect of matters relating to the terms and conditions of service of civil servants and for matters connected therewith or ancillary thereto.<sup>37</sup> Accordingly, under Section 3(1) of the Service Tribunals Act, 1973, the Government of Pakistan by notification in the official Gazette established an Administrative Tribunal (statutorily called Service Tribunal) in the same year 1973.

It may be recalled here that the British left the Subcontinent in 1947 giving independence to British India by dividing it into two independent States, India and Pakistan. Pakistan consisting of West Pakistan (presently Pakistan) and East Pakistan (since 1971 Bangladesh) existed together up to 1971, when independence of Bangladesh was declared on 26 March 1971 and Bangladesh emerged as an independent State on 16 December 1971. An attempt is, therefore, made hereunder to examine the origin and development of Administrative Tribunals in Bangladesh under its legal system since independence.

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<sup>37</sup> For detail see *supra* at 5-7.

### iii) Under the Bangladesh Legal System

Apart from the tribunals inherited from Pakistan,<sup>38</sup> important tribunals e.g. Commissioner of Taxes and Taxes Appellate Tribunal<sup>39</sup> have been established in Bangladesh since its independence. It should be mentioned here that during long past times, disputes arising out of the administrative actions both in the public and private sectors had been subjects of judicial review in the courts of law. The courts with the growth of population and socio-economic complexities had been crowded with influx of cases of various natures. The volume of cases on the administrative sides also increased with considerable dimension occupying great chunk of court's time to deal with such cases. The result was that there was inordinate delay in the disposal of cases, which adversely reflected on the efficiency and sound functioning of the administration. Taking into account of these realities, the framers of the 1972 Constitution of Bangladesh included in it for the first time provisions concerning the establishment of Administrative Tribunals for the purpose of

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<sup>38</sup> The Laws Continuance Enforcement Order, 1971, which was made effective from 26 March 1971, legalised all the tribunals inherited from Pakistan subject to the Proclamation of Independence, 1971. According to this Order, no tribunals would be valid if they were inconsistent with the consequential changes as would be necessary on account of the creation of Bangladesh as a sovereign State.

<sup>39</sup> The Income Tax Ordinance, 1984, has established these tribunals.

ensuring speedy and efficacious disposal of cases relating to service matters, by ousting the jurisdiction of the ordinary courts in respect of such matters.

### **Administrative Tribunal in Bangladesh : New Phase of Development**

A new phase of development of tribunal system began in Bangladesh with the adoption of its new Constitution in November 1972. The Constitution in its Article 117 provides that the Parliament may, by law, establish one or more Administrative Tribunals to deal with disputes relating to, among others, service matters of civil servants. In pursuance of the provisions of Article 117 of the Constitution, the Bangladesh Parliament enacted the Administrative Tribunals Act, 1980 in 1981 (Act No. VII of 1981).<sup>40</sup> The Government, in exercise of the powers conferred by Sub-section (1) of Section 3 of the Act, for the first time in the history of Bangladesh, established an Administrative Tribunal at Dhaka on 01 February 1982, to resolve disputes merely relating to service matter of civil servants. The number of Administrative Tribunal has gradually been increased to seven,<sup>41</sup> which cover the whole country.

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<sup>40</sup> See *supra* note 22 at 8.

<sup>41</sup> For detail see at 104-105 *infra*.

### III. Conclusions

In the Subcontinent, the service laws have grown alongside with the common law system. These laws are largely based on, and influenced by the English concept. Besides, the development of Administrative laws as well as Administrative Tribunals in the Subcontinent have also been influenced to a great deal by the French *Droit Administratif* with *Conseil d' Etat* and *Tribunaux Administratif* having separate hierarchy to settle all administrative claims and disputes independent of any interference by judicial review by the ordinary court of law.

Before certain rules and regulations governing the terms and conditions of the service came into being during the British Rule in India, the relationship between the employer and the employee was that of master and servant largely based on contractual obligations. With the passage of time and advent of democratic pattern of life, service rules in respect of government servants and Labour & Industrial Laws in respect of private and industrial sectors were formulated from time to time. Rules providing for enquiries by domestic tribunals in disciplinary matters were also made. Labour Courts were established for adjudicating disputes relating to the terms and conditions of service in the private and industrial sectors.



For the purpose of ensuring speedy and efficacious disposal of cases relating to service matters, provisions for the establishment of Administrative Tribunals were finally made in the Constitutions of the countries in the Subcontinent by ousting the jurisdiction of the ordinary courts in such matters.

Indeed, in respect of the specific matter of movement from courts to tribunals in the common law countries, Pakistan, India and Bangladesh made the most radical move in the field of service laws. Pakistan took the lead by providing for the establishment of tribunals for civil servants under Article 216 of the Interim Constitution of 1972, followed by Article 212 of the Constitution of 1973. Similar provisions were incorporated in Article 117 of the Constitution of Bangladesh 1972. India added Article 323A to its 1949 Constitution through Forty-Two Constitutional Amendment in 1976. Pakistan was the first country in the Subcontinent to pass federal and provincial laws establishing Service Tribunals for civil servants in the years 1973 and 1974. Bangladesh passed such a law in the year 1981 and India waited until 1985 to pass law providing for the establishment of Administrative Tribunals to deal with the disputes concerning the terms and conditions of service of civil servants.<sup>42</sup>

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<sup>42</sup> For detail see at 38-44 ante.

Today the bulk of the decisions relating to service matters come not from the ordinary courts of law but from the Administrative Tribunals. Service matters are specialised matters and need persons having required legal or technical qualifications to decide them. It was perhaps these complexities that led the legislatures of modern times to make specific provisions for settling disputes and complaints with respect to public services by Administrative Tribunals.

In Bangladesh perspective, a large number of cases pertaining to public service matters are now being resolved by Administrative Tribunals. Consequently, this institution convincingly occupies an important position in the existing legal system of Bangladesh. Accordingly, an attempt is made in the next Chapter<sup>43</sup> to examine the provisions concerning Administrative Tribunals in Bangladesh.

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<sup>43</sup> For comprehensive examination and evaluation, this chapter in each of its contents also includes a comparative study, where necessary and expedient, of the measures provided by the laws of India, Pakistan, France and Germany.

## CHAPTER THREE

### PROVISIONS CONCERNING ADMINISTRATIVE TRIBUNALS IN BANGLADESH

In pursuance of the provisions of Article 117<sup>1</sup> of the Constitution of the People's Republic of Bangladesh, adopted by the Bangladesh Constituent Assembly on 04 November, 1972, and came into force on 16 December, 1972, the Bangladesh Parliament enacted the Administrative Tribunals Act in 1981. This Act, which came into force on 01 February 1982,<sup>2</sup> provides for the establishment of Administrative Tribunals. Detailed provisions concerning the composition, jurisdiction and procedure of the Administrative

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<sup>1</sup> Art. 117 of the Bangladesh Constitution provides-

- (1) Notwithstanding anything hereinbefore contained, Parliament may by law establish one or more administrative tribunals to exercise jurisdiction in respect of matters relating to or arising out of -
  - (a) the terms and conditions of persons in the service of the Republic, including the matters provided for in Part IX and the award of penalties or punishments;
  - (b) the acquisition, administration, management and disposal of any property vested in or managed by the Government by or under any law, including the operation and management of, and service in any nationalised enterprise or statutory public authority;
  - (c) any law to which clause (3) of article 102 applies.
- (2) Where any administrative tribunal is established under this article, no court shall entertain any proceedings or make any order in respect of any matter falling within the jurisdiction of such tribunal:  
Provided that Parliament may, by law, provide for appeals from, or the review of, decisions of any such tribunal.

<sup>2</sup> Vide Notification No. S.R.O. 30 - L/82/JIV/1T - 3/81, Dhaka, 12 January 1982.

Tribunals have been laid down in the Act. The Act also contains provisions for appeal against the decisions of the Administrative Tribunals. Relevant Rules, the Administrative Tribunals Rules, 1982, the Officers and Staff (Administrative Tribunal) Recruitment Rules, 1985, and the Officers and Staff (Administrative Appellate Tribunal) Recruitment Rules, 1985, have been adopted by the Government under the provisions of Section 12(1)<sup>3</sup> of the Administrative Tribunals Act, 1980 (Act No. VII of 1981) in order to supplement the provisions of the Act so that smooth functioning and fulfillment of the objectives of the establishment of Administrative Tribunals in Bangladesh can be ensured.

### . **Composition of Administrative Tribunals**

Provisions concerning the composition of Administrative Tribunals in Bangladesh have been laid down in Section 3(3) of the Administrative Tribunals Act, 1980. Making Administrative Tribunal a single member tribunal, this Section runs thus:

An Administrative Tribunal shall consist of one member who shall be appointed by the Government from among persons who are or have been District Judges.

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<sup>3</sup> Sec. 12 (1) of the Administrative Tribunals Act, 1980, provides - "The Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act".

Thus unlike the Administrative Tribunal (statutorily called Service Tribunal) of Pakistan, which is consisted of a Chairman and such member or members not exceeding three as the President may from time to time appoint,<sup>4</sup> and the Administrative Tribunal of India, which is consisted of a Chairman and such number of Vice-Chairman and Judicial and Administrative Members as the Government may deem fit,<sup>5</sup> the Administrative Tribunal in Bangladesh is a single member tribunal.

Furthermore, unlike the Service Tribunal of Pakistan or the Administrative Tribunal of India, the Administrative Tribunal in Bangladesh has no benches to perform its functions in an effective and fair manner. With regard to the working of Service Tribunal by Benches in Pakistan, initially there was no provision in the Service Tribunals Act, 1973. In 1978, a new Section, 3A, was added to the Act to ensure fair, smooth and effective functioning of the Service

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<sup>4</sup> As regards composition of Administrative Tribunal in Pakistan, sec. 3 (3) of the Service Tribunals Act, 1973, provides - "A Tribunal shall consist of- (a) a Chairman, being a person who is, or has been, or is qualified to be, judge of a High Court; and (b) such member or members not exceeding three, each of whom is a person who possesses such qualifications as may be prescribed by rules, as the President may from time to time appoint".

<sup>5</sup> Concerning composition of Administrative Tribunal in India, sec. 5 (1) of the Administrative Tribunals Act, 1985, provides that "Each Tribunal shall consist of a Chairman and such number of Vice-Chairman and Judicial and Administrative Members as the appropriate Government may deem fit and, . . .".

Tribunal by Benches consisting of not less than two members.<sup>6</sup> Like the Service Tribunal of Pakistan, the Administrative Tribunal of India has also Benches consisting of one Judicial Member and one Administrative Member<sup>7</sup> to dispose of cases in an efficient manner.

### . **Qualifications of the Members of Administrative Tribunals**

As regards basic qualifications of the members of the Administrative Tribunals in Bangladesh, sub-section (3) of Section 3 of the Administrative Tribunals Act, 1980, provides that the Government can appoint as the member of the Administrative Tribunal only a person who is or has been a District Judge.

Thus, the Administrative Tribunal is composed of a District Judge who is the head of the Judiciary at the district level having, indeed, at least 15 years experience in the judicial service<sup>8</sup>

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<sup>6</sup> Sec. 3A was inserted in the Service Tribunals Act, 1973, by the Service Tribunals (Amendment) Ordinance, 1978. It provides that "The powers and functions of a Tribunal may be exercised or performed by Benches consisting of not less than two members of the Tribunal, including the Chairman, constituted by the Chairman".

<sup>7</sup> Sec. 5(2) of the Administrative Tribunals Act, 1985, provides that "Subject to the other provisions of this Act, a Bench shall consist of one Judicial Member and one Administrative Member".

<sup>8</sup> In judicial sphere, a District Judge in Bangladesh belongs to a cadre service known as Judicial Service. At the very beginning, he starts his service carrier as an Assistant Judge. Normally, a few years later, he is promoted to service as Senior Assistant Judge. From the post of Senior Assistant Judge, promotion lies to the post of Joint District Judge. Thereafter, from the post of Joint District Judge, promotion lies to the post of Additional District Judge. A District Judge is appointed from the Additional District Judges. See the Civil Courts Act, 1887.

and, as such, is expected to resolve relevant disputes in a satisfactory manner. But, it is noticeable that whereas the Administrative Tribunal of Bangladesh is composed of a District Judge alone, the Chairman of the Service Tribunal of Pakistan is to be appointed from among the persons who are or have been judges of High Courts or are qualified to be judges of High Courts although the qualifications of other members (not exceeding three) have not been determined by the relevant Act.<sup>9</sup> Like Pakistan, the Chairman of the Administrative Tribunal of India is required for being appointed from among the persons who is, or has been, a judge of a High Court. But in case of Indian Administrative Tribunal, the Vice-Chairman<sup>10</sup> of the Tribunal, who has held that office for at least two years, can also be appointed as the Chairman of the Tribunal. Unlike Pakistan, in India the Judicial Member of the Administrative Tribunal is required to be a person who is, or has been, or is qualified to be, a judge of a High

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<sup>9</sup> Unlike the Chairman, for the members of the Service Tribunal of Pakistan there exist no prescribed basic qualifications in the Service Tribunals Act, 1973. This issue has been left in the hands of the President. See sec. 3 (3) of the Service Tribunals Act, 1973, referred to at 50 ante.

<sup>10</sup> Regarding qualifications for appointment as Vice-Chairman, sec. 6(2) of the Administrative Tribunals Act, 1985, provides that a person shall not be qualified for appointment as the Vice-Chairman unless he - (a) is, or has been, or is qualified to be a judge of a High Court; or (b) has, for at least two years, held the post of a Secretary to the Government of India or any other post under the Central or a State Government carrying a scale of pay which is not less than that of a Secretary to the Government of India; or (bb) has, for at least five years, held the post of an Additional Secretary to the Government of India or any other post under the Central or a State Government carrying a scale of pay which is not less than that of an Additional Secretary to the Government of India; or (c) has, for a period of not less than three years, held office as a Judicial Member or an Administrative Member.

Court; or has been a member of the Indian Legal Service and has held a post in Grade I of that Service for at least three years.<sup>11</sup> The Administrative Member of the Tribunal is to be a person who has, for at least two years, held the post of an Additional Secretary to the Government of India or any other post under the Central or a State Government carrying a scale of pay which is not less than that of an Additional Secretary to the Government of India; or has, for at least three years, held the post of a Joint Secretary to the Government of India.<sup>12</sup>

Although, unlike India and Pakistan, there is no provision in Bangladesh to appoint a person who is, or has been, a judge of the High Court Division of the Supreme Court as the member of the Administrative Tribunal. Only a District Judge can be appointed as the member of the Administrative Tribunal who is, indeed, qualified to be a judge of the Bangladesh Supreme Court<sup>13</sup> comprising the High Court Division and the Appellate Division. But, it should be stressed here that if the Vice- Chairman of the Administrative Tribunal in India is appointed as its Chairman then, like a judge of the High Court, also a carrier civil servant in the rank

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<sup>11</sup> See sec. 6 (3), the Administrative Tribunals Act, 1985.

<sup>12</sup> See sec. 6 (3A), *ibid.*

<sup>13</sup> As per Art. 95 (2) (b) of the Bangladesh Constitution, a person shall be qualified for appointment as a judge of the Bangladesh Supreme Court if he/she has, for not less than 10 years, held judicial office in the territory of Bangladesh.



of Secretary or Additional Secretary becomes eligible to be appointed as the Chairman of the Administrative Tribunal in India. So is the case in Pakistan where a civil servant having no academic legal qualification can be appointed as a judge of the High Court<sup>14</sup> and, as such, shall be eligible to be the Chairman of the Service Tribunal. In Bangladesh, only a judicial officer having legal qualification can only be appointed to the single member Administrative Tribunal.

### **III. Terms and Conditions of Office of the Members of Administrative Tribunals**

The provisions concerning the terms and conditions of office of the member of Administrative Tribunal in Bangladesh have been laid down in Section 3 (4) of the Administrative Tribunals Act, 1980, which provides that a member of an Administrative Tribunal shall hold office on such terms and conditions as the Government may determine.

Thus, the Government has been empowered to determine the terms and conditions of the member of the Administrative Tribunal who happens to be a District judge. This

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<sup>14</sup> Art. 193 (2) (b) of the Pakistan Constitution (1973) has provided for not less than 10 years' period for civil servants for being eligible for consideration for appointment as a Judge of the High Court and out of the above 10 years, it has been provided that for a period of not less than three years, he must have served as or exercised the functions of a District Judge in Pakistan. 1998 SCMR 2190 = PLJ 1999 SC 2425.

provision is contrary to personal independence of the judges, which means that judges are not dependent on Governments in any ways that might influence them in coming to decisions in individual cases.<sup>15</sup> However, the Government of Bangladesh, in pursuance of the provisions of Section 3(4) of the Administrative Tribunals Act, 1980, has not yet formulated and adopted any separate Rules concerning the terms and conditions of the members of Administrative Tribunals and, as such, they are being regulated by the Government Rules, framed under Article 133<sup>16</sup> of the 1972-Constitution, applicable to persons in the service of the Republic (the service of the Republic has been defined in Article 152 (1) of the 1972-Constitution to mean any service, post or office whether in a civil or military capacity, in respect of the Government of Bangladesh, and any other service declared by law to be a service of the Republic). In this regard, the observations made by Justice Mustafa Kamal (CJ) in Secretary, Ministry of Finance Vs. Masdar Hossain<sup>17</sup> are worthy of note :

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<sup>15</sup> See Griffith, J.A.G. : *The Politics of the Judiciary*, (1977) 29. Quoted in Bari, M. Ershadul: *Importance of an Independent Judiciary in a Democratic State*, published in the Dhaka University Studies part-F (a yearly journal of the Faculty of Law) IV No.1, (June 1993) 2.

<sup>16</sup> Art. 133 provides that "Subject to the provisions of this Constitution Parliament may by law regulate the appointment and conditions of service of persons in the service of the Republic: Provided that it shall be competent for the President to make rules regulating the appointment and the conditions of service of such persons until provision in that behalf is made by or under any law, and rules so made shall have effect subject to the provisions of any such law."

<sup>17</sup> 52 D.L.R (2000) AD 86.

Judicial service is recognized and treated separately in Articles 115<sup>18</sup>, 116 and 116A (Part VI) of the Constitution and cannot be part of the civil, administrative or executive service of the country. The definition of the 'service of the Republic' in Article 152 (1) of the Constitution is broad and includes defence and judicial services, but that does not mean that judicial service or defence service is a part of the civil or administrative service. Article 133 (Part IX) cannot be invoked for the judicial officers, as there are separate provisions for them in Articles 115 and 116 (Part VI) of the Constitution. Judicial officers are not persons in the service of the Republic for the purpose of Article 133 and hence the Rules regarding their appointment and conditions of service cannot be framed under Article 133 (Part IX). . . . . As the defence service is under Part IV, so is judicial service under Part VI. In such a situation, the defence service has been correctly organised by separate Acts and Rules and in a similar way the judicial service shall have to be organised in accordance with the provisions of Part VI and the enactment and rules made thereunder.

It is noticeable that for the members of the judicial service and magistrates exercising judicial functions, the Non-party Care-taker Government has adopted appropriate Rules<sup>19</sup> in 2007 in

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<sup>18</sup> Art. 115 says that "Appointments of persons to offices in the judicial service or as magistrates exercising judicial functions shall be made by the President in accordance with rules made by him in that behalf."

<sup>19</sup> These are the Bangladesh Judicial Service Commission Rules, 2007; the Bangladesh Judicial Service (Pay Commission) Rules, 2007; the Bangladesh Judicial Service (Constitution of Service, Appointment to Service, Suspension, Dismissal and Removal) Rules, 2007; and the Bangladesh Judicial Service (Posting, Promotion, Grant of Leave, Control, Discipline and Other Conditions of Service) Rules, 2007.

accordance with the guidelines given by the Appellate Division of the Bangladesh Supreme Court in the aforesaid case.

Like the Chairman and members<sup>20</sup> of the Service Tribunal of Pakistan, the members of the Administrative Tribunals in Bangladesh hold office on such terms and conditions as the Government may determine and the law does not provide for any security of tenure of the members. In France, the members of *Conseil d'Etat* and in Germany, professional judges are appointed for life and cannot be arbitrarily removed. These two are the most important factors that have made French and German Administrative Courts judicial bodies of repute, which inspire confidence.<sup>21</sup> In order to make members of the Administrative Tribunals feel secure enough to dispense justice freely, it is essential that they should have a term of office fixed for a number of years or until a certain date of retirement. In the circumstances, the security of tenure of the members of Administrative Tribunals in Bangladesh appears to be unsatisfactory and contrary to their personal independence.<sup>22</sup>

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<sup>20</sup> See sec. 3 (4) of the Service Tribunals Act, 1973. This section provides that "The Chairman and members of a Tribunal shall be appointed by the President on such terms and conditions as he may determine."

<sup>21</sup> Rashid, Pirzada Mamoon : *Manual of Administrative Laws*, (1998) 53-54.

<sup>22</sup> In respect of personal independence of the judges, the International Bar Association says that it means that the terms and conditions of judicial service are adequately secured so as to ensure that individual judges are not subject to executive control. See Halim, Md. Abdul: *Constitution, Constitutional Law and Politics: Bangladesh Perspective*, (1998) 300.

#### **IV. Pay and Allowances of the Members of Administrative Tribunals**

There is no denying the fact that the pay and allowances are important factors that have direct bearing on the standard of living of a person employed in any institution. As such, all those persons who hold judicial posts in the service of the Republic should be given handsome pay and other privileges in order to enable them to lead a reasonably good standard of living. Although a member of the Administrative Tribunal in Bangladesh is given pay in the scale of 16800-650 × 6 – 20700<sup>23</sup> as well as medical facilities, vehicles and other incidental benefits, there exists no earmarked residence for him. As a result, the house rent allowance given does not enable him, particularly in a Metropolitan area, to obtain a suitable private accommodation to live in.

#### **V. Jurisdiction of Administrative Tribunals**

It may be recalled here that the Constitution of Bangladesh in Article 117<sup>24</sup> empowers the Parliament to enact law providing for the establishment of Administrative Tribunals to exercise jurisdiction in respect of matters relating to the terms and

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<sup>23</sup> According to the National Pay Scale, 2005, this is the 3<sup>rd</sup> highest scale. The first highest scale is Tk. 23,000/- fixed and the lowest scale is 2400-100×7-3100-EB-110×11-4310. See S.R.O. No. 119-L/2005/OM/OB(Impl.-1)/J.B.S.-1/2005/73.

<sup>24</sup> *Supra* at 48.

conditions of persons in the service of the Republic; the acquisition, administration, management and disposal of any property vested in or managed by the Government and service in any nationalised enterprise or statutory public authority; and any law mentioned in the First Schedule to the Constitution. But the Administrative Tribunals Act, 1980, passed by the Parliament in 1981, has confined the jurisdiction of the Administrative Tribunals merely to deal with disputes relating to the terms and conditions of persons in the service of the Republic and, as such, it precluded the Administrative Tribunals from exercising jurisdiction in respect of matters relating to or arising out of the terms and conditions of any person in the service of any nationalized enterprise or statutory public authority; the acquisition, administration, management and disposal of any property vested in or managed by the Government; and any law mentioned in the First Schedule to the Constitution. As Section 4 of the Act provides that -

- (1) An Administrative Tribunal shall have exclusive jurisdiction to hear and determine applications made by any person in the service of the Republic in respect of the terms and conditions of his service including pension rights, or in respect of any action taken in relation to him as a person in the service of the Republic.
- (2) A person in the service of the Republic may make an application to an Administrative Tribunal under sub-section

- (1), if he is aggrieved by any order or decision in respect of the terms and conditions of his service including pension rights or by any action taken in relation to him as a person in the service of the Republic. . . . .
- (3) In this section "person in the service of the Republic" includes a person who is or has retired or is dismissed, removed or discharged from such service but does not include a person in the defence services of Bangladesh.

Thus, the Administrative Tribunal has been given exclusive jurisdiction to decide disputes relating to service matters of merely Government servants. This led the High Court Division of the Bangladesh Supreme Court to observe in the case of Md. Habibur Rahman Vs. A G, Works and WAPDA<sup>25</sup>:

Administrative Tribunal has exclusive jurisdiction in service matter of Government servants, and civil courts have no jurisdiction in the matter.

The Administrative Tribunal exercised exclusive jurisdiction to deal with the matters relating to the terms and conditions of persons in the service of the Republic until September, 1984 when the Administrative Tribunals (Amendment) Ordinance promulgated<sup>26</sup> extended the jurisdiction of the tribunal to hear and

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<sup>25</sup> 1987 BLD 44.

<sup>26</sup> Ordinance No. LX of 1984, published in the Bangladesh Gazette 25 September 1984.

determine disputes relating to the terms and conditions of persons in the service of the statutory public authorities. The Administrative Tribunals (Amendment) Ordinance, 1984, inserted in Section 2 of the original Act the definition of statutory public authority<sup>27</sup> meaning an authority, corporation or body specified in the Schedule added for the first time to the Act. It is pertinent to mention here that the newly added Schedule did not incorporate into it all the statutory public authorities obtaining in Bangladesh.

Initially only 11 financial institutions were included<sup>28</sup> in the Schedule. But, about four years later, on 18 April 1988, the Rupali Bank was excluded<sup>29</sup> from the Schedule by the Administrative Tribunal (Amendment) Ordinance, 1988 (Ordinance No. 20 of 1988) perhaps taking into account that it had been privatized. Thus, presently persons in the service of the (11-1=) 10 financial

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<sup>27</sup> See sec. 2 (aa), the Administrative Tribunals Act, 1980.

<sup>28</sup> With regard to the pending suits, cases and appeals in courts relating to such statutory public authorities at the time of this amendment, the provisions of sec. 13 were applicable in the same manner as were in the cases of the persons in the service of the Republic at the commencement of the Act. Sec. 13 of the Administrative Tribunals Act, 1980, provides that all suits, cases, applications and appeals relating to any matter in respect of which a Tribunal has jurisdiction pending, immediately before the commencement of this Act, before any Court shall be tried, heard and disposed of by such Courts, as if this Act had not come into force.

<sup>29</sup> The pending cases relating to the persons of the service of the Rupali Bank were to be returned for presentation in the proper courts on the ousting of the jurisdiction of the Tribunals on the commencement of the Ordinance No. 20 of 1988.



institutions<sup>30</sup> are amenable to the jurisdiction of the Administrative Tribunals of Bangladesh. It is noticeable that the Administrative Tribunals have not been given the authority to hear and determine disputes concerning terms and conditions of service of the persons who are in the service of the private financial institutions. Furthermore, the persons serving in some other statutory public authorities<sup>31</sup>, which are not financial institutions, have been excluded from the jurisdiction of the Administrative Tribunals to have their cases decided concerning the terms and conditions of service.

Thus, discrimination is being made between the persons serving in statutory public authorities, which are financial institutions and other statutory public authorities that are not financial institutions. For, whereas the persons serving in the former institutions shall have their disputes concerning terms and conditions of service resolved by the Administrative Tribunal, the persons serving in the latter institutions shall have their cases relating to the terms and conditions of service decided by the regular civil courts of law. As a result, a litigant in the service of the statutory public

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<sup>30</sup> These are- Sonali Bank, Agrani Bank, Janata Bank, Bangladesh Bank, Bangladesh Shilpa Bank, Bangladesh Shilpa Rin Sangstha, Bangladesh House Building Finance Corporation, Bangladesh Krishi Bank, Investment Corporation of Bangladesh and Grameen Bank.

<sup>31</sup> These are, among others, Bangladesh Water Development Board, Bangladesh Power Development Board, Bangladesh Inland Water Transport Authorities and Bangladesh Rural Development Board.

authority (which is a financial institution) can only prefer an appeal as to the correctness of the decision of the Administrative Tribunal to the Administrative Appellate Tribunal and, as such, is deprived of the others remedies, such as review in the same forum of justice and revision in the court of Additional District Judge or District Judge or the High Court Division of the Bangladesh Supreme Court as the case may be. But, litigants who are in the service of the other statutory public authorities (which are not financial institutions), e.g. Bangladesh Power Development Board, shall have the advantage of so many remedies (appeal, revision and review) against the decision of the civil court of the first instance if he is aggrieved with the decision of such a court. Furthermore, he can prefer a reference on a point of law to the High Court Division of the Bangladesh Supreme Court so as to obtain fair justice.

It is not clear as to the rationale of vesting the Administrative Tribunal with the authority to deal with the persons serving in the statutory public authorities (which are financial institutions) and excluding from its jurisdiction the persons serving in other statutory public authorities although Article 117 of the Constitution does not recognize any such distinction; the very general expression of statutory public authority has been mentioned in the Article.

It should be mentioned here that the original Administrative Tribunals Act, 1980, which defined the expression 'person in the service of the Republic' in Section 4(3),<sup>32</sup> did not include in it a person in the defence services of Bangladesh. Although the Administrative Tribunal was excluded under the original Act to deal with the dispute of a person in the defence services of Bangladesh concerning his terms and conditions of service, the Tribunal's jurisdiction to resolve disputes regarding the terms and conditions of service of the civilian employees in defence services was not barred. As it was held in Md. Ishaquddin Ahmed Vs. Comandant, School of Armour and Center, Bogra Cantonment, Bogra and others<sup>33</sup> that for legal remedies in service matters, civilian employees in defence services can well invoke the jurisdiction of the Administrative Tribunal. In Serajul Islam Thakur Vs. Bangladesh,<sup>34</sup> it was held more clearly that civilian employees in the defence services not being member of any of the defence services are holders of civil posts who now have to move the Administrative Tribunal for redress of their grievances and cannot move the High Court Division of the Bangladesh Supreme Court in writ jurisdiction.

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<sup>32</sup> Supra at 60.

<sup>33</sup> 51 DLR (AD) 144.

<sup>34</sup> 46 DLR 318.

It is noticeable that Section 4 (3) of the original Administrative Tribunals Act did not include in the expression of "person in the service of the Republic" a person in the Bangladesh defence services and as such, the dispute relating to service of a person in the Bangladesh Rifles,<sup>35</sup> which is a para-military force not under the Defence Ministry but under the Home Ministry of Bangladesh, could be resolved by the Administrative Tribunal.

But, only six months after the coming into effect of the Administrative Tribunals Act and of the establishment of the Administrative Tribunal on 01.02.1982, the Martial Law Administration (Martial Law was proclaimed throughout Bangladesh for the 2<sup>nd</sup> time in its history on 24 March, 1982) amended the provision of Section 4 (3) of the Act by the Administrative Tribunals (Amendment) Ordinance, 1982. It was provided that "person in the service of the Republic" should not include also a person in the service of the Bangladesh Rifles. Thus, a person in the defence services or of the Bangladesh Rifles was excluded from the jurisdiction of the Administrative Tribunal to deal with the case relating to the terms and conditions of service. It is curious to note

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<sup>35</sup> Art. 08 of the Bangladesh Rifles Order, 1972, provides that "the force shall be employed for the purpose of the following services namely:- (a) border protection; (b) anti-smuggling work; and (c) any other task as the Government may direct."

that the said amendment was given retrospective effect in a casual and cavalier manner. For, the amending Ordinance was given retrospective effect to 01 February 1981, which is exactly one year before the Administrative Tribunals Act itself come into force. Furthermore, the amendment was given into effect even six months before the Administrative Tribunals Bill received the assent of the Head of the State (the President gave his assent to the Bill on 05.06.1981) to become an Act of the Parliament. Nevertheless, these, from legal point of view, show that both the Administrative Tribunal and the Administrative Tribunals Act, 1980, were never applicable to the Bangladesh Rifles.

It is noticeable that as per Article 102(5)<sup>36</sup>, a tribunal, to which Article 117 applies, is exempted from the writ jurisdiction of the High Court Division of the Supreme Court. Article 117 (2) of the Bangladesh Constitution also provides that no court has power to entertain any proceeding or make any order against the decisions of the Administrative Tribunals. Thus, the combined effect of Articles 102(5) and 117(2) is that no writ is maintainable against the decision

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<sup>36</sup> Art. 102 (5) of the Bangladesh Constitution provides – “In this article, unless the context otherwise requires, “person” includes a statutory public authority and any court or tribunal, other than a court or tribunal established under a law relating to the defence services of Bangladesh or any disciplined force or a tribunal to which article 117 applies”.

of an Administrative Tribunal. Taking into account this reality, the Appellate Division of the Bangladesh Supreme Court held that a public servant can invoke writ jurisdiction directly for striking down any statute or rules framed thereunder for the enforcement of his fundamental rights, but if he can obtain full relief from the Administrative Tribunal without striking down the statutes or rules then the writ petition would be incompetent.<sup>37</sup>

The case laws show that the Administrative Tribunal has certain limitations. The Tribunal cannot give any relief to a person in the service of the Republic or of any statutory public authority who is aggrieved because of inter-departmental conflict. As in Matiur Rahman (Md) Vs. Bangladesh, through the Secretary, Ministry of Establishment, Government of the People's Republic of Bangladesh & others,<sup>38</sup> the Supreme Court held that if one branch of the department of the Government is not following the lawful order of the hierarchy of the government authority, definitely the person who is aggrieved can come before this Court and pray for direction or declaration to implement or fulfil or obey the lawful order of the Government, which the Administrative Tribunal is not competent to do. In this context, the Appellate Division of the Supreme Court of Bangladesh

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<sup>37</sup> Abul Bashir Vs. Bangladesh & others, 1 BLC (AD) 77.

<sup>38</sup> 50 DLR 357.

held in case of Qazi Nazrul Islam Vs. Bangladesh House Building Finance Corporation<sup>39</sup> that the Administrative Tribunal in Bangladesh “has been established with limited jurisdiction and limited power. The Tribunal gratuitously granting relief acts in excess of its jurisdiction”.

Unlike the Service Tribunal in Pakistan in which appeals are preferred against the decisions or orders of the administrative departments,<sup>40</sup> the Administrative Tribunals in Bangladesh and India have been given original jurisdiction in respect of the cases relating to service matters of civil servants and of other statutory bodies<sup>41</sup>. The jurisdictions of the Administrative Tribunals in India<sup>42</sup> and Bangladesh are confined to judicial review of departmental decisions mainly based on the principles of natural justice, while in Pakistan, the Service Tribunal exercises the jurisdiction of the appellate

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<sup>39</sup> 45 DLR (AD) 106.

<sup>40</sup> As regards appeal to Service Tribunal in Pakistan, sub-section (1) of sec. 4 of the Service Tribunal Act, 1973, provides - “Any civil servant aggrieved by any final order, whether original or appellate, made by a departmental authority in respect of any of the terms and conditions of his service may, within thirty days of the communication of such order to him or within six months of the establishment of the appropriate Tribunal, whichever is later, prefer an appeal to the Tribunal”.

<sup>41</sup> See sec. 4, the Administrative Tribunals Act, 1980 (Bangladesh) and sec. 14, the Administrative Tribunals Act, 1985 (India).

<sup>42</sup> The detailed provisions relating to the jurisdiction of Administrative Tribunal in India are contained, among others, in section 14 of the Administrative Tribunals Act, 1985. Especially secs. 14 (1) and 14(3), which are very large and elaborate, vest complete jurisdiction in the Administrative Tribunal over service matters of civil servants.

authority. But there are wide differences between the Administrative Tribunals in Bangladesh and India both in points of status and jurisdiction. Unlike the Administrative Tribunal of India, which can decide the constitutionality of any rules or order relating to the terms and conditions of service, the Administrative Tribunal in Bangladesh has not been given such a power in the Administrative Tribunals Act, 1980. As the Appellate Division of the Bangladesh Supreme Court in Mujibur Rahman Vs. Bangladesh<sup>43</sup> held that the Administrative Tribunal is not exercising the jurisdiction of the High Court Division as its constitutional successor. It is exercising a jurisdiction of its own in its own right (not by taking away of the High Court's pre-existing jurisdiction by a constitutional amendment) as laid down in the original Constitution itself. It does not possess the power of judicial review at all. It cannot decide the constitutionality of any rule or order touching service matters.

**Administrative Tribunal's Power of Punishment  
for Creating Obstruction in the Performance  
of its Functions and for Contempt**

It is expected that any authority or body exercising judicial functions shall have the powers and authority to punish those who interfere with or intend to obstruct the administration of

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<sup>43</sup> 44 DLR (1992) AD 111.



justice in any manner. Otherwise, the judicial authority exercising judicial functions shall not be able to perform its functions in a meaningful and desired manner. Taking into account this reality, the Administrative Tribunals Act has invested the Tribunal,<sup>44</sup> with the power to punish a person who obstructs<sup>45</sup> it in the performance of its functions without any justification. As it has been provided that -

A Tribunal shall have power to punish any person, who without lawful excuse obstructs it in the performance of its functions, with simple imprisonment, which may extend to one month, or with fine, which may extend to five hundreds taka, or with both.<sup>46</sup>

It should be stressed here that like the Service Tribunals Act, 1973 of Pakistan, the original Administrative Tribunals Act, 1980 of Bangladesh did not contain any provision whatsoever concerning the power of the Administrative Tribunal or the Administrative Appellate Tribunal to punish those who tend to scandalise or prejudice its proceedings. Almost 08 years after the enactment of the Administrative Tribunals Act, 1980, it was considered necessary to invest the Administrative Appellate Tribunal with the power to punish for its contempt or for the contempt of the Administrative

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<sup>44</sup> The term 'Tribunal' has been defined in sec. 2(b) of the Administrative Tribunals Act to mean Administrative Tribunal or Administrative Appellate Tribunal

<sup>45</sup> Mere obstruction does not carry any idea of use of force. Nazim Vs. State, AIR 1957 (All) 829.

<sup>46</sup> Sec. 9, the Administrative Tribunals Act, 1980.

Tribunal and as such, Section 10A was added to the original Act by the Administrative Tribunals (Amendment) Ordinance, 1988. The newly inserted Section 10A runs thus:

The Administrative Appellate Tribunal shall have power to punish for contempt of its authority or that of any Administrative Tribunal, as if it were the High Court Division of the Supreme Court.

Thus, it is the Administrative Appellate Tribunal that has been provided with the power to punish for the contempt of its authority as well as that of the Administrative Tribunal. Unlike the Administrative Tribunal in India, which has been empowered under Section 17 of the Administrative Tribunals Act, 1985, to exercise the same power in respect of contempt as that of the High Court, the Administrative Tribunal in Bangladesh has not been given the power to punish for contempt of its authority. Since, the Administrative Tribunals Act, 1980, as amended in 1988 does not contain any procedure to be followed in case of contempt proceedings and no form of punishment has been provided for by the Act, it appears that the Administrative Appellate Tribunal in Bangladesh should follow the relevant provisions of the Contempt of Courts Act, 1926, in dealing with such a contempt case.

## VI. Procedure of Administrative Tribunals

It has already been stated that tribunals are not courts of law and, as such, court procedure does not apply to them. They are not bound to follow the procedure laid down for civil courts unless so provided in the enabling Act. They have their own procedures for performing their functions. Accordingly, the procedure to be followed by the Administrative Tribunal in Bangladesh to resolve disputes pertaining to service matters of civil servants has been laid down in the Administrative Tribunals Act, 1980, and the Administrative Tribunals Rules, 1982.

### Eligibility for Application

In Bangladesh, the right to move an Administrative Tribunal is only available to those persons<sup>47</sup> who are employed in the service of the Republic or of any statutory public authority.<sup>48</sup> But,

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<sup>47</sup> As per sec. 4 (3) of the Administrative Tribunal Act, 1980, "person in the service of the Republic or of any statutory public authority" includes a person who is or has retired or is dismissed, removed or discharged from such service, but does not include a person in the defence services of Bangladesh or of the Bangladesh Rifles.

<sup>48</sup> As per sec. 2 (aa) of the Administrative Tribunals Act, 1980, "statutory public authority" means an authority, corporation or body specified in the Schedule to the Administrative Tribunal Act, 1980. And the bodies specified in the Schedule to the Administrative Tribunal Act, 1980, are- Sonali Bank, Agrani Bank, Janata Bank, Bangladesh Bank, Bangladesh Shilpa Rin Sangstha, Bangladesh Shilpa Bank, Bangladesh House Building Finance Corporation, Bangladesh Krishi Bank, Investment Corporation of Bangladesh and Grameen Bank.

before one can approach the Administrative Tribunal for redress of his grievance, he should fulfill the following criteria:

- a) he should have availed all the remedies available to him under service laws;<sup>49</sup> and
- b) he should have a *locus standi* in the subject matter.<sup>50</sup>

Thus, it is evident that an Administrative Tribunal shall not ordinarily admit an application unless the person approaching it has exhausted all other remedies available to him under the relevant service laws. An employee who suffers by any order of any administrative authority can invoke the jurisdiction of Administrative Tribunal provided he has exhausted all the forums available to him under the service rules as to redress of grievances. Only an employee can make application to the Administrative Tribunal for redress of his grievances under the provisions of

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<sup>49</sup> According to sec. 4 (2) of the Administrative Tribunals Act, 1980, no application in respect of an order, decision or action which can be set aside, varied or modified by a higher administrative authority under any law for the time being in force relating to the terms and conditions of the service of the Republic or of any statutory public authority, or the discipline of that service, can be made to the Administrative Tribunal until such higher authority has taken a decision on the matter.

<sup>50</sup> According to sec. 4 (2) of the Administrative Tribunals Act, 1980, a person in the service of the Republic or of any statutory public authority may make an application to an Administrative Tribunal under sub-section (1), if he is aggrieved by any order or decision in respect of the terms and conditions of his service including pension rights or by any action taken in relation to him as a person in the service of the Republic or of any statutory public authority.

Administrative Tribunals Act and Rules. Such a precondition of exhausting all available departmental remedies also exists in Pakistan and India. But the period allowing the higher departmental authority to make decision on the departmental appeals or revisions is two months in Bangladesh whereas it is three months (ninety days)<sup>51</sup> in Pakistan and six months<sup>52</sup> in India.

In France, there is no requirement to invoke a departmental remedy before invoking jurisdiction of administrative courts. In Germany, the requirement of invoking departmental remedies are taken seriously, and a very large number of cases are decided at the stage without ever having to go before administrative courts. Some departments have tried departmental boards for decision in departmental matters. Such boards have members who have legal or judicial training, and they have successfully functioned as quasi-judicial bodies at times acting independently of the departmental executive.<sup>53</sup>

Although there is a tendency in recent years to broaden the scope of the expression '*locus standi*' in so far as the writ petitions

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<sup>51</sup> See sec. 4 (1) of the Service Tribunals Act, 1973.

<sup>52</sup> See sec. 20 (2) of the Administrative Tribunals Act, 1985.

<sup>53</sup> Rashid, Pirzada Mamoon : *Manual of Administrative Laws*, (1998) 56.

filed in the public interest, the Administrative Tribunal under Administrative Tribunals Act, 1980, cannot entertain cases filed in the interest of the public<sup>54</sup> as they are created for the specific purposes of service matters. In this connection, in Kazi Shamsunnahar & others Vs. Commandant PRF, Khulna and others,<sup>55</sup> it was held that –

A person, who is or was in the service of the Republic or of any statutory public authority specified in the Schedule of our Act, has been retired, dismissed, removed or discharged from service, may make an application before the Administrative Tribunal for necessary relief but no person other than the person in the service of the Republic or of any statutory public authority can prefer such an application.

### Filing of Application

Regarding filing of application before Administrative Tribunal in Bangladesh, rule 3 (1) of the Administrative Tribunals Rules, 1982, provides that an application to the Administrative Tribunal shall be made in writing and may be made by the applicant in person, or by a person authorised by him in that behalf, or by a registered post. Thus, like India, where an application can be filed to

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<sup>54</sup> The rule governing the writs of Habeas Corpus and Quo Warranto is that any person can apply for such writ. On the other hand, the rule governing the writs of Mandamus, Certiorari and Prohibition is that it is only the person whose rights have been infringed can apply for such writ. But this rule based on the traditional concept of *Locus Standi*, as evolved from the Anglo-Saxon Jurisprudence is vitiated in the cases of Public Interest Litigation. In legal sphere, the theory of Public Interest Litigation recognises maintainability of legal actions by a third party (not personally aggrieved) in unique situations.

<sup>55</sup> 2 BLC 569.

the Administrative Tribunal either by the applicant in person or by a duly authorised legal practitioner,<sup>56</sup> and Pakistan, where a memorandum can be filed either by the appellant personally or through his advocate,<sup>57</sup> in Bangladesh a person in the service of the Republic or of any statutory public authority is entitled to make an application to the Administrative Tribunal in person or through a lawyer.

With regard to admission of application, rule 3 (6) of the Administrative Tribunals Rules, 1982, provides that the Administrative Tribunal shall admit the application if it is made in proper manner laid down in sub-rules (1), (2), (3), (4) and (5) of rule 3<sup>58</sup> and is not barred by the Administrative Tribunals Act, 1980. In Ali Emdad Vs. Labour Director and others,<sup>59</sup> it was held that an application not following the sub-rules (1), (2), (3), (4) and (5) of rule 3 of the Administrative Tribunal Rules, 1982, can be rejected by Tribunal, but before rejecting it, the Tribunal may give an opportunity for making the application according to those rules. Thus the Administrative Tribunal in Bangladesh can give a chance to

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<sup>56</sup> See Rule 4(1), the Central Administrative Tribunal (Procedure) Rules, 1985.

<sup>57</sup> See Rule 5(1), the Service Tribunals (Procedure) Rules, 1974.

<sup>58</sup> Sub-rules (1), (2), (3), (4) and (5) of rule 3 of the Administrative Tribunal Rules, 1982, mainly deal with the filing of application and contents thereof.

<sup>59</sup> 18 BLD (AD) 137.

those who failed to apply strictly in compliance with the provisions of the relevant rules.

### **Subsequent Amendment of the Application**

Section 7B,<sup>60</sup> which has been added to the Administrative Tribunals Act, 1980 by the Administrative Tribunals (Amendment) Act, 1997, has removed the impediment on the way of subsequent amendment of the application. Prior to the amendment, there was no scope to amend the application despite any fatal defect disclosed later on. Section 7B provides for larger scope to amend the application at any stage of the proceedings and even at the stage before the Appellate Division of the Supreme Court.

### **Disposal of Application**

Where the application is admitted and a date for hearing of the application is fixed, if none of the parties appears and it is found that the notices to appear have been served upon the parties to the dispute, Tribunal may make an order dismissing the application.<sup>61</sup> Where on the day so fixed the applicant appears and the opposite party does not appear, Tribunal may, if it is found that

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<sup>60</sup> Sec. 7B provides that the Tribunal may, at any stage of the proceedings, allow the applicant to alter or amend his application in such manner and on such terms as it thinks fit.

<sup>61</sup> Rule 6 (4), the Administrative Tribunals Rules, 1982.



the notice to appear has been served, hear the application *ex parte*.<sup>62</sup> Where on the day so fixed, the opposite party appears and the applicant does not appear, the Tribunal may make an order dismissing the application: provided that where the opposite party admits the claim of the applicant or from the materials on record it is found that the relief claimed by the applicant should be allowed, the Tribunal shall make an order granting the relief to such extent as it deems fit.<sup>63</sup> These provisions, which are similar to the provisions of Rules 15 & 16<sup>64</sup> of the Central Administrative Tribunal (Procedure) Rules, 1985, and Rule 19<sup>65</sup> of the Service Tribunals (Procedure) Rules, 1974, of India and Pakistan respectively, are identical with those of Order IX of the Code of Civil Procedure, 1908 laid down for civil courts.

Any party to the dispute aggrieved by an order made under rules 6 (4), 6 (5) and 6 (6) of the Administrative Tribunals Rules, 1982, may apply to the Tribunal for an order to set aside the dismissal or the order made *ex parte* which are similar to the provisions of rule 13 of Order IX of the Civil Procedure Code. If the

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<sup>62</sup> Rule 6 (5), the Administrative Tribunals Rules, 1982.

<sup>63</sup> Rule 6 (6), *ibid*.

<sup>64</sup> Rules 15 & 16 are concerned with procedure required for disposal of application by Administrative Tribunal.

<sup>65</sup> Rule 19 is concerned with procedure required for disposal of appeal by Service Tribunal.

Tribunal is satisfied that there was sufficient cause for the non-appearance of the party, the Tribunal shall make an order setting aside the dismissal or the order made *ex parte* on such conditions as it deems fit.<sup>66</sup> The Tribunal may, if it deems fit in any case, postpone the hearing of an application to a future day to be fixed by it.<sup>67</sup> The Tribunal shall, after the application has been heard, give its decision in writing with reasons therefor, at once or on some future day of which notice shall be given to the parties, and make an order accordingly.<sup>68</sup> The decision or order once given or made shall not afterwards be altered or modified, save for the purpose of correcting a clerical or arithmetical mistake or any error arising from any accidental slip or omission<sup>69</sup> which is in line with the provisions of Section 152/153 of the Civil Procedure Code.

It is noticeable that under the existing laws, Administrative Tribunal in Bangladesh has no power to grant interim relief in respect of a case pending before it for final adjudication.<sup>70</sup> Neither does the Administrative Tribunals Rules, framed in 1982 pursuant to Section 12 of the Administrative Tribunals Act, 1980, for

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<sup>66</sup> Rule 6 (7), the Administrative Tribunals Rules, 1982.

<sup>67</sup> Rule 6 (8), *ibid.*

<sup>68</sup> Rule 6 (9), *ibid.*

<sup>69</sup> Rule 6(10), *ibid.*

<sup>70</sup> Kamrul Hasan Vs. Bangladesh and others, 49 DLR (AD) 44.

carrying out the procedural aspect of the Act confer on the Administrative Tribunal any such power.<sup>71</sup>

### Execution of Decree

According to rule 7 of the Administrative Tribunals Rules, 1982, the Administrative Tribunal shall, for the purpose of execution of its decisions and orders, follow, as far as practicable, the provisions<sup>72</sup> of the Code of Civil Procedure, 1908. In Munshi Mozammel Hossain Vs. Post Master, Faridpur,<sup>73</sup> it was held that Administrative Tribunal can execute, functioning as an executing court, its own decisions or orders and also the decisions and orders of the Administrative Appellate Tribunal following the provisions of Civil Procedure Code relating to execution of a decree.

### Inspection of Any Record or Document

According to rule 8 (1), any party to a dispute may, with the permission of the Tribunal, inspect any record or document in the custody of the Tribunal, other than a record or document with respect to which privilege may be claimed on behalf of the State. An inspection under rule 8(1) shall be in the presence of such officer of

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<sup>71</sup> See Chowdhury, Khaled Hamid : Jurisdictional Issues under the Administrative Tribunals Act, 1980, 50 DLR Vol. L, 1998.

<sup>72</sup> The provisions relating to the execution of a decree as contained in the Code of Civil Procedure, 1908, are mainly from sec. 34 to sec. 74 (Part II).

<sup>73</sup> 43 DLR 415.

the Tribunal as it may specify.<sup>74</sup> This is a healthy provision for ensuring proper representation by any party to a dispute.

### **Power of the Administrative Tribunal for the Purpose of Hearing of an Application**

Under Section 7(1)<sup>75</sup> of the Administrative Tribunals Act, 1980, an Administrative Tribunal, while hearing an application, is given the power of a Civil Court in trying a suit under the Code of Civil Procedure, 1908, in respect of summoning and enforcing attendance of any person and examining him on oath, discovery and production of any document, requiring evidence on affidavit, requisitioning any public record or a copy thereof from any office, issuing Commission for examination of witnesses or documents and such other matters as may be prescribed.<sup>76</sup>

Section 7 (8) provides that “where, in respect of any matter, no procedure has been prescribed by this Act or by rules

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<sup>74</sup> Rule 8 (2), the Administrative Tribunals Rules, 1982.

<sup>75</sup> Sec. 7 (1) provides that “ For the purposes of hearing an application or appeal, as the case may be, a Tribunal shall have all the powers of civil court, while trying a suit under the Code of Civil Procedure, 1908 (V of 1908), in respect of the following matters, namely:- (a) summoning and enforcing the attendance of any person and examining him on oath; (b) requiring the discovery and production of any document; (c) requiring evidence on affidavit; (d) requisitioning any public record or a copy thereof from any office; (e) issuing commissions for the examination of witnesses or documents; (f) such other matters as may be prescribed”.

<sup>76</sup> Here the term “prescribed” means prescribed by the Administrative Tribunals Act, 1980, or prescribed by the rules framed thereunder.

made thereunder, a Tribunal shall follow such procedure in respect thereof as may be laid down by the Administrative Appellate Tribunal." Thus the Administrative Tribunal has not been given the power to determine its procedure in the absence of specific provisions in the Act or in the rules made thereunder. But the procedure to be laid down by the Appellate Tribunal must be in conformity with the principles of natural justice.<sup>77</sup> As in Abdul Latif Mirza Vs. Government of Bangladesh,<sup>78</sup> the Appellate Division of the Bangladesh Supreme Court clearly observed that the principles of natural justice are part of the law of the country. Moreover, the Appellate Division in Mujibur Rahman Vs. Bangladesh<sup>79</sup> held that although an Administrative Tribunal cannot strike down any bar or rule on the ground of its constitutionality, it could strike down an order for violation of the principles of natural justice.

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<sup>77</sup> Natural Justice is a concept of common law and it is the common law world counterpart of the American 'procedural due process'. The concept of Natural Justice is generally expressed in two fundamental principles. These are: a) Nemo iudex in causa sua, i.e., nobody shall be judge in his own cause; and b) Audi Alteram Partem, i.e., party shall not be condemned without giving an opportunity of hearing. Soon after, a third rule was envisaged, and that is that quasi-judicial enquiries must be held in good faith, without bias and not arbitrarily or unreasonably (A.K.Kripak Vs. Union of India, AIR 1970 SC 150). In legal sphere, apart from these fundamental principles of Natural Justice, there are also some ancillary rules following from these principles. These are: Right to Notice; right to present case and evidence; no evidence should be taken at the back of other party; report of the enquiry to be shown to the other party; reasoned decisions; institutional decision or one who decides must hear; rule against dictation or decision must be actually his who decides.

<sup>78</sup> (1982)34 DLR (AD) 173.

<sup>79</sup> 44 DLR (1992) (AD) 111.

## Right of the Legal Representatives of the Deceased Applicant to Continue the Proceeding

The Administrative Tribunals Act, 1980, did not provide for the right of legal representatives of the deceased applicant to continue the proceedings in order to obtain the pensionary benefit. About seventeen years later, in 1997, the Administrative Tribunals (Amendment) Act, 1997<sup>80</sup> added Section 7A to the Act to rectify the situation. As Section 7A provides –

Death of the applicant.- (1) Where a person is dismissed or removed from service and an application is made under section 4 against such removal or dismissal and that person dies during the pendency of the case, the right to sue of that applicant shall survive if his service had been pensionable under any law for the time being in force.

(2) Where the right to sue survives under sub-section (1), such legal representative of the deceased applicant who would have been entitled to the pensionary benefit at the event of the death or retirement of the deceased applicant may be substituted, upon an application, made to the Tribunal or, as the case may be, to the Appellate Division, within sixty days from the date of the death of the applicant.

(3) The legal representative of the deceased as referred to in sub-section (2) shall be entitled to the pensionary benefit, which would have been payable to that deceased if he had not been removed or dismissed:

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<sup>80</sup> Act No. 24 of 1997.

Provided that, such pensionary benefit shall not be payable unless the Tribunal or, as the case may be, the Appellate Division, declares the order of the dismissal or removal, as the case may be, as illegal or void:

Provided further that, for the purpose of this section, the applicant shall be deemed to have died or retired, as the case may be, on the day on which he was removed or dismissed.

Thus, by virtue of the newly inserted Section 7A, one of the most efficacious Sections of the Act to serve humanitarian cause, the right to sue survives regarding pensionary right of the legal representatives of the deceased applicant and are now entitled to continue the proceedings, and in the event the order of dismissal or removal is declared illegal, they will be entitled to pensionary benefits of the applicant as if he retired or died while in service.

## **VII. Appeal against the Decisions of Administrative Tribunals**

The relevant provisions concerning appeal against the orders or decisions of Administrative Tribunals in Bangladesh have been laid down in Section 6 of the Administrative Tribunals Act, 1980. According to sub-section (1) of Section 6 of the Administrative Tribunals Act, 1980, the jurisdiction to hear and determine appeal against the orders or decisions made by Administrative Tribunals

under Section 4 (1)<sup>81</sup> is vested in the Administrative Appellate Tribunal.<sup>82</sup> This sub-section reads as under:

The Administrative Appellate Tribunal shall have jurisdiction to hear and determine appeals from any order or decision of an Administrative Tribunal.

Thus, it appears that the Administrative Appellate Tribunal has not been given original jurisdiction; its jurisdiction is of appellate in nature. It hears and determines appeal against any order or decision of the Administrative Tribunal. Unlike in India, where only the Supreme Court of India has been given the jurisdiction of appeal against the decisions of the Administrative Tribunal<sup>83</sup> (on the grounds of, as case law suggests, illegality, error of law and violation of principles of natural justice), the Supreme Court of Bangladesh has not been vested with the power to exercise the appellate jurisdiction over the Administrative Tribunal. Even the example of Pakistan has not been followed in this regard. Although the Service Tribunals Act,

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<sup>81</sup> Sec. 4 (1) of the Administrative Tribunals Act, 1980, provides that "An Administrative Tribunal shall have exclusive jurisdiction to hear and determine applications made by any person in the service of the Republic or of any statutory public authority in respect of the terms and conditions of his service including pension rights, or in respect of any action taken in relation to him as a person in the service of the Republic or of any statutory public authority."

<sup>82</sup> The Government of Bangladesh established the Administrative Appellate Tribunal on 22 August 1983, in exercise of the power conferred by sec. 5 (1) of the Administrative Tribunals Act, 1980. See Notification No. S.R.O 58-L.82-JIV/1T-1/81, dated 22 August 1983.

<sup>83</sup> See sec. 14(1), the Administrative Tribunals Act, 1985.



1973 does not provide for regular appeal to the Supreme Court against the decision of Service Tribunal, appeal against its decisions lies to the Supreme Court subject to grant of leave only on a substantial question of law of public importance<sup>84</sup>.

Neither the Administrative Tribunals Act, 1980, nor the Administrative Tribunals Rules, 1982, provides for as to which of the orders are appealable, and which are non-appealable. Since the Code of Civil Procedure, 1908, has been made applicable to the proceedings before the Administrative Tribunals and the Administrative Appellate Tribunal,<sup>85</sup> it may be argued that all orders are not appealable. For, all orders under the Code of Civil Procedure, 1908, are not appealable and the list of appealable orders are to be found in Order 43 of the First Schedule to the Code of Civil Procedure. Furthermore, it will be incongruent with the legislative intent if all the orders of the Administrative Tribunals are considered to be appealable. When not expressly enumerated, it will be in consonance with the purpose of the law to hold that only the orders which are finally made or which are substantive in nature are appealable. The orders that are not

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<sup>84</sup> Art. 212(3) of the Constitution of Pakistan, 1973, provides that an appeal to the Supreme Court from a judgment, decree, order or sentence of an Administrative Court or Tribunal shall lie only if the Supreme Court, being satisfied that the case involves a substantial question of law of public importance, grants leave to appeal.

<sup>85</sup> See sec. 7 (1), the Administrative Tribunals Act, 1980.

substantive and in no way affect the interest of any party in relation to the determination of the main dispute or merit of the cases are not appealable.<sup>86</sup>

Under Section 6 (2)<sup>87</sup> of the Administrative Tribunals Act, 1980, an appeal against the order of punishment passed by the Administrative Tribunal will lie to the Administrative Appellate Tribunal. It is pertinent to mention here that when an order of punishment is passed by the Administrative Appellate Tribunal, an appeal, under Section 6A, shall lie to the Appellate Division of the Bangladesh Supreme Court.

With regard to the extent of powers of the Administrative Appellate Tribunal to hear and determine appeals against the decisions or orders of the Administrative Tribunals in Bangladesh, sub-section (3) of Section 6 of the Administrative Tribunals Act, 1980, as originally enacted, provides that -

The Administrative Appellate Tribunal may, on appeal, confirm, set aside, vary or modify any order or decision of an Administrative Tribunal, and the decision of the Administrative Appellate Tribunal in an appeal shall be final.

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<sup>86</sup> Bakar, Khondakar Md. Abu : *The Laws on Service in Bangladesh*, (1998) 64-65.

<sup>87</sup> Sec. 6 (2) provides that "Any person aggrieved by an order or decision of an Administrative Tribunal may, within three months from the date of making of the order or decision, prefer an appeal to the Administrative Appellate Tribunal."

Thus the Administrative Appellate Tribunal has been given wide powers. It may, on appeal, confirm, vary, modify or set aside any order or decision of Administrative Tribunal. And the decision of the Administrative Appellate Tribunal was final. Later in 1991 it was provided that the decision of the Administrative Appellate Tribunal in an appeal shall, subject to Section 6A, be final. Section 6A, which has been added to the Administrative Tribunals Act, 1980, by the Administrative Tribunals (Amendment) Act, 1991, has introduced changes in respect of the finality of the decisions of the Administrative Appellate Tribunal. As it provides:

It is hereby declared that the provisions of Article 103<sup>88</sup> of the Constitution shall apply in relation to the Administrative Appellate Tribunal as they apply in relation to the High Court Division.

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<sup>88</sup> Art. 103 of the Bangladesh Constitution provides -

- (1) The Appellate Division shall have jurisdiction to hear and determine appeals from judgments, decrees, orders or sentences of the High Court Division.
- (2) An appeal to the Appellate Division from a judgment, decree, order or sentence of the High Court Division shall lie as of right where the High Court Division -
  - (a) certifies that the case involves a substantial question of law as to the interpretation of this Constitution; or
  - (b) has sentenced a person to death or to imprisonment for life; or
  - (c) has imposed punishment on a person for contempt of that division; and in such other cases as may be provided for by Act of Parliament.
- (3) An appeal to the Appellate Division from a judgment, decree, order or sentence of the High Court Division in a case to which clause (2) does not apply shall lie only if the Appellate Division grants leave on appeal.
- (4) Parliament may by law declare that the provisions of this article shall apply in relation to any other court or tribunal as they apply in relation to the High Court Division.

Thus, by Section 6A, Article 103 of the Constitution of Bangladesh has been made applicable to the decision of the Administrative Appellate Tribunal. This means that the Appellate Division of the Supreme Court shall have jurisdiction to hear and determine appeals from decisions, orders or sentences of the Administrative Appellate Tribunal. It appears that taking into account the composition of the Administrative Appellate Tribunal, which is composed of one Chairman<sup>89</sup> and two other members, provisions have been made to prefer an appeal against its decisions, not before the High Court Division but before the Appellate Division of the Supreme Court directly. Thus a civil servant has got an opportunity to ascertain the appropriateness of the decisions given by the Administrative Appellate Tribunal in respect of service matters through the Appellate Division of the Supreme Court - the apex court of the land. Thus like the Supreme Courts of India and Pakistan, the Appellate Division of the Supreme Court of Bangladesh has ultimately been vested with the power to hear and determine appeals against the orders or decisions of the Administrative Appellate Tribunal on leave. As in Bangladesh Bank Vs. Administrative Appellate Tribunal, 44 DLR (AD) 239, the Appellate

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<sup>89</sup> According to sec. 5(3) of the Administrative Tribunals Act, 1980, the Chairman shall be a person who is, or has been, or is qualified to be, a Judge of the Supreme Court.

Division of the Bangladesh Supreme Court held that “Under the new dispensation that Article 103 of the Constitution shall apply in relation to Administrative Appellate Tribunal, the petitioners have only the right to seek leave for appeal”.

### **Time Limit for Appeal**

Regarding time limit for appeal, sub-section (2) of Section 6 of the Administrative Tribunals Act, 1980, as originally enacted, provides that:

Any person aggrieved by an order or decision of an Administrative Tribunal may, within two months from the date of making of the order or decision, prefer an appeal to the Administrative Appellate Tribunal.

But this period of two months for preferring appeal before the Administrative Appellate Tribunal has been extended to three months by amending sub-section (2) of Section 6 by the Administrative Tribunals (Amendment) Act, 1997<sup>90</sup>. Besides, sub-section (2A), added to Section 6 by this Amendment, provides that if the Administrative Appellate Tribunal is satisfied on showing of sufficient cause of delay, appeal before it can be filed against the decision or order of the Administrative Tribunal within six months from the date of the decision or order and not later than that.

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<sup>90</sup> Act No. 24 of 1997, which came into effect on 19 November 1997.

Whereas like the Administrative Appellate Tribunal in Bangladesh there is no Administrative Appellate Tribunal in India and Service Appellate Tribunal in Pakistan to hear appeal against the decision or order of the Administrative Tribunal and Service Tribunal respectively.

### **Binding Effect of the Decisions of Administrative Tribunal and Administrative Appellate Tribunal**

Regarding binding effect of Tribunal's decisions and orders, Section 8 of the Administrative Tribunals Act, 1980, as originally enacted, provides that -

- (1) All decisions and orders of the Administrative Appellate Tribunal shall be binding upon the Administrative Tribunals and the parties concerned.
- (2) All decisions and orders of an Administrative Tribunal shall, subject to the decisions and orders of the Administrative Appellate Tribunal, be binding on the parties concerned.

Thus the decisions and orders of the Administrative Appellate Tribunal are binding upon the Administrative Tribunals and the parties concerned, and decisions and orders of the Administrative Tribunal unless appealed against and interfered with by the Administrative Appellate Tribunal are binding upon the parties concerned. Ten years later in 1991, the Administrative

Tribunals (Amendment) Act, 1991,<sup>91</sup> by amending Section 8, provides that the decisions and orders of the Administrative Appellate Tribunal “shall, subject to the decisions and orders of the Appellate Division, be binding” upon the Administrative Tribunals and parties concerned”. It also provides that the decisions and orders of an Administrative Tribunal shall, subject to the “decisions and orders of the Appellate Division or of the Administrative Appellate Tribunal, as the case may be, be binding on the parties concerned”. Thus the decisions and orders of both the Administrative Tribunal and the Administrative Appellate Tribunal have been given binding effect subject to the decisions and orders of the Appellate Division of the Supreme Court.

### **Composition of the Administrative Appellate Tribunal**

Originally, sub-sections (2) and (3) of Section 5 of the Administrative Tribunals Act, 1980 provided for the following composition of the Administrative Appellate Tribunal:

- (2) An Administrative Appellate Tribunal shall consist of one Chairman and two other members who shall be appointed by the Government.

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<sup>91</sup> Act No. 23 of 1991, published in the Bangladesh Gazette Extraordinary, 22 July 1991.

- (3) The Chairman shall be a person who is, or has been, or is qualified to be a Judge of the Supreme Court or is or has been an officer in the Service of the Republic not below the rank of Additional Secretary to the Government and of the two other members one shall be a person who is or has been an officer in the service of the Republic not below the rank of Joint Secretary to the Government and the other person who is or has been a District Judge.

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Thus if a Judge of the Supreme Court (or a person qualified to be a Judge of the Supreme Court) was appointed as the Chairman of the Administrative Appellate Tribunal then the majority of its members (two out of three) were from the judiciary (a Judge of the Supreme Court as the Chairman and a District Judge as one of the two members). Thus provision was made for the inclusion of a Judge of the highest court of Bangladesh and a chief judicial officer at the district level into the Administrative Appellate Tribunal to examine the correctness of the decision or order given by the Administrative Tribunal. But sub-section 3 of Section 5 also provided for the scope appointing a civil servant not below the rank of Additional Secretary to the Government as the Chairman of the Administrative Appellate Tribunal. In that case, there was the dominance of non-judicial members in the Administrative Appellate Tribunal; two out of three (the Chairman and one of the two members not below the rank of



Joint Secretary) were from among the officers in the service of the Republic. But these provisions concerning the composition of Administrative Appellate Tribunal could not be implemented as the Administrative Tribunal (Amendment) Ordinance, 1983 provided for a single member Administrative Appellate Tribunal thus:

An Administrative Appellate Tribunal shall consist of one member who shall be appointed by the Government from among persons who are, or have been, or are qualified to be judges of the Supreme Court.

Under the amended provision, the Administrative Appellate Tribunal was for the first time established on 22 August 1983. This shows that from the very beginning a single-member Administrative Appellate Tribunal started functioning as the appellate forum of the Administrative Tribunal.

The single-member Administrative Appellate Tribunal functioned till 08.07.87 when the original provisions concerning its composition were restored by the Administrative Tribunals (Amendment) Act, 1987. As it was provided that-

The Administrative Appellate Tribunal shall consist of one Chairman and two other members who shall be appointed by the Government.<sup>92</sup>

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<sup>92</sup> Amended sec. 5(2).

But the original provisions of Section 5(3), concerned with the requisite qualifications of the chairman and members of the Administrative Appellate Tribunal, were not exhaustively restored by the said Administrative Tribunals (Amendment) Act, 1987. As in the amended Section 5(3) it was provided that:

The Chairman shall be a person who is, or has been, or is qualified to be, a Judge of the Supreme Court, and of the two other members, one shall be a person who is or has been an officer in the service of the Republic not below the rank of Joint Secretary to the Government and the other a person who is or has been a District Judge.

Thus under the amended provisions only a Judge or a person qualified to be a Judge of the Supreme Court, not any carrier civil servant, is qualified to be appointed as a Chairman of the Administrative Appellate Tribunal. Furthermore, the amended provisions ensure the majority of the judicial members (including the Chairman) in the Administrative Appellate Tribunal; the Chairman being the Judge of the Supreme Court and one of the two members being from among the District Judges. However, presence of a Joint Secretary, a carrier civil servant, with professional judges in the Administrative Appellate Tribunal is likely to be helpful, as it brings expertise and inside information of the working of administrative departments which can go a long way in deciding questions of fact.

### **Term of Office of the Chairman and Members of Administrative Appellate Tribunal**

With regard to the term of office of the Chairman as well as members of the Administrative Appellate Tribunal, it was originally provided that:

The Chairman or any other member of the Administrative Appellate Tribunal shall hold office for a term of three years or until he attains the age of sixty years, whichever is earlier, and on such conditions as the Government may determine.<sup>93</sup>

Thus the term of office (three years or until the attainment of the age of sixty years) of the Chairman and members of the Administrative Appellate Tribunal was clearly fixed and as such enable them to perform their functions without fear or favour. But this was amended in August 1983 to the following effect:

The member of the Administrative Appellate Tribunal shall hold office on such terms and conditions as the Government may determine.

Thus the amended provision made the member of the Administrative Appellate Tribunal dependent on the Government for their terms and conditions of service that adversely affected their personal independence. When in July 1987, the Administrative

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<sup>93</sup> Sec. 5(4).

Appellate Tribunal was to consist of three members instead of one, the provision concerning terms and conditions of their service was kept unchanged:

The Chairman or any other member of the Administrative Appellate Tribunal shall hold office on such terms and conditions as the Government may determine.

### VIII. Conclusions

Unlike Administrative Tribunal in India or Service Tribunal in Pakistan, the Administrative Tribunal in Bangladesh is a single member tribunal and has no benches to perform its functions<sup>94</sup> in an effective and meaningful manner. Unlike in India and Pakistan, where a person who is, or has been, a Judge of the High Court is to be appointed as the Chairman of the Administrative Tribunal in India and of the Service Tribunal in Pakistan, in Bangladesh a District Judge (who is the head of the judiciary at the district level) is appointed as the member of the Administrative Tribunal. But a District Judge is qualified for being appointed as the Judge of the High Court Division of the Supreme Court of Bangladesh.

Unlike India, where the members of the Administrative Tribunal are appointed by the Government for a term of office fixed

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<sup>94</sup> For detail see at 49-51 ante.

for a number of years or until a certain date of retirement, the members of the Administrative Tribunals in Bangladesh and of the Service Tribunal in Pakistan are appointed by the Government and hold office on such terms and conditions as the Government may determine. Thus the members of the Administrative Tribunals in Bangladesh and of the Service Tribunals in Pakistan have not been provided with the same security of tenure as the members of the Indian Administrative Tribunal enjoy. This absence of security of tenure adversely affects their personal independence to perform their functions without fear or favour.<sup>95</sup>

Article 117 of the Bangladesh Constitution and the Administrative Tribunals Act, 1980, provide the Administrative Tribunal with exclusive jurisdiction over disputes concerning service matters of the civil servants and oust the jurisdiction of the High Court Division in respect of such matters.<sup>96</sup> The Administrative

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<sup>95</sup> For detail see at 51-57 ante.

<sup>96</sup> Even an Administrative Tribunal, in settling service disputes, can construe and apply the provisions of the Bangladesh Constitution, particularly, Arts. 133, 134 and 135. In Mujibur Rahman Vs. Bangladesh, 44 DLR (1992) AD 111, the Appellate Division of the Bangladesh Supreme Court held that "A person in the service of the Republic who intends to invoke fundamental right for challenging the *vires* of a law will seek remedy under Article 102(1), but in all other cases he will be required to seek remedy under Article 117 (2)." In other words, in the matter of infringement of fundamental rights by administrative action (and not by law), the jurisdiction of the High Court Division of the Supreme Court is ousted and the Administrative Tribunal has the exclusive jurisdiction.

Tribunals (Amendment) Ordinance, 1984, extended the jurisdiction of the Administrative Tribunal to resolve disputes relating to the terms and conditions of persons in the service of the statutory public authorities. Since 1988, only ten statutory public authorities that are financial institutions are amenable to the jurisdiction of the Administrative Tribunal and, as such, statutory public authorities that are not financial institution have been excluded from its domain. This resulted in the discrimination between the persons who are in the service of the statutory public authorities which are financial institutions and which are not financial institutions. For in the former case, an aggrieved person can only prefer an appeal before the Administrative Appellate Tribunal against the decision of an Administrative Tribunal and then, subject to grant of leave to appeal, a second appeal lies before the Appellate Division of the Bangladesh Supreme Court against the decision of the Administrative Appellate Tribunal since 1991. On the other hand, in the latter case, an aggrieved person, to obtain fair justice, shall have the advantage not only of appeal but also of revision and review against the decision of the civil court of the first instance. Article 117 of the Bangladesh Constitution, which provides for the establishment and jurisdiction of the Administrative Tribunal, does not contemplate for such a

discrimination which, in fact, contravenes the fundamental right of the equality before law.<sup>97</sup>

Although a civil servant cannot invoke writ jurisdiction of the Supreme Court of Bangladesh against the decision of the Administrative Tribunal in pursuance of the provisions of Articles 102(5) and 117(2) of the Constitution, the case laws show that he can invoke such a jurisdiction for striking down any statute or rules framed thereunder for the enforcement of any of the 18 fundamental rights guaranteed by the Constitution.<sup>98</sup> Invoking writ jurisdiction, the decisions of the Administrative Tribunal can also be challenged if they are illegal and *malafide*.<sup>99</sup> Furthermore, if one branch of the department of the Government does not follow the lawful order of the higher authority, then the aggrieved civil servant can invoke the writ jurisdiction.<sup>100</sup>

The power of the Administrative Tribunal in Bangladesh in punishing any person for obstruction of its authority in the performance of its functions is helpful to ensure smooth administration of justice. Besides, the power of the Administrative

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<sup>97</sup> For detail see at 60-63 ante.

<sup>98</sup> For detail see at 66-67 ante.

<sup>99</sup> Government of Bangladesh Vs. Nizamuddin Howlader, 37 DLR (1985)102.

<sup>100</sup> For detail see at 67 ante.

Appellate Tribunal to punish for contempt of its authority or that of any Administrative Tribunal can certainly be said to be an effective instrument for proper performance of judicial functions. Indeed, these powers help both the Administrative Tribunal and the Administrative Appellate Tribunal in getting their orders and directions properly enforced.<sup>101</sup>

In Bangladesh, Administrative Tribunal cannot entertain any application by the aggrieved party unless his appeal before the competent authority is disposed of. This legal bar cannot be overcome unless the appeal pending before the authority is disposed of.<sup>102</sup> Only after making of decision by a higher administrative authority under any law for the time being in force, a case may be filed by an aggrieved person.<sup>103</sup> An aggrieved person in the service of the Republic or of any statutory public authority has the right to appear before an Administrative Tribunal in person.<sup>104</sup> Indeed, this fact helps to reduce expenses making the process of litigation cheap and makes Administrative Tribunals more accessible to public as the legal profession does not have monopoly of the right to represent those appearing before Administrative Tribunals.

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<sup>101</sup> See at 69-71 ante.

<sup>102</sup> Moulvi Gholam Moula Vs. Bangladesh, 44 DLR 195.

<sup>103</sup> Md. Osman Gani Vs. Government of Bangladesh, 17 BLD (AD) 306.

<sup>104</sup> For detail see at 75-77 ante.



The most humanitarian cause has been served by inserting new Sections 7A and 7B in the Administrative Tribunals Act, 1980, by the Act No. 24 of 1997.<sup>105</sup> Section 7A is salutary one having had produced the most beneficial effect for the legal representatives of the deceased servant enabling them to have the pensionary benefit rather than being thrown in the street and distress under the practice heretofore. Section 7B provides for larger scope to amend the application at any stage of the proceedings and even at the stage before the Appellate Division of the Supreme Court.<sup>106</sup>

While agreeing with the broad proposition that interim order should not be issued in each and every matter thereby restraining the hands of the executive, we cannot but disagree that such order should never be issued or there would be no occasion at all to issue an interim order. Sometimes, the power to grant interim order or injunction is very essential for effective dispensation of justice. But under the existing laws, the Administrative Tribunal in Bangladesh has no power to grant stay or injunction as an ad-interim measure<sup>107</sup> in the absence of which in many cases the aim of seeking

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<sup>105</sup> See at 83 & 77 ante.

<sup>106</sup> Prior to the insertion of sec. 7B, there was no scope to amend the application despite any fatal defect disclosed later on.

<sup>107</sup> See at 79-80 ante.

relief becomes frustrated thereby reducing the jurisdiction of the Administrative Tribunals nugatory. As the alternative remedy is not efficacious, in many cases, the person aggrieved seeking immediate relief takes the disputes into the writ jurisdiction of the High Court Division of the Bangladesh Supreme Court. In the circumstances, the Administrative Tribunal in Bangladesh should have powers to grant stay and interim order of injunction.

As the Administrative Tribunal system has been an important new addition to the legal system of Bangladesh, an attempt is, therefore, made in the next chapter to examine and evaluate the establishment and operation of Administrative Tribunals in Bangladesh.

**CHAPTER FOUR**  
**ESTABLISHMENT AND**  
**OPERATION OF ADMINISTRATIVE TRIBUNALS**  
**IN BANGLADESH**

**I. Establishment of Administrative Tribunals in  
Bangladesh**

With regard to the establishment of Administrative Tribunals for dealing with disputes concerning terms and conditions service of civil servants, the Constitution of Bangladesh, adopted in November, 1972, contains provisions in Article 117. This Article empowers the House of the Nation i.e. the Parliament, to establish, by law, one or more Administrative Tribunals in Bangladesh. Eight years later of the enactment and enforcement of the Constitution, the Parliament of Bangladesh, in fulfillment of the constitutional mandate, enacted the Administrative Tribunals Act, 1980 (Act No. VII of 1981) empowering the Government to establish by notification in the Official Gazette one or more Administrative Tribunals<sup>1</sup> to deal with matters and disputes especially pertaining to service matters of civil servants.

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<sup>1</sup> See sub-section (1) of sec. 3 of the Administrative Tribunals Act, 1980, which runs thus "The Government may, by notification in the official Gazette, establish one or more Administrative Tribunals for the purpose of this Act".

Accordingly, in exercise of the powers conferred by Section 3(1) of the Administrative Tribunals Act, 1980, the Government, by a notification<sup>2</sup> established an Administrative Tribunal at Dhaka on 01 February, 1982, for the whole of Bangladesh. Thus, an Administrative Tribunal was established for the first time in the history of Bangladesh to resolve disputes concerning the terms and conditions of the service of civil servants. In fact, the Tribunal was given herculean task of resolving disputes relating to service matters of civil servants throughout the country.

Ten years later of the establishment of the first Tribunal, it was ultimately realised in 1992 that the single Tribunal was unable to deal with the increasing number of cases expeditiously and, as such, on 30 May, 1992, the second Administrative Tribunal was established at Bogra.<sup>3</sup> The Government took more than nine years to set up further Tribunals to ensure speedy justice. On 22 October, 2001, the Government of Bangladesh established 05 more Administrative Tribunals in the country.<sup>4</sup> Thus, the total number of Administrative Tribunals stands at 07. The territorial jurisdictions of the Tribunals have accordingly been altered and re-fixed.<sup>5</sup>

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<sup>2</sup> Notification No. S.R.O. 58-L/82-JIV/1T-1/81, dated 01 February, 1982.

<sup>3</sup> Notification No. S.R.O. 119-L/92/249-JIV/5C-5/89, dated 30 May, 1992.

<sup>4</sup> Notification S.R.O. No. 288-Law/2001, dated 22 October, 2001.

<sup>5</sup> Ibid.

Of the three Administrative Tribunals established at Dhaka, the capital of Bangladesh, Administrative Tribunal No. 1 (one) has been given jurisdiction over six administrative districts;<sup>6</sup> Administrative Tribunal No. 2 (two) over five administrative districts;<sup>7</sup> and Administrative Tribunal No. 3 (three) over six administrative districts.<sup>8</sup> Administrative Tribunal set up at Chittagong has been vested with the jurisdiction to resolve relevant disputes in twelve administrative districts.<sup>9</sup> Administrative Tribunal established at Khulna has been given territorial jurisdiction over ten administrative districts.<sup>10</sup> Administrative Tribunal, Barisal, has been accorded jurisdiction to deal with disputes concerning the terms and conditions of service of civil servants in six<sup>11</sup> and Administrative Tribunal, Bogra, in sixteen<sup>12</sup> administrative districts of the country to deal with.

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<sup>6</sup> These are Dhaka, Narayanganj, Munshiganj, Manikganj, Gazipur and Narsingdi.

<sup>7</sup> These are Faridpur, Gopalganj, Madaripur, Shariatpur and Rajbari.

<sup>8</sup> These are Mymensingh, Kishoregonj, Netrokona, Tangail, Jamalpur and Sherpur.

<sup>9</sup> These are Chittagong, Cox's Bazar, Noakhali, Feni, Laksmipur, Comilla, Chandpur, Brahmanbaria, Sylhet, Moulvi-Bazar, Habiganj and Sunamganj.

<sup>10</sup> These are Khulna, Bagerhat, Satkhira, Jessore, Magura, Jhenaidah, Narail, Kustia, Chuadanga and Meherpur.

<sup>11</sup> These are Barisal, Pirojpur, Jhalakhati, Bhola, Patuakhali and Barguna.

<sup>12</sup> These are Bogra, Joypurhat, Pabna, Sirajganj, Dinajpur, Thakurgaon, Panchagar, Kurigram, Rangpur, Lalmonirhat, Gaibanda, Nilfamari, Rajshahi, Nawabganj, Naogaon and Natore.

Thus, the seven Administrative Tribunals have been given territorial jurisdictions over 61<sup>13</sup> out of 64 administrative districts in Bangladesh. The remaining three administrative hilly districts, namely, Khagrachari, Rangamati and Bandarban have been placed, as claimed by the Registrar of the Administrative Appellate Tribunal in an interview with the author,<sup>14</sup> under the jurisdiction of the Administrative Tribunal located at Chittagong. Thus, more or less a full fledged Administrative Tribunal system has been established and developed throughout Bangladesh over the period of 25 years (beginning in February, 1982) to exercise jurisdiction in respect of matters relating to or arising out of the terms and conditions of service of persons in the service of the Republic or of any statutory public authority.

## II. Operation of Administrative Tribunals in Bangladesh

On the basis of the materials collected by the author from the various authorities of Administrative Tribunals as well as Administrative Appellate Tribunal, an attempt has been made in this part of the chapter to examine, analyse and evaluate the operations of Administrative Tribunals in Bangladesh.

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<sup>13</sup> 6+5+6+12+10+6+16=61 administrative districts.

<sup>14</sup> Interview took place on 13 January 2002.

i) **Number of Cases Instituted and Disposed of Every Year**

a) **Administrative Tribunal, Dhaka**

The number of cases instituted in, and disposed of by the Administrative Tribunal, Dhaka, every year since its inception to 31 December, 2000, have been shown in the following table:<sup>15</sup>

ADMINISTRATIVE  
TRIBUNAL, DHAKA

**TABLE - A**

Year	Number of Cases Instituted	Number of Cases Disposed of
1-02-1982 to 31-12-1982	88	31
01-01-1983 to 31-12-1983	98	90
01-01-1984 to 31-12-1984	160	103
01-01-1985 to 31-12-1985	281	187
01-01-1986 to 31-12-1986	298	157
01-01-1987 to 31-12-1987	280	125
01-01-1988 to 31-12-1988	304	135
01-01-1989 to 31-12-1989	359	208

<sup>15</sup> The author has collected the facts and figures from the then Registrar (Mr. Rafiqul Islam), Administrative Tribunal, Dhaka.

01-01-1990 to 31-12-1990	265	181
01-01-1991 to 31-12-1991	269	205
01-01-1992 to 31-12-1992	352	314
01-01-1993 to 31-12-1993	488	326
01-01-1994 to 31-12-1994	375	282
01-01-1995 to 31-12-1995	242	337
01-01-1996 to 31-12-1996	217	322
01-01-1997 to 31-12-1997	288	157
01-01-1998 to 31-12-1998	342	175
01-01-1999 to 31-12-1999	297	212
01-01-2000 to 31-12-2000	321	226
	<b>Total 5324</b>	<b>3773</b>

Thus it is evident from the above table that the total number of cases instituted in the Administrative Tribunal, Dhaka, since its inception to 31 December, 2000 stands at 5324, of which the total number of Mis. Cases<sup>16</sup> instituted during this period are 117. On

<sup>16</sup> In the field of Administrative Tribunal, the term 'Mis. Case' is used to mean that case which is initially discharged by the Administrative Tribunal because of the absence of the petitioner, but subsequently the same is restored by the Tribunal on being satisfied that the petitioner could not attend the hearing due to unavoidable and reasonable ground.



the other hand, the total cases disposed of during this period are 3773. Hence, the total number of pending cases as on 31-12-2000 is  $5207 - 3773 = 1434$ , which is shown below:

ADMINISTRATIVE  
TRIBUNAL, DHAKA

**TABLE - B**

Actual Number of Cases Instituted	Number of Cases Disposed of	Number of Cases Pending
5324 - 117 = 5207	3773	1434
	72%	28%

Thus it is evident that the rates of disposal of cases and pending cases are 72% and 28% respectively. In an interview with the author,<sup>17</sup> the Administrative Tribunal Office of Dhaka claimed that the Administrative Tribunal, Dhaka, had disposed of all the cases instituted before 1987. It means that the Tribunal has before it pending cases instituted in or after 1987. In other words, the Tribunal has even 14 years' old cases pending for trial. This shows that is far from fulfilling the important objective of speedy disposal of cases for which the Administrative Tribunal has been established.

<sup>17</sup> The interview took place on 20 February 2001.

b) **Administrative Tribunal, Bogra**

The number of cases instituted in, and disposed of by the Administrative Tribunal, Bogra, every year since its establishment to 31-12-2000, have been shown below<sup>18</sup>:

**TABLE - C**

**ADMINISTRATIVE TRIBUNAL, BOGRA**

Year	Number of Cases Instituted	Number of Cases Disposed of
30-05-1992 to 31-12-1992	89	01
01-01-1993 to 31-12-1993	120	125
01-01-1994 to 31-12-1994	122	127
01-01-1995 to 31-12-1995	130	114
01-01-1996 to 31-12-1996	81	68
01-01-1997 to 31-12-1997	88	43
01-01-1998 to 31-12-1998	145	128
01-01-1999 to 31-12-1999	103	123
01-01-2000 to 31-12-2000	99	117
	<b>Total 977</b>	<b>846</b>

<sup>18</sup> The relevant facts and figures are collected from Mr. Md. Iman Ali Sheikh, the then Registrar, of the Administrative Tribunal, Bogra.

From above, it is revealed that the total number of cases instituted in the Administrative Tribunal, Bogra since its inception to December 31, 2000, is 977, which includes the total number of Mis. Cases instituted during this period. The number of Mis. Cases included are 22. On the other hand, the total number of cases disposed of during this period stands at 846. Hence, the total number of pending cases as on 31-12-2000 is  $955 - 846 = 109$ . The disposal of cases and pending cases have been shown in Table -D.

ADMINISTRATIVE  
TRIBUNAL, BOGRA

TABLE - D

Actual Number of Cases Instituted	Number of Cases Disposed of	Number of Cases Pending
977 - 22 = 955	846	109
	89%	11%

From the above, it is evident that the rates of disposal of cases and pending cases are 89% and 11% respectively. The researcher has been informed by the Administrative Tribunal Office on 26-05-2001 that the Administrative Tribunal, Bogra had disposed of all the cases instituted before 1997. It means that the Tribunal has before it pending cases instituted in 1997. In other words, the Tribunal has even 04 years' old cases for trial in 2000. Therefore, it

cannot be claimed that the very objective of speedy disposal of cases for the benefit of the aggrieved employees has been achieved.

## ii) Nature and Decisions of the Cases Tried by Administrative Tribunal and of Appeal Disposed of by Administrative Appellate Tribunal

Particulars concerning nature and decisions of only 100 sample cases<sup>19</sup> tried by Administrative Tribunal, Dhaka<sup>20</sup> and of appeal disposed of by Administrative Appellate Tribunal have been shown in the following Table-E:

ADMINISTRATIVE TRIBUNAL, DHAKA  
AND ADMINISTRATIVE APPELLATE TRIBUNAL

**TABLE - E**

Sl. No.	Name of the Parties, Administrative Tribunal Case Number and Year	Nature of the Case Tried	Decision of the Case Given by the Administrative Tribunal	Decision Given by the Administrative Appellate Tribunal on Appeal
1.	Md. Rafiqur Rahman and 7 others Vs. Government of Bangladesh. Case No. 4 of	A case against seniority fixation	In favour of the petitioners, Md. Rafiqur Rahman	Decision of the Ad. Tribunal was upheld and

<sup>19</sup> These 100 cases have been collected by convenience sampling from the—  
i) *Administrative Appeal cases, 1986, 1987 and 1988*, compiled and edited by Khandaker Hasib Uddin Ahmed; ii) *Administrative Appeal cases, 1991*, compiled and edited by Fatima Nazib; and iii) *Administrative Appeal cases, 1992*, compiled and edited by K.A. Nasrina Khanom, prepared under the authority of the Administrative Appellate Tribunal, Bangladesh.

<sup>20</sup> Since cases decided by the Administrative Tribunal, Bogra, and also by the Administrative Appellate Tribunal on appeal have not yet been published under the authority of the Administrative Appellate Tribunal, as such, the researcher for official difficulties could not collect any such cases for the said purpose.

	1984.		and others	affirmed on appeal
2.	Md. Abdul Quadir Vs. Government of Bangladesh and another. Case No. 57 of 1984.	A case against promotion order	In favour of the Government and another, the defendants	Decision of the Ad. Tribunal was upheld and affirmed on appeal
3.	Abul Kasim and others Vs. Government of Bangladesh. Case No. 65 of 1984.	A case against seniority fixation	In favour of the Government, the defendant	Decision of the Ad. Tribunal was upheld and affirmed on appeal
4.	Md. Aflaton Vs. Government of Bangladesh and another. Case No. 67 of 1984.	A case against Time-scale fixation	In favour of the Government and another, the defendants	Decision was upheld and affirmed on appeal
5.	Md. Nurul Islam and 7 others Vs. Government of Bangladesh and 4 others. Case No. 84 of 1984.	A case against promotion order	In favour of the Government and others, the defendants	Decision was upheld and affirmed on appeal
6.	Md. Jamsheer Ali and 16 others Vs. Government of Bangladesh and 15 others. Case No. 102 of 1984.	A case against placement in seniority	In favour of the Government and others, the defendants	Decision was upheld and affirmed on appeal
7.	Md. Golam Rosul and 3 others Vs. Government of Bangladesh and 66 others. Case No. 116 of 1984.	A case against direct appointment without considering promotion quota	In favour of the Government and others, the defendants	Decision was upheld and affirmed on appeal
8.	A.F.M. Fazlul Huq Vs. Government of Bangladesh and 5 others. Case No. 134 of 1984.	A case against compulsory retirement order	In favour of the Government and others, the defendants	Decision was upheld and affirmed on appeal
9.	Md. Shamsul Islam Talukder and another Vs. Government of Bangladesh and another. Case No. 136 of 1984.	A case against re-designation leading to reduction in rank	In favour of the Government and another, the defendants	Decision was upheld and affirmed on appeal
10.	S.M.A. Awal Vs. Managing Director, Agrani Bank. Case	A case against refusing Idd	In favour of the petitioner, S.M. A.	Decision was upheld and

	No. 158 of 1984.	Bonus and Incentive Bonus	Awal	affirmed on appeal
11.	Shamsur Rahman Bhuiya Vs. Government of Bangladesh. Case No. 20 of 1985.	A case against compulsory retirement order	In favour of the Government, the defendant	Decision was upheld and affirmed on appeal
12.	Md. Fazlul Haque and 4 others Vs. Bangladesh T & T Board and 164 others. Case No. 21 of 1985.	A case against calculation of service period	In favour of the T & T Board and others, the defendants	Decision was upheld and affirmed on appeal
13.	Md. Yunus Vs. General Manager, Bangladesh Railway and 4 others. Case No. 22 of 1985.	A case against the penalty order of reversion	In favour of Md. Yunus, the petitioner	Decision was set aside on appeal
14.	M.A. Yahia Vs. Government of Bangladesh and 2 others. Case No. 30 of 1985.	A case against departmental proceedings and suspension order	In favour of the petitioner, M.A. Yahia	Decision was upheld and affirmed on appeal
15.	Md. Abdur Rouf Vs. Government of Bangladesh and 2 others. Case No. 37 of 1985.	A case against order for stoppage of annual increment	In favour of the Government and others, the defendants	Decision was upheld and affirmed on appeal
16.	M.Habibullah Vs. D. G. Radio Bangladesh and another. Case No. 56 of 1985.	A case against an appointment	In favour of the defendants, D.G., Radio Bangladesh and another	Decision was upheld and affirmed on appeal
17.	Serajul Huq Vs. Regional Manager, Postal Life Insurance. Case No. 62 of 1985.	A case against order for stoppage of increment	In favour of the Regional Manager, Postal Life Insurance, the defendant	Decision was upheld and affirmed on appeal
18.	Sk. Ishaque Ali Vs. Government of Bangladesh and 3 others. Case No. 63 of 1985.	A case for correction of age	In favour of the Government and others, the defendants	Decision was upheld and affirmed on appeal
19.	Mahmudul Amin Chowdhury Vs. Government of Bangladesh. Case No. 69 of 1985.	A case against refusal to grant Selection Grade	In favour of the Government, the defendants	Decision was set aside on appeal

20.	Syed Ali Mia Vs. Government of Bangladesh and 2 others. Case No. 73 of 1985.	A case against order for reversion to former post	In favour of the Government and others, the defendants	Decision was upheld and affirmed on appeal
21.	Mahiuddin Ahmed Vs. Government of Bangladesh and others. Case No. 77 of 1985.	A case against penalty of censure	In favour of the Government and others, the defendants	Decision was upheld and affirmed on appeal
22.	Md. Mozammel Huq Vs. Secretary, Establishment Division. Case No. 81 of 1985.	A case against the penalty of reduction to a lower time-scale	In favour of the Secretary, Establishment Division, the defendant	Decision of the Ad. Tribunal was set aside on appeal
23.	Sipie Mia Vs. Chairman, Bangladesh Railway and 1 other. Case No. 82 of 1985.	A case against dismissal order	In favour of the Chairman, Bangladesh Railway and another, the defendants	Decision was upheld and affirmed on appeal
24.	Gulzar Hossain Vs. Government of Bangladesh and others. Case No. 84 of 1985.	A case against dismissal order	In favour of the petitioner, Gulzar Hossain	Decision was set aside on appeal
25.	A.K.M. Rafiqul Islam and others Vs. Government of Bangladesh and others. Case No. 87 of 1985.	A case against seniority fixation	In favour of the Government and others, the defendants	Decision was revised on appeal
26.	Md. Shamsul Alam Vs. Government of Bangladesh and 2 others. Case No. 102 of 1985.	A case against dismissal order	In favour of the petitioner, Md. Shamsul Alam	Decision was set aside on appeal
27.	Nazrul Islam Vs. House Building Finance Corporation. Case No. 113 of 1985.	A case against censure and stoppage of two annual increments	In favour of the petitioner, Nazrul Islam	Decision was revised on appeal
28.	Syed Abu Abdullah Mohammad Vs. Government of Bangladesh. Case No. 123 of 1985.	A case against censure and stoppage of increment	In favour of the petitioner, Syed Abu Abdullah Mohammad	Decision was upheld and affirmed on appeal
29.	Fatima Khatun and others	A case against the	In favour of the	Decision was set

	Vs. Government of Bangladesh. Case No. 129 of 1985.	order to return money	Government, the defendant	aside on appeal
30.	A.H.M. Masood Vs. Government of Bangladesh and 5 others. Case No. 139 of 1985.	A case for encadrement in Senior Services Pool	In favour of the Government and others, the defendants	On appeal, decision was upheld and affirmed
31.	Sk. Fazle Akbar Vs. Government of Bangladesh. Case No. 140 of 1985.	A case against dismissal order	In favour of the petitioner, Sk. Fazle Akbar	Decision was upheld and affirmed on appeal
32.	Imdadul Huq and others Vs. Janata Bank. Case No. 147 of 1985.	A case against dismissal order	In favour of the petitioners, Imdadul Huq and others	Decision was set aside on appeal
33.	Md. Mujibur Rahman Vs. Government of Bangladesh. Case No. 148 of 1985.	A case against compulsory retirement order	In favour of the petitioner, Md. Mujibur Rahman	Decision was set aside on appeal
34.	Md. Abdul Hai Shahjwal Vs. Government of Bangladesh and 2 others. Case No. 154 of 1985.	A case against pay scale fixation	In favour of the Government and others, the defendants	Decision was upheld and affirmed on appeal
35.	Abdul Huq Vs. Government of Bangladesh. Case No. 158 of 1985.	A case against decision for extra ordinary leave without pay	In favour of the petitioner, Abdul Huq	Decision was upheld and affirmed on appeal
36.	M.A. Yahia and others Vs. Government of Bangladesh and others. Case No. 161 of 1985.	A case against compulsory retirement order	In favour of the petitioners, M.A. Yahia and others	Decision was upheld and affirmed on appeal
37.	Zahidul Alam Vs. Bangladesh Bank and others. Case No. 165 of 1985.	A case against the order for stoppage of promotion	In favour of the petitioner, Zahidul Alam	Decision was upheld and affirmed on appeal
38.	A.K.M. Nazrul Islam Vs. Government of Bangladesh. Case No. 168 of 1985.	A case against censure and stoppage of increment	In favour of the petitioner, Nazrul Islam	Decision was set aside on appeal
39.	Md. Nurul Huq Mia Vs.	A case against	In favour of the	Decision was set



	Government of Bangladesh. Case No. 170 of 1985.	seniority fixation	petitioner, Md. Nurul Huq Mia	aside on appeal
40.	A.M.M. Mahabubur Rahman Vs. Sonali Bank. Case No. 190 of 1985.	A case against dismissal order	In favour of the petitioner, A.M.M. Mahabubur Rahman	Decision was set aside on appeal
41.	Mostaque Ahmed Kaiser Vs. Government of Bangladesh. Case No. 197 of 1985.	A case against order of Termination	In favour of the Government, the defendant	Decision was upheld and affirmed on appeal
42.	A.B.M. Abu Tahir Vs. Government of Bangladesh. Case No. 204 of 1985.	A case against compulsory retirement order	In favour of the petitioner, Abu Tahir	Decision was upheld and affirmed on appeal
43.	Md. Nurul Islam Vs. Government of Bangladesh. Case No. 211 of 1985.	A case against removal order	In favour of the petitioner, Nurul Islam	Decision was revised on appeal
44.	Munshi Mozammel Hossain Vs. Government of Bangladesh and others. Case No. 231 of 1985.	A case against compulsory retirement order	In favour of the Government and others, the defendants	Decision was set aside on appeal
45.	Kazi Golam Hossain Vs. Government of Bangladesh and 3 others. Case No. 241 of 1985.	A case against dismissal order	In favour of the petitioner, Golam Hossain	Decision was upheld and affirmed on appeal
46.	M.A. Zalil Vs. Government of Bangladesh. Case No. 242 of 1985.	A case against removal order	In favour of the petitioner, M.A. Zalil	Decision was upheld and affirmed on appeal
47.	Kh. Imdadul Huq Vs. Government of Bangladesh. Case No. 249 of 1985.	A case against dismissal order	In favour of the Government, the defendant	Decision was upheld and affirmed on appeal
48.	K.A. Islam Vs. Government of Bangladesh and 4 others. Case No. 250 of 1985.	A case against calculation of retirement period	In favour of the Government and others, the defendants	Decision was upheld and affirmed on appeal
49.	Osiruddin Ahmed Vs. Government of Bangladesh.	A case against compulsory	In favour of the petitioner,	Decision was upheld and

	Case No. 255 of 1985.	retirement order	Osiruddin Ahmed	affirmed on appeal
50.	Muslim Ali Vs. Government of Bangladesh. Case No. 264 of 1985.	A case against removal order	In favour of the Government, the defendant	Decision was set aside on appeal
51.	Abdullah Al-Faruq and others Vs. Government of Bangladesh. Case No. 279 of 1985.	A case against cancellation of promotion	In favour of the Government, the defendant	Decision was upheld and affirmed on appeal
52.	Md. Shajahan Mollah Vs. Government of Bangladesh. Case No. 8 of 1986.	A case against order for stoppage of two annual increments	In favour of the petitioner, Md. Shajahan Mollah	Decision was upheld and affirmed on appeal
53.	Kazi Abul Khair Vs. Government of Bangladesh. Case No. 29 of 1986.	A case against order for stoppage of three annual increments	In favour of the petitioner, Kazi Abul Khair	Decision was set aside on appeal
54.	Md. Nurul Islam Mridha Vs. Government of Bangladesh. Case No. 30 of 1986.	A case against removal order	In favour of the petitioner, Md. Nurul Islam Mridha	Decision was upheld and affirmed on appeal
55.	Ansar Uddin Ahmed Vs. Government of Bangladesh. Case No. 34 of 1986.	A case against compulsory retirement order	In favour of the petitioner, Ansar Uddin Ahmed	Decision was upheld and affirmed on appeal
56.	Md. Moinul Islam Vs. Director-General, Bangladesh Agricultural Research Institute. Case No. 38 of 1986.	A case against dismissal order	In favour of the petitioner, Md. Moinul Islam	Decision was upheld and affirmed on appeal
57.	M.A. Karim Vs. Government of Bangladesh and others. Case No. 40 of 1986.	A case against order for two stages degradation in Time-scale	In favour of the petitioner, M.A. Karim	Decision was set aside on appeal
58.	Abdul Mazid Bhuiya Vs. Government of Bangladesh and 3 others. Case No. 51 of	A case against transfer order	In favour of the Government and other, the	Decision was upheld and affirmed on

	1986.		defendants	appeal
59.	Md. Motiur Rahman Vs. Government of Bangladesh. Case No. 55 of 1986.	A case against decision for extra ordinary leave without pay	In favour of the Government, the defendant	Decision was set aside on appeal
60.	Md. Mujibur Rahman Khan Vs. Government of Bangladesh. Case No. 60 of 1986.	A case against compulsory retirement order	In favour of the Government, the defendant	Decision was set aside on appeal
61.	A.S.M. Altaf Hossain Vs. Secretary, Ministry of Post, Telegraph & Telephone and 3 others. Case No. 64 of 1986.	A case against compulsory retirement order	In favour of the petitioner, Altaf Hossain	Decision was upheld and affirmed on appeal
62.	A.K.M. Asadul Huq Talukder Vs. Government of Bangladesh. Case No. 73 of 1986.	A case against seniority in gradation list	In favour of the Government, the defendant	Decision was set aside on appeal
63.	Abdur Razzak and others Vs. Director-General, Bangladesh Agricultural Research Institute, Gazipur. Case No. 75 of 1986.	A case against compulsory retirement order	In favour of the petitioners, Abdur Razzak and others	Decision was upheld and affirmed on appeal
64.	Md. Fazlul Huq Hawlader Vs. Government of Bangladesh. Case No. 76 of 1986.	A case against dismissal order	In favour of the petitioner, Fazlul Huq Hawlader	Decision was upheld and affirmed on appeal
65.	M.A. Matin Vs. Government of Bangladesh. Case No. 79 of 1986.	A case against dismissal order	In favour of the Government, the defendant	Decision was upheld and affirmed on appeal
66.	Ronzon Shaha Vs. Government of Bangladesh. Case No. 80 of 1986.	A case against seniority fixation	In favour of the petitioner, Ronzon Shaha	Decision was upheld and affirmed on appeal
67.	Md. Shamsu Mia Vs. Government of Bangladesh. Case No. 100 of 1986.	A case against removal order	In favour of the petitioner, Shamsu Mia	Decision was upheld and affirmed on appeal
68.	Md. Anwar Shah Vs.	A case against	In favour of the	Decision was set

	Government of Bangladesh. Case No. 108 of 1986.	dismissal order	Government, the defendant	aside on appeal
69.	Sufia Khondaker Vs. Government of Bangladesh. Case No. 113 of 1986.	A case against removal order	In favour of the Government, the defendant	Decision was upheld and affirmed on appeal
70.	Abul Fazal Khan Vs. House Building Finance Corporation. Case No. 125 of 1986.	A case against dismissal order	In favour of the defendant, House Building Finance Corporation	Decision was set aside on appeal
71.	Moqlasur Rahman Vs. Government of Bangladesh. Case No. 153 of 1986.	A case against dismissal order	In favour of the Government, the defendant	Decision was upheld and affirmed on appeal
72.	Abul Basher Hawlader Vs. Government of Bangladesh. Case No. 174 of 1986.	A case against compulsory retirement order	In favour of the Government, the defendant	Decision was upheld and affirmed on appeal
73.	Golam Kibria Vs. Executive Director, Cotton Development Board. Case No. 180 of 1986.	A case against dismissal order	In favour of the petitioner, Golam Kibria	Decision was revised on appeal
74.	M. Hafizuddin Vs. Government of Bangladesh. Case No. 188 of 1986.	A case against compulsory retirement order	In favour of the petitioner, M. Hafizuddin	Decision was set aside on appeal
75.	Mohsena Akter Khanom Vs. Government of Bangladesh. Case No. 192 of 1986.	A case against refusal to accept joining	In favour of the Government, the defendant	Decision was set aside on appeal
76.	Ram Krishno Banerjee Vs. Secretary, Labour and Man Power Ministry, Bangladesh Government. Case No. 196 of 1986.	A case against compulsory retirement order	In favour of the Government, the defendant	Decision was upheld on appeal but on different ground
77.	Md Siddiqur Rahman Vs. Chairman, National Board of Revenue, and others. Case No. 199 of 1986.	A case against compulsory retirement order	In favour of the petitioner, Md. Siddiqur Rahman	Decision was set aside on appeal
78.	Shabir Ahmed Vs. Government of Bangladesh.	A case claiming certain salary	In favour of the petitioner, Shabir	Decision was upheld and

	Case No. 223 of 1986.	scale	Ahmed	affirmed on appeal
79.	Syed Forhad Reza Vs. Secretary, Ministry of Establishment and others. Case No. 254 of 1986.	A case against placement in seniority list	In favour of the defendants, Establishment Secretary and others	Decision was set aside on appeal
80.	Mohammad Abdul Hakim Mia Vs. Divisional Forest Officer and others. Case No. 277 of 1986.	A case against dismissal order	In favour of the defendants, Divisional Forest Officer and others	Decision was set aside an appeal
81.	Abdul Quddus Vs. Government of Bangladesh. Case No. 279 of 1986.	A case claiming seniority as well as promotion	In favour of the Government, the defendant	Decision was upheld and affirmed on appeal
82.	Enayet Hossain Mollah Vs. Janata Bank and others. Case No. 284 of 1986.	A case against dismissal order	In favour of the defendants, Janata Bank and others	Decision was upheld and affirmed on appeal
83.	Syed Arifur Huda Vs. Government of Bangladesh. Case No. 285 of 1986.	A case claiming promotion	In favour of the Government, the defendant	Decision was upheld and affirmed on appeal
84.	Anwar Hossain Hawlader Vs. Government of Bangladesh and others. Case No. 286 of 1986.	A case against removal order	In favour of the Government and others, the defendants	Decision was upheld and affirmed on appeal
85.	Md. Habibur Rahman Dofader Vs. Government of Bangladesh. Case No. 297 of 1986.	A case against retirement order	In favour of the Government, the defendant	Decision was upheld and affirmed on appeal
86.	Abdur Rob Hawlader Vs. Government of Bangladesh. Case No. 6 of 1987.	A case against penal transfer and warning	In favour of the petitioner, Abdur Rob Hawlader	Decision was upheld and affirmed on appeal
87.	Mahbub Talukder Vs. Secretary, Ministry of Establishment. Case No. 17 of 1987.	A case against postponement of promotion and degradation in Time-scale	In favour of the petitioner, Mahbub Talukder	Decision was upheld and affirmed on appeal

88.	Salima Siddiquee Vs. Government of Bangladesh and others. Case No. 27 of 1987.	A case against dismissal order	In favour of the Government and others, the defendants	Decision was upheld and affirmed on appeal
89.	Md. A.F.B. Jahan Mia and others Vs. Chairman, National Board of Revenue. Case No. 90 of 1987.	A case against placement in seniority list	In favour of the petitioners, A.F. B. Jahan Mia and others	Decision was set aside on appeal
90.	M.A. Basher Vs. Collector, Custom-house, Air Port, Dhaka. Case No. 92 of 1987.	A case against transfer order	In favour of the defendant, Collector, Custom-house	Decision was set aside on appeal
91.	Md. Zahid Hossain Vs. Collector, Custom-house, Air Port, Dhaka. Case No. 93 of 1987.	A case against transfer order	In favour of the defendant, Collector, Custom-house	Decision was set aside on appeal
92.	Kh. Tasiqul Islam Vs. Senior Post Master, Z.P.O., Rajshahi and others. Case No. 101 of 1987.	A case against dismissal order	In favour of the defendants, Senior Post Master and others	Decision was set aside on appeal
93.	Md. Abdul Wahab Mollah Vs. Government of Bangladesh and others. Case No. 121 of 1987.	A case against dismissal order	In favour of the Government and others, the defendants	Decision was set aside on appeal
94.	Md. Nazmul Sharif Vs. Ministry of Law and Justice. Case No. 212 of 1987.	A case against promotion order	In favour of the petitioner, Nazmul Sharif	Decision was set aside on appeal
95.	Md. Moqbul Hossain Vs. Post Master General. Case No. 244 of 1987.	A case against dismissal order	In favour of the petitioner, Md. Moqbul Hossain	Decision was upheld and affirmed on appeal
96.	Md. Abdul Huq Vs. Secretary, Ministry of Home Affairs. Case No. 258 of 1987.	A case against dismissal order	In favour of the petitioner, Md. Abdul Huq	Decision was set aside on appeal
97.	Md. Lokman Hossain Vs. Chairman, T & T Board and others, Case No. 123 of 1988.	A case claiming Time-scale and Selection Grade	In favour of the Chairman, T & T Board and others, the defendants	Decision was set aside on appeal
98.	Dr. Nur Mohammad Vs.	A case against	In favour of the	Decision was

	Secretary, Livestock Ministry, Bangladesh Government. Case No. 208 of 1988.	demotion order	petitioner, Dr. Nur Mohammad	upheld and affirmed on appeal
99.	Md. Nurul Huq Vs. Secretary, Food Ministry, Bangladesh Government and others. Case No. 231 of 1988.	A case against removal order	In favour of the Government and others, the defendants	Decision was set aside on appeal
100.	Harunur Rashid Bhuiya and 4 others Vs. Secretary, Ministry of Establishment, Bangladesh Government. Case No. 275 of 1988.	A case against placement in seniority list	In favour of the Government, the defendant	Decision was upheld and affirmed on appeal

From the above Table-E it is evident that of the cases decided by the Administrative Tribunal, Dhaka, 31 cases are related to Dismissal / Removal / Termination,<sup>21</sup> 17 cases are related to Compulsory Retirement / Retirement,<sup>22</sup> 12 cases related to Promotion / Demotion,<sup>23</sup> 11 cases related to Seniority,<sup>24</sup> 7 cases related to Pay Scale / Time Scale,<sup>25</sup> 7 cases related to Increment,<sup>26</sup> 5 cases related to Censure / Warning <sup>27</sup> and 15 cases related to other matters.<sup>28</sup> These findings are being depicted in the following Table-F:

<sup>21</sup> Vide Serial Nos. 23, 24, 26, 31, 32, 40, 41, 43, 45-47, 50, 54, 56, 64, 65, 67-71, 73, 80, 82, 84, 88, 92, 93, 95, 96 and 99 of Table - E.

<sup>22</sup> Vide Serial Nos. 8, 11, 33, 36, 42, 44, 48, 49, 55, 60, 61, 63, 72, 74, 76, 77 and 85 of Table - E.

<sup>23</sup> Vide Serial Nos. 2, 5, 7, 9, 13, 37, 51, 81, 83, 87, 94 and 98 of Table - E.

<sup>24</sup> Vide Serial Nos. 1, 3, 6, 25, 39, 62, 66, 79, 81, 89 and 100 of Table - E.

<sup>25</sup> Vide Serial Nos. 4, 22, 34, 57, 78, 87 and 97 of Table - E.

<sup>26</sup> Vide Serial Nos. 15, 17, 27, 28, 38, 52 and 53 of Table - E.

<sup>27</sup> Vide Serial Nos. 21, 27, 28, 38 and 86 of Table - E.

<sup>28</sup> Vide Serial Nos. 10, 12, 14, 16, 18-20, 29, 30, 35, 58, 59, 75, 90 and 91 of Table - E.

ADMINISTRATIVE  
TRIBUNAL, DHAKA

TABLE - F

Nature	Number of Cases
Related to Dismissal /Removal / Termination	31
Related to Compulsory Retirement/Retirement	17
Related to Promotion/Demotion	12
Related to Seniority	11
Related to Pay Scale/Time Scale	07
Related to Increment	07
Related to Censure/Warning	05
Related to other matters	15
	<b>Total 105<sup>29</sup></b>

From the above Table, it is evident that the highest number, 31, of the cases, instituted in, and, disposed of by, the Administrative Tribunal are related to dismissal/removal/termination which is followed by cases concerning compulsory retirement/retirement, securing 17%. The cases related to promotion/demotion occupy the third position (i.e. 12% of the cases).

<sup>29</sup> Here the actual no. of cases are 100 not 105. The figure of 105 instead of 100 has been possible due to the fact that 5 cases as contained in the serial nos. 27, 28, 38, 81 and 87 of the Table - E have been counted twice since these are related to two different issues.



Thus the number of total cases related to disciplinary actions is 64<sup>30</sup> and the remaining 36<sup>31</sup> cases are related to purely service matters, which are being shown in the following Table:

**TABLE - G**

**ADMINISTRATIVE TRIBUNAL, DIIAKA**

Nature of Cases	Number of Cases	%
Related to Disciplinary Actions	64	64%
Related to purely service matters	36	36%
	<b>Total 100</b>	<b>100%</b>

It is evident from the above Table-G that the Administrative Tribunal, Dhaka, mostly dealt with disciplinary cases (such cases are 64 out of 100 cases).

#### **Nature of the Decisions of the Cases Tried by Administrative Tribunal**

In a majority of the cases, 56%, tried by the Administrative Tribunal, Dhaka, decisions were given in favour of

<sup>30</sup> Vide Serial Nos. 8, 11, 13-15, 17, 21-24, 26-28, 31-33, 36-38, 40-47, 49-57, 60, 61, 63-65, 67-74, 76, 77, 80, 82, 84-88, 92, 93, 95, 96, 98 and 99 of Table - E.

<sup>31</sup> Vide Serial Nos. 1-7, 9, 10, 12, 16, 18-20, 25, 29, 30, 34, 35, 39, 48, 58, 59, 62, 66, 75, 78, 79, 81, 83, 89-91, 94, 97 and 100 of Table - E.

the defendant Government / Statutory Authorities.<sup>32</sup> While in the remaining 44% of the cases, decisions went in favour of the petitioner personnel.<sup>33</sup> This has been depicted in the following Table:

**TABLE - H**

**ADMINISTRATIVE TRIBUNAL, DHAKA**

<b>Decision of Administrative Tribunal</b>	<b>Number of Cases</b>	<b>%</b>
In favour of the defendant Government / Statutory Authorities	56	56%
In favour of the petitioner personnel	44	44%
	<b>Total 100</b>	<b>100%</b>

Thus the decisions of the Administrative Tribunal, Dhaka, went 12% more in favour of the defendant Government/Statutory Authorities: 56% in favour of the Government and 44% in favour of petitioner. Thus the criticism that Administrative Tribunals in Bangladesh mostly favour the Government side in deciding cases can hardly be justified.

<sup>32</sup> Vide Serial Nos. 2-9, 11, 12, 15-23, 25, 29, 30, 34, 41, 44, 47, 48, 50, 51, 58-60, 62, 65, 68-72, 75, 76, 79-85, 88, 90-93, 97, 99 and 100 of Table - E.

<sup>33</sup> Vide Serial Nos. 1, 10, 13, 14, 24, 26-28, 31-33, 35-40, 42, 43, 45, 46, 49, 52-57, 61, 63, 64, 66, 67, 73, 74, 77, 78, 86, 87, 89, 94-96 and 98 of Table - E.

The Table-E further shows that out of the 100 cases decided by the Administrative Tribunal, Dhaka, the Administrative Appellate Tribunal on appeal upheld 61,<sup>34</sup> set aside 34<sup>35</sup> and revised 04<sup>36</sup> decisions. The Administrative Appellate Tribunal on appeal also upheld 01<sup>37</sup> decision of the Administrative Tribunal on different grounds. These facts and figures have been depicted in the following Table-I:

ADMINISTRATIVE TRIBUNAL, DHAKA  
AND ADMINISTRATIVE APPELLATE TRIBUNAL

**TABLE - I**

<b>Decision of Administrative Tribunal</b>	<b>Number of Cases</b>	<b>%</b>
Have been upheld and affirmed on appeal	61	61%
Have been set aside on appeal	34	34%
Have been revised on appeal	04	04%
Has been upheld on appeal but on different ground	01	01%
	<b>Total 100</b>	<b>100%</b>

<sup>34</sup> Vide Serial Nos. 1-12, 14-18, 20, 21, 23, 28, 30, 31, 34-37, 41, 42, 45-49, 51, 52, 54-56, 58, 61, 63-67, 69, 71, 72, 78, 81-88, 95, 98 and 100 of Table - E.

<sup>35</sup> Vide Serial Nos. 13, 19, 22, 24, 26, 29, 32, 33, 38-40, 44, 50, 53, 57, 59, 60, 62, 68, 70, 74, 75, 77, 79, 80, 89-94, 96, 97 and 99 of Table - E.

<sup>36</sup> Vide Serial Nos. 25, 27, 43 and 73 of Table - E.

<sup>37</sup> Vide Serial No. 76 of Table - E.

The fact that majority of decisions of the Administrative Tribunal, 61%, have been upheld and affirmed on appeal by the Administrative Appellate Tribunal shows that the Tribunal, to a great extent, gave fair and impartial decisions.

Of the 34 decisions set aside, 15 decisions<sup>38</sup> of the Administrative Appellate Tribunal have gone in favour of the Government/Statutory Authorities and the rest 19<sup>39</sup> in favour of the personnel, which is shown in Table-J:

**TABLE - J**

<b>Out of 34 set aside Cases</b>	
<b>Number of cases set aside in favour of the Government / Statutory Authorities</b>	<b>Number of cases set aside in favour of the personnel</b>
15	19
44%	56%

<sup>38</sup> Vide Serial Nos. 13, 24, 26, 32, 33, 38, 39, 40, 53, 57, 74, 77, 89, 94 and 96 of Table-E.

<sup>39</sup> Vide Serial Nos. 19, 22, 29, 44, 50, 59, 60, 62, 68, 70, 75, 79, 80, 90-93, 97 and 99 of Table-E.

Thus the above facts and figures show that the Administrative Appellate Tribunal in Bangladesh dispose of appeal cases without any bias in favour of the Government.

### iii) Execution of the Decisions of Administrative Tribunals

It is quite impossible for any Administrative Tribunal to work effectively until and unless its decisions are executed properly. Proper execution of the decisions of Administrative Tribunal is one of the most important ingredients for its effective operation. But, in Bangladesh, the decisions of the Administrative Tribunals with regard to the disputes concerning service matters of civil servants are not always executed properly due to the reluctance of either Government or other side. And in cases of failure by the Government or other side to execute the decisions of the Administrative Tribunals or of the Administrative Appellate Tribunal, the Administrative Appellate Tribunal initiates contempt cases in pursuance of Section 10A of the Administrative Tribunals Act, 1980.

The statistics of the cases concerning contempt of Administrative Tribunals and the Administrative Appellate Tribunal in Bangladesh are shown in Tables K and L respectively.<sup>40</sup>

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<sup>40</sup> These tables have been prepared on the basis of the facts and figures collected by the author on 22.10.2001 from the Registrar of the Administrative Appellate Tribunal, Mrs. Shahina Nigar.

TABLE - K

ADMINISTRATIVE  
TRIBUNALS, DHAKA AND BOGRA

Number of Contempt cases since establishment <sup>41</sup> to 1-6-2001	Defendant sides of contempt cases	Number of cases disposed of	Number of cases where contempt has been proved
For Administrative Tribunal, Dhaka - 02 cases	Government in 02 cases	Dhaka-02	No Contempt could be proved due to negotiation
For Administrative Tribunal, Bogra - 01 case	Personnel in 01 case	Bogra - 01	
<b>Total - 03</b>	<b>03</b>	<b>03</b>	<b>00</b>

The above Table shows that altogether 03 cases were instituted for contempt of Administrative Tribunals in Bangladesh since 1982. And the Administrative Appellate Tribunal has already disposed of all of these 03 contempt cases. But no contempt has been proved because of the fact that negotiation always took place between the Administrative Appellate Tribunal and the defendant.

<sup>41</sup> The Administrative Tribunals at Dhaka and Bogra were established on 01-02-1982 and 30-05-1992 respectively.

However, in most of the contempt cases, the defendant parties alleged for contempt of Administrative Tribunals in Bangladesh are Government Authorities.

TABLE - L

ADMINISTRATIVE  
APPELLATE TRIBUNAL

Number of cases instituted for contempt of Administrative Appellate Tribunal since establishment <sup>42</sup> to 1-6-2001	Defendant sides of contempt cases	Number of cases disposed of	Number of cases where contempt has been proved
19	Government in 18 cases Bank in 1 case	15	Contempt could not be proved due to negotiation
<b>Total - 19</b>	<b>19</b>	<b>15</b>	<b>00</b>

From Table-L, it is clear that only 19 cases have so far been instituted for contempt of Administrative Appellate Tribunal since 1983. Of these 19 cases, 15 cases have so far been disposed of till 22 October 2001. But no contempt has been proved because of the fact

<sup>42</sup> The Administrative Appellate Tribunal was established on 22-08-1983.

that negotiation always took place between the Administrative Appellate Tribunal and the defendant parties. In all these contempt cases, the defendant sides are Government Authorities and Statutory Body i.e. Financial Institution.

### III. Operation of Administrative Tribunal in Bangladesh Under the Second Martial Law Government (1982 - 1986)

Martial Law was declared throughout the country for the second time in its history on 24 March 1982 after usurpation of power in a stereotyped coup d'Etat. The Head of the State was removed. Cabinet and Parliament were dissolved.<sup>43</sup> The 1972 Constitution was suspended and all State powers were concentrated in the Executive controlled by the Chief Martial Law Administrator. All legislative powers were vested in him. Court's/Tribunal's jurisdiction was largely curtailed. Massive removal/dismissal or compulsory retirement of civil servants amounting to purging took place. All orders made, acts and things done, and actions taken by the Chief Martial Law Administrator were made immune from being challenged in or before any Court or Tribunal on any ground whatsoever.<sup>44</sup>

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<sup>43</sup> Justice Ibrahim Memorial Lecture on *Independent Judiciary in Developing Countries* by Justice Kemaluddin Hossain, Part III (1986) 109-111.

<sup>44</sup> Vide the Proclamation of Martial Law, 24 March 1982.



In the case of Md. Mujibur Rahman Vs. Government of Bangladesh,<sup>45</sup> it is found that Custom Collector Mujibur Rahman was compulsorily retired on 4-8-83 by an order of the Chief Martial Law Administrator. Thereafter, Mr. Mujibur Rahman, being aggrieved, filed this case before the Administrative Tribunal challenging the impugned order of the Chief Martial Law Administrator as illegal. The learned Member of the Administrative Tribunal, in effect, accepted the case on merit, and set aside the impugned order of the Government as illegal and *Ultra Vires*.

But, on appeal,<sup>46</sup> the Administrative Appellate Tribunal set the decision of the Administrative Tribunal aside only on the ground that the jurisdiction of the Chief Martial Law Administrator was unlimited, and his any order, therefore, could not be held illegal and *ultra vires*. No Court or Tribunal has jurisdiction to call in question the validity of any order of the Chief Martial Law Administrator on any ground whatsoever. All orders made, actions taken by the Chief Martial Law Administrator were indeed immune from being challenged in or before any Court or Tribunal.

The Administrative Appellate Tribunal in Ramkrishno Banerjee (Appellant) Vs. Secretary, Labour and Man Power

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<sup>45</sup> Case No. 148 of 1985.

<sup>46</sup> Appeal No. 12 of 1986.

Ministry<sup>47</sup> (Respondent) has given similar decision. In the appeal, it is found that the appellant petitioner, Ramkrishno Banerjee was compulsorily retired by the authority as per order of the Chief Martial Law Administrator. Being aggrieved, he filed the case<sup>48</sup> before the Administrative Tribunal challenging the impugned order of compulsory retirement as illegal and void. The learned Member of the Administrative Tribunal, in effect, dismissed the petition of the appellant petitioner, Ramkrishno Banerjee, on the ground that it was barred by limitation.

But the Administrative Appellate Tribunal set aside the decision of the Administrative Tribunal on appeal and held that :

- i) The jurisdiction of the Chief Martial Law Administrator is unlimited and his any order, therefore, cannot be held illegal and *ultra vires*. No Court or Tribunal has jurisdiction to call in question the validity of any order of the Chief Martial Law Administrator on any ground whatsoever. All orders made, acts or things done, actions taken by the Chief Martial Law Administrator are, indeed, exempted from being challenged in or before any Court or Tribunal;
- ii) Since the impugned order of compulsory retirement of Ramkrishno Banerjee was issued as per order of the Chief Martial Law Administrator, the learned Member of the

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<sup>47</sup> Appeal No. 5 of 1991.

<sup>48</sup> Case No. 196 of 1986.

Administrative Tribunal, therefore, acted beyond power by entertaining the petition and rejecting the same on the ground that it was barred by Limitation.

Thus it is evident that the 1982 Martial Law Administration, which continued up to 11 November 1986, curtailed the powers of the Administrative Tribunal to resolve disputes concerning terms and conditions of service of civil servants. The jurisdiction of the Administrative Tribunal was ousted to try any case filed against the order/decision of the Chief Martial Law Administrator, which was reiterated by the Administrative Appellate Tribunal in a number of cases.

#### **IV. Conclusions**

The foregoing discussion reveals that the territory-based jurisdictions of seven Administrative Tribunals in Bangladesh have been extended, in pursuance of the notification S.R.O. No. 288-Law/2001, dated 22 October 2001, to 61 out of 64 administrative districts: only three administrative districts, namely, Khagrachari, Rangamati and Bandarban have not been included in the said notification. The notification was silent as to who would resolve the claims and disputes relating to service matters of these three hilly districts, though the Administrative Tribunal, Chittagong, is now

conventionally settling the claims and disputes relating to service matters of these three hilly districts.<sup>49</sup>

Although the rate of disposal of cases by the Administrative Tribunal, Dhaka, since its establishment to 31 December 2000, is 72%, there were cases pending before it for decision instituted fourteen years back in 1987. Thus the very important objective of achieving expeditious disposal of cases by Administrative Tribunal could not fully be realised. But the Administrative Tribunal, Bogra, favourably compares with the Administrative Tribunal, Dhaka, in respect of the rate of disposal of cases as it is 89% since its inception to 31-12-2000. Furthermore, it had before it some cases pending for decision that were 4 years old (i.e. instituted in 1997).

In Bangladesh, most of the cases disposed of by Administrative Tribunal were related to disciplinary matters.<sup>50</sup> Of the cases disposed of, 31%, the highest number, were related to dismissal/removal/termination, which was followed by cases (17%) relating to compulsory retirement/retirement.<sup>51</sup> Although most of the

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<sup>49</sup> For detail see at 105-107 ante.

<sup>50</sup> See at 125-126 ante.

<sup>51</sup> See at 124-125 ante.

decisions (56%) made by the Administrative Tribunal, Dhaka, have gone in favour of the defendant Government / Statutory Bodies, in 44% cases the decisions of the Administrative Tribunal, Dhaka, have gone in favour of the petitioner personnel.<sup>52</sup>

Furthermore, most of the decisions (61%) made by the Administrative Tribunal, Dhaka, have been upheld on appeal by the Administrative Appellate Tribunal, while in 34% cases, decisions of Administrative Tribunal, Dhaka, have been set aside on appeal by the Administrative Appellate Tribunal<sup>53</sup> of which in 44% cases, the decisions rendered on appeal by the Administrative Appellate Tribunal have gone in favour of the Government / Statutory Authorities. On the contrary, in most of the set aside cases, 56%, the decisions rendered on appeal by the Administrative Appellate Tribunal have gone in favour of the personnel.<sup>54</sup> This demonstrates that the Administrative Appellate Tribunal has performed its function without fearing or favouring the Government side.

In most of the cases, petitions for contempt of Administrative Tribunals were filed against the Government,<sup>55</sup>

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<sup>52</sup> See at 126-127 ante.

<sup>53</sup> See at 128 ante.

<sup>54</sup> See at 129 ante.

<sup>55</sup> See at 131 ante.

although the question of proving the allegation did not arise at all. For, negotiations always took place between the Administrative Appellate Tribunal and defendant parties. But in all cases the parties accused of contempt of the Administrative Appellate Tribunal were Government Authorities and Statutory Body.<sup>56</sup> The filing of contempt petitions against the Government shows that it failed to appreciate its statutory role: to implement the decisions of the Administrative Tribunals and the Administrative Appellate Tribunal and to act in aid of the Tribunals. It is rightly claimed that in a Government, which is ruled by law, there must be complete awareness to carry out faithfully and honestly the decisions delivered by courts of law or tribunals after effective adjudication. In the absence of such an attitude on the part of all concerned, chaotic conditions might arise and the functions assigned to the courts or tribunals under the Constitution might result in futile exercise.<sup>57</sup>

The 1982 Martial Law Administration resorted to massive removal/dismissal or compulsory retirement of civil servants and all orders made, acts done, and actions taken in this regard by the Chief Martial Law Administrator were made immune

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<sup>56</sup> See at 132 ante.

<sup>57</sup> Baradakanta Mishra Vs. Bhimsen Dixit, AIR 1972 (SC) 2466.

from being challenged in or before any Court or Tribunal on any grounds whatsoever. Thus, the jurisdiction of Administrative Tribunal, the only institution for the protection of civil servants, was curtailed. The Administrative Tribunal was legally barred to try any case filed against any order or decision of the Chief Martial Law Administrator<sup>58</sup> to the disadvantage of the victim civil servants.

In the next Chapter, an attempt has been made to examine certain cases disposed of by the Administrative Tribunal and the Administrative Appellate Tribunal to show the manner in which the dispensation of Justice has been carried out.

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<sup>58</sup> For detail see at 133-136 ante.

**CHAPTER FIVE**

**STUDIES OF CERTAIN CASES TRIED  
BY ADMINISTRATIVE TRIBUNALS AND  
ADMINISTRATIVE APPELLATE TRIBUNAL**

In this chapter, an attempt is made to examine as well as evaluate certain decisions given in some of the cases concerning compulsory retirement and dismissal tried by Administrative Tribunal and contempt disposed of by the Administrative Appellate Tribunal in Bangladesh.

**I) A Case Concerning Compulsory Retirement**

**Administrative Tribunal Case No. 20 of 1985**

**Shamsur Rahman Bhuiya - Petitioner**

*Versus*

**Government of Bangladesh - Defendant**

The short history of the case<sup>1</sup>, as it is found from the records of the case, the petitioner, Shamsur Rahman Bhuiya joined the service on 20. 09. 53 as an Assistant Chemical Examiner under the Directorate of Health Services of the then Government of East Pakistan. He was subsequently appointed as a Chemist in the Directorate of Inspection and Control under the Food Department.

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<sup>1</sup> The facts of the case have been collected from the records of the Administrative Tribunal.



He joined this post on 13.11.62. He was promoted to the post of a Regional Controller of Food and was holding the post of Deputy Chief, Food Cell, Food Division to which he was appointed under notification, dated 25.5.82 at the relevant time. While working as the Deputy Chief, he was placed under suspension by the Government by an order, dated 27.7.83 pending departmental proceeding under the Government Servants (Discipline and Appeal) Rules, 1976. Afterwards, by an order under the notification, dated 25.1.84, he was retired from the service under Section 9(2) of the Public Servants (Retirement) Act, 1974 (Act XII of 1974). Notwithstanding this order of retirement, a departmental proceeding was drawn up against him, and a charge sheet dated 9.2.84 was served on him.

In the charge sheet, he was described as a person under suspension. The Enquiry Officer concluded hearing on 8.4.84 and submitted report. The Government did not give any decision. The appellant petitioner then submitted a representation to the President on 26.11.84 for rescinding the order of retirement dated 25.1.84, vacating the order of suspension dated 27.7.83, dropping the departmental proceeding and reinstating him in service with full pay, whereupon, the Authority issued an order dated 23.12.84 intimating him that he had already been retired by order dated 25.1.84, and, as

such, the departmental proceeding would stand annulled and the order of suspension would be treated as cancelled.

Hence, the petitioner filed the case before the Administrative Tribunal on 7.2.85 and argued that as he was placed under suspension and a departmental proceeding was subsequently initiated on a charge of misconduct, the impugned order of retirement must be held to be an order made in colourable exercise of powers under the Act XII of 1974. The Administrative Tribunal dismissed the case on 27.5.85 and held that as the departmental proceeding was initiated after the impugned order of retirement, it was incompetent and in law nonest.

**: APPEAL :**

Being aggrieved by the decision of the Administrative Tribunal, the petitioner preferred an appeal to the Administrative Appellate Tribunal. On appeal, Mr. S.R. Pal, the learned Advocate appearing for the appellant petitioner submitted that the retirement of the appellant petitioner under the Public Servants (Retirement) Act, 1974 was made in colourable exercise of powers under that Act and as such was vitiated by malice. He submitted that the ground for retiring the petitioner appellant was misconduct, and by the

impugned order, he was in fact retired as a measure of punishment. The order has not been made in the public interest.

On the other hand, the learned Deputy Attorney General A.Y. Salehuzzamman appearing for the Government totally opposed the idea of colourable exercise of power. He placed before the Administrative Appellate Tribunal the entire file (M/O Food, File No. Food A-3/1C-52/85) including the summary on the basis of which the proposal for retirement of the appellant petitioner under the Public Servants (Retirement) Act, 1974, was approved by the President and the impugned order of retirement dated 25-01-84 was issued.

The Administrative Appellate Tribunal on appeal upheld and affirmed the decision of the Administrative Tribunal on 25-03-86 and concluded that the impugned order of retirement of Mr. Shamsur Rahman was made in the public interest after the Authority was satisfied that it was necessary to do so and not in colourable exercise of powers under Act XII of 1974, and, in concluding so, the Administrative Appellate Tribunal observed:

At the time of retirement, the appellant petitioner was under suspension pending drawal of departmental proceeding. The charge sheet that was served upon him after the impugned order of

retirement was made is evident of the allegations for which a departmental proceeding was contemplated. It is, however, evident that the departmental proceeding having been initiated after the appellant petitioner had already been retired was incompetent and the departmental proceeding, which was annulled by the order-dated 23.12.84 is, in law, nonest. In the charge sheet, the appellant petitioner has been described as an officer under suspension, and evidently through mistake. No legal consequence can follow from such a mistaken description of the appellant petitioner as an officer under suspension when it is clear that he had already been retired at that time. Though the allegations which were the subject of the proposed departmental proceeding were materials along with other materials for the Authority for being satisfied that it was necessary in public interest to retire him, a conclusion that a punishment was intended and the exercise of powers under Act XII of 1974 was a colourable exercise of powers is unwarranted. The satisfaction of the Authority is a subjective satisfaction of the Authority and it is not subject to judicial scrutiny. The same allegations which are subject of a departmental proceeding proposed to be drawn or already drawn, may also be the materials for the formation of the satisfaction of the Authority that it is in public interest to retire the Government Servant. This cannot of itself be a ground for making a conclusion that a punishment was intended and the order has been made in colourable exercise of powers under the law :

*therefore, the appeal fails.*

It appears that both the Administrative Tribunal and the Administrative Appellate Tribunal didn't appreciate the following facts in arriving at their aforesaid decisions:

that the charge sheet, though post-retirement, indicated that the allegations against the appellant petitioner were that he made a representation to the Secretary, Ministry of Food, directly and not through proper channel in the matter of implementation of the proposed reconstitution of the service structure expressing an apprehension that the interest of the officers of B.C.S. (Administration: Food) would be prejudiced by the reconstitution, though he was not a representative of the officers of the cadre and was not authorised to make any representation and that his conduct was unbecoming of a government servant and contravened the Rules of conduct;

that as per record of the case, those were the allegations on whose basis a departmental proceeding was mooted, and the appellant petitioner was placed under suspension pending departmental proceeding. During his suspension, he was retired by the impugned order before initiation of any departmental proceeding;

that the Government had scope to punish Mr. Shamsur Rahman through departmental proceeding already drawn for his alleged misconduct, which usually never call for major punishment

amounting to dismissal. But instead of doing that, the Government<sup>2</sup> took the option of exercising its power of compulsory retirement in the name of public interest under the Public Servants Retirement Act, 1974 (Act No. XII of 1974).

## II) A Case Concerning Dismissal

**Administrative Tribunal Case No. 264 of 1985**

**Muslim Ali - Petitioner**

*Versus*

**Government of Bangladesh - Defendant**

In short, the facts<sup>3</sup> of the case are that the petitioner Muslim Ali was holding the post of a Upazilla Magistrate. On 10.3.85, he was served a show cause on the charges of inefficiency and misconduct, and he was asked to submit written defence in the departmental proceeding. On 1.4.85, he, by a petition, prayed for treating his statement of justification, dated 1.4.85 as his statement of defence. A Board of Inquiry was constituted to inquire into the allegations and it submitted a report. On the result of the inquiry, he was served with a second show cause notice dated 3.7.85, and ultimately he was removed from service by the impugned order

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<sup>2</sup> The Government was the Martial Law Government of H.M. Ershad, who came to power illegally by removing the democratically elected Government of President Abdus Satter on 24 March 1982.

<sup>3</sup> The facts of the case have been collected from the records of the Administrative Tribunal concerned.

dated 4.8.85. The President on 1.12.85 rejected a review petition filed by him.

The petitioner then filed the case before the Administrative Tribunal challenging the order of dismissal on the ground, *inter alia*, that he was not supplied with the inquiry report, and as a result, he did not get a reasonable opportunity to defend himself. The Government defended the case. The learned Member of the Tribunal, on hearing the learned Advocates of both the parties, dismissed the case.

Thus it is quite evident that the administrative authority ignored one of the principles of natural justice<sup>4</sup> by not supplying a copy of the inquiry report with the second show cause notice to the petitioner on whose basis punishment of dismissal was inflicted.

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<sup>4</sup> In legal sphere of Bangladesh, there is no statute laying down the minimum procedure that all administrative authorities must follow while exercising the power of administrative adjudication. There are, therefore, a bewildering variety of administrative procedures. Sometimes the statute under which the administrative authority exercises power lays down the procedure which the administrative authority must follow, but at times, the administrative authority is left free to devise its own procedure. Here, the courts have always insisted that the administrative authorities must follow a minimum of fair procedure. This minimum fair procedure refers to the concept of Natural Justice. Though Natural Justice enjoys no express constitutional status in Bangladesh, but the Appellate Division of the Supreme Court in Abdul Latif Mirza Vs. Government of Bangladesh, (1982) 34 DLR (AD) 173, observed that the principles of Natural Justice are part of the law of the country. See Talukder, S.M. Hassan: *Development of Administrative Law in Bangladesh: Outcomes and Prospects*, (1997) 118.

More interestingly, the Administrative Tribunal either did not or could not appreciate the very simple fact that the petitioner was deprived of a reasonable opportunity to defend himself by non-supply of the inquiry report on whose basis major punishment of dismissal was given and, as such, it was contrary to one of the principles of natural justice, *audi alteram partem*, no body should be condemned unheard.<sup>5</sup>

**: APPEAL :**

Being aggrieved by the decision of the Administrative Tribunal, the petitioner preferred an appeal to the Administrative Appellate Tribunal. On appeal, Mr. Muslim Ali, the appellant petitioner, personally argued the case. Mr. Kazi Shafiuddin, the learned DAG, appeared for the Government.

The appellant petitioner, among others, submitted that he was not furnished with a copy of the report of the inquiry with the second show cause notice, and because of the non-supply of the inquiry report, he was deprived of a reasonable opportunity to defend himself. On the other hand, Mr. Kazi Shafiuddin, the learned DAG, submitted that the relevant rules do not provide for supplying

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<sup>5</sup> This issue has also been pointed out at 82 ante.



any copy of the inquiry report, though it provides for serving a second show cause notice. Therefore, non-supply of the inquiry report would not be an illegality.

On hearing both the contesting parties on appeal, the Administrative Appellate Tribunal set aside the decision of the Administrative Tribunal and held:

When a second show cause notice is served on a delinquent officer proposing a major penalty, the officer is given and gets an opportunity to show cause against the proposed penalty as well as against finding of guilty on the allegations leveled against him. It is a settled law of the country. The basis for the finding of guilty against the officer is the inquiry report, and it is evident that if a copy of the inquiry report or an extract of it is not furnished to the appellant at the time of the second show cause notice he cannot be held to have been given a reasonable opportunity to defend himself. The absence of such a reasonable opportunity clearly vitiates the penalty:

*the appeal, therefore, succeeds and the impugned order of penalty of dismissal dated 4.8.85 is set aside.*

Thus the Administrative Appellate Tribunal has rightly held that the absence of reasonable opportunity to defend vitiates the penalty, and contravenes one of the principles of natural justice: "no one should be condemned unheard".

III) A Contempt Case

**Administrative Appellate Tribunal Miscellaneous**

**Case No. 06 of 2001**

**Md. Zaker - Petitioner**

*Versus*

**Md. Abu Hafiz and another - Respondent**

This is an important contempt case instituted under Section 10A of the Administrative Tribunals Act, 1980, for not complying with the orders of the Administrative Tribunal as well as Administrative Appellate Tribunal.

The concise history of the case<sup>6</sup> is that while serving as L.D. Assistant in the office of Deputy Commissioner, Noakhali, Md. Zaker, the petitioner of the case, was given a major penalty of compulsory retirement by an order dated 20.01.1986. As against that order, the petitioner filed a case, Administrative Tribunal Case No. 99 of 1995, before the Administrative Tribunal, Dhaka.

The contemner opposite parties contested the case by filing written statement denying all material allegations made in the application. The learned Member of the Administrative Tribunal, Dhaka, virtually allowed the case by his judgment and order dated 09 February, 1999.

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<sup>6</sup> The facts of the case are collected from the records of the Administrative Tribunal. The decision of the case has not been reported.

The contemner opposite parties being aggrieved preferred an appeal, Administrative Appellate Tribunal Appeal No. 92 of 1999, before the Administrative Appellate Tribunal. The Administrative Appellate Tribunal dismissed the said appeal on 28.02.2000. In the circumstances, the contemner opposite parties neither preferred any appeal before the Appellate Division of the Supreme Court of Bangladesh nor allowed the petitioner Md. Zaker to join service in compliance with the Administrative Tribunal's judgment and order dated 09.02.1999.

Finding no other alternative, the petitioner filed this contempt case under Section 10A of the Administrative Tribunals Act, 1980, whereupon the Administrative Appellate Tribunal by its order dated 01.11.2001 directed the opposite parties to show cause as to why the contempt proceeding should not be drawn against them for noncompliance with the order of the Administrative Tribunal dated 09.02.1999. Thereafter, the Administrative Appellate Tribunal by its order, dated 03.12.2001 further directed the contemner opposite parties to appear before the Appellate Tribunal in person on 06.01.2002.

In compliance with the order, the contemner opposite parties appeared before the Administrative Appellate Tribunal in

person and begged unconditional apology and mercy. They also informed the Appellate Tribunal that the petitioner has already been reinstated with all benefits as directed by the Tribunal. The contemner opposite parties further informed that one Mr. A.T. Obidur Rahman, A.D.C (General) on different pleas suppressed the order of the Tribunal, for which a departmental proceeding has been initiated against him. The contemner opposite parties very humbly submitted that there was no *malafide* intention or any sort of negligence behind violating the Tribunal's order and sought mercy.

The learned Advocate for the petitioner submitted that since the petitioner has been reinstated, he has no grievance. Considering the facts, circumstances, and submission of the contemner opposite parties who begged unconditional apology and sought mercy, the Administrative Appellate Tribunal accepted the submission and exonerated them from the contempt charge with a warning that they should be careful in future with respect to the order of the Tribunal. Accordingly, the Miscellaneous Case No. 06 of 2001 was disposed of.

Although there is no independent government department or officer in Bangladesh to look after the execution of Tribunal's decisions, the power of the Administrative Appellate

Tribunal to punish for contempt acts as a deterrent against some of the upper-level government officials who are not careful and sincere in the execution of the orders of Administrative Tribunals in spite of the fact that they are legally bound to act in aid of the Tribunals.

#### **IV. Conclusions**

The foregoing discussion reveals that certain decisions taken by the Administrative Tribunal and the Administrative Appellate Tribunal in settling disputes pertaining to service matters of civil servants are not free from criticism. When in fact, it is the duty of the Government to act in aid of the Tribunal, the Government has mostly been sued for contempt of Administrative Tribunals and the Administrative Appellate Tribunal due to the negligence or reluctance of some of the high-level government officials. Besides creating awareness among all government servants regarding the matter, a liaison officer in the Establishment Ministry of the Government may be appointed like Pakistan particularly to assist in the execution of the orders of the Administrative Tribunals.

## CHAPTER SIX

# CONCLUSIONS

### **Why was It a Necessity to Establish Tribunal ?**

The question of establishing tribunal has come to the fore in the 20<sup>th</sup> century with the advent of the concept and reality of welfare state, causing massive expansion of state activities in diversified fields. As a result, multiple new disputes between individuals, groups and state agencies arose, most of which were, in fact, related to social security, labour welfare, health, transport, employment and education. These disputes are minor and of technical nature and obviously require prompt and expert adjudication, which the ordinary courts are unable to deliver. So a new appropriate forum, tribunal, was a necessity to ensure cheap and expeditious justice. The advantages of the tribunals over the courts lie in the facts that they can perform more promptly than the courts; they are much cheaper than the courts; they are more flexible than the courts; they administer less formally than the courts; they are in a position to deliver policy-oriented decisions which the courts are unable to do and they work in a specialised field, and hence can

develop an expertise in that area which no court could hope to achieve.<sup>1</sup>

Accordingly different Acts of Parliament created various types of tribunals. Substantially, each of these tribunals is designed to be part of some schemes of administration, and collectively they are sometimes called Administrative Tribunals. But, in the narrow sense, the sense in which the present study is carried out, Administrative Tribunal has a separate meaning and all tribunals are not Administrative Tribunals.

In order to ensure effective and expeditious disposal of cases relating to service matters of civil servants, provisions for the establishment of Administrative Tribunals were embodied in the Constitutions of Pakistan, India and Bangladesh by ousting the jurisdiction of the ordinary courts in such matters. Administrative Tribunals in the Indo-Pak-Bangladesh Subcontinent were substituted for ordinary courts.<sup>2</sup> But, in the process of introduction of Administrative Tribunals for service matters of civil servants, Pakistan took the lead by embodying provisions in Article 216 of the Interim Constitution of 1972 providing for the establishment of

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<sup>1</sup> For detail see at 10-18 of Chapter One.

<sup>2</sup> This issue has been discussed extensively at 38-44 of Chapter Two.

Administrative Tribunals (statutorily called Service Tribunal) to resolve dispute concerning the terms and conditions of service of the civil servants, followed by Article 212 of the Constitution of 1973. Bangladesh followed the suit by incorporating similar provisions in Article 117 of its Constitution of 1972. India added Article 323A to its Constitution (1949) through the Constitution (Forty-Second Amendment) Act passed in 1976 to decide disputes pertaining to service matters of civil servants.

A clear distinction between Administrative Tribunal and Tribunal is found in Articles 323A and Article 323B of the Constitution of India as the former Article clearly speaks about Administrative Tribunal to deal with disputes relating to government service matters and the latter Article says about Tribunals other than Administrative Tribunals to deal with disputes relating to levy, assessment, collection, industrial and labour disputes, etc.<sup>3</sup> However, Pakistan was the first to act upon the said constitutional provision and passed laws establishing Service Tribunals in the years 1973 and 1974 to settle disputes only pertaining to service matters of civil servants. Bangladesh passed such a law in the year 1981 (Administrative Tribunals Act) and India waited until 1985 to pass

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<sup>3</sup> See at 4 – 5 ante.



the law providing for the establishment of Administrative Tribunal to deal with the claims and disputes relating to service matters of civil servants.<sup>4</sup> Hence, Administrative Tribunal, in this narrow sense, may be defined as the Tribunal which, distinct from ordinary court as well as executive authority, exercises judicial or quasi-judicial powers and resolves litigation relating to the terms and conditions of service of persons appointed to public service or any statutory body controlled by the government.<sup>5</sup>

### **Does the Present Composition of Administrative Tribunal Ensure Fair Justice?**

Unlike the Service Tribunal in Pakistan or the Administrative Tribunal in India, the Administrative Tribunal in Bangladesh is a single member Tribunal and, as such, has no scope to discharge its functions in Benches. As it is a single member Tribunal, it cannot always be expected to ensure fair justice, expeditious and effective disposal of cases. Accordingly, it may be recommended that Section 3 of the Administrative Tribunals Act, 1980, should be amended suitably in order to enable all Administrative Tribunals in Bangladesh to work in Benches.<sup>6</sup>

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<sup>4</sup> For detail see at 39-44 of Chapter Two.

<sup>5</sup> For detail see at 9-10 ante.

<sup>6</sup> For detail see at 49-51 ante.

### **Are the Method of Appointment and Term of Office of Members Conducive to Ensure Independence in Performing Their Functions?**

Indeed, the Government of Bangladesh legally enjoys uncontrolled powers in the appointment of the members of Administrative Tribunals, as there is no provision for taking into account the qualities of a District Judge who should be appointed as a Member of the Tribunal.<sup>7</sup> Since almost in all cases, the Government is a party, it may be suggested to introduce an appropriate amendment in Section 3 of the Administrative Tribunals Act, 1980, so that the most efficient, learned and impartial District Judges could be appointed to ensure fair justice.

Like the members of the Service Tribunal in Pakistan, the members of the Administrative Tribunals in Bangladesh have no terms of office fixed for a number of years or until a certain date of retirement. They are appointed by the Government and hold office on such terms and conditions as the Government may determine. Thus unlike India, where the members of the Administrative Tribunal hold office for a period of 5 years or unless attain the age of 62 years, the members of the Administrative Tribunals in Bangladesh

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<sup>7</sup> This issue has been discussed in detail at 54-57 ante.

have not been provided with the security of tenure.<sup>8</sup> Consequently, they have to depend on the whims of the executive for their term of office, which is contrary to the personal independence of the members of the Administrative Tribunals.

Therefore, in order to make the members of the Administrative Tribunals feel secure enough to dispense justice freely and fearlessly, it may be recommended that Section 3 of the Administrative Tribunals Act should be amended so that they hold office for a period of at least five years or until attain the age of retirement.<sup>9</sup>

### **Are the Pay and Allowances of the Members of Administrative Tribunals Adequate and Consistent with Personal Independence ?**

The members of the Administrative Tribunals in Bangladesh get pay in the scale of 16800-650×6-20700. The existing pay and allowances are not quite sufficient for the members to maintain a decent standard of living.<sup>10</sup> Furthermore, they have no

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<sup>8</sup> For detail see at 54-57 ante.

<sup>9</sup> As regards security of tenure, Khondaker Md. Abu Baker, former Member of the Administrative Tribunal, Dhaka in an interview with the author on 12.05.2003, strongly expressed similar opinion to ensure security of tenure of the members of Administrative Tribunals.

<sup>10</sup> This issue has been discussed in the previous Chapter Three at 58.

official residence earmarked for them. Therefore, it may be recommended that the members of the Administrative Tribunal should be given pay and allowances at least in the next scale of 19300-700×4-22100<sup>11</sup> so that they are not tempted to resort illegal means to improve their financial position.

### **Are the Present Jurisdictions of the Administrative Tribunal Adequate and Satisfactory ?**

By virtue of the Administrative Tribunals Act, 1980 and Article 117 of the Bangladesh Constitution, the Administrative Tribunal in Bangladesh enjoys complete jurisdiction with regard to service matters and oust the jurisdiction of the High Court Division in such matters. Substantially, the combined effect of Article 102 (5) and Article 117 (2) is that no writ is allowable against the decision of the Administrative Tribunal. The Administrative Tribunal, while resolving service disputes, is entitled to construe and apply the provisions of the Bangladesh Constitution, especially Articles 133, 134 and 135. The proceedings before the Administrative Tribunals are still free from quashment by any court including the Supreme Court, the highest court of Bangladesh.<sup>12</sup>

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<sup>11</sup> According to the National Pay Scale, 2005, this is the 2<sup>nd</sup> highest scale. The first highest scale is Tk. 23,000/- fixed and the lowest scale is 2400-100×7-3100-EB-110×11-4310. See S.R.O. No. 119-L/2005/OM/(Impl.-1)/J.B.S.-1/2005/73.

<sup>12</sup> See sec. 10, the Administrative Tribunals Act, 1980.

But initially the jurisdiction of the Administrative Tribunals was not made applicable to the matters relating to the services of the persons of the statutory bodies. Subsequently in 1984, the Administrative Tribunals Act, 1980 was amended to extend the jurisdictions of the Administrative Tribunals to deal with the persons in the service of only 10 (ten) statutory public authorities namely, Sonali Bank, Agrani Bank, Janata Bank, Bangladesh Bank, Bangladesh Shilpa Bank, Bangladesh Shilpa Rin Sangstha, Bangladesh House Building Finance Corporation, Bangladesh Krishi Bank, Investment Corporation of Bangladesh and Grameen Bank. Important statutory public authorities, such as Bangladesh Water Development Board, Bangladesh Inland Water Transport Authorities, Bangladesh Power Development Board, etc. are among others that have not been included in the jurisdiction of the Administrative Tribunals.<sup>13</sup>

Therefore, it may be suggested that an amendment should be made in the Schedule to the Administrative Tribunal Act to include rest of the statutory public authorities in the jurisdiction of the Administrative Tribunal to ensure the enjoyment of the fundamental right of equality before law by all the persons in the service of the statutory public authorities.

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<sup>13</sup> For detail see at 60-63 ante.

The Administrative Tribunals in Bangladesh has not been given the power to decide the constitutionality of any rule or order touching service matters<sup>14</sup> and, as such, one has to approach the Supreme Court, High Court Division for getting redress relating to the constitutionality of any rule or order touching service matters. Like the Indian Administrative Tribunal, the Administrative Appellate Tribunal in Bangladesh, whose Chairman is, or has been or is qualified to be, a Judge of the Supreme Court, may be given the powers and jurisdiction to decide the constitutionality of any rule or order touching service matters.

There are 64 administrative districts in Bangladesh. Initially in February 1982 only one tribunal, Administrative Tribunal, Dhaka, was established to resolve disputes concerning the terms and conditions of civil servants. More than ten years later in May 1992, the second Administrative Tribunal was established in Bogra and in October 2001 five more Administrative Tribunals were set up to ensure expeditious disposal of cases. At present three Administrative Tribunals are located in Dhaka, one in Chittagong, one in Khulna, one in Barisal and one in Bogra. The three Administrative Tribunals located in Dhaka are for only 17 administrative districts. And

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<sup>14</sup> See at 68-69 ante.

remaining four Administrative Tribunals (one in Chittagong, one in Khulna, one in Barisal and one in Bogra) are for only 44 administrative districts.<sup>15</sup> Taking into account the territorial jurisdiction and delay in the disposal of the cases,<sup>16</sup> it may be suggested that at least another seven Administrative Tribunals may be established to ensure quick dispensation of justice.

Furthermore, a separate Administrative Tribunal may be set up for the trial of cases concerning service matters in the three hilly districts of Khagrachari, Rangamati, and Bandarban, which are now being tried as a tradition by the Administrative Tribunal, Chittagong<sup>17</sup> in the absence of Government's clear mandate.

Unlike the Administrative Tribunal in India,<sup>18</sup> the Administrative Tribunals in Bangladesh have no power to grant stay or injunction as an ad-interim measure<sup>19</sup> in the absence of which in

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<sup>15</sup> See at 105-106 ante.

<sup>16</sup> For detail see at 108-113 ante.

<sup>17</sup> See at 107 ante.

<sup>18</sup> In India, sec. 24 of the Administrative Tribunals Act, 1985, is concerned with interim orders. This section, indeed, says about the condition as to making of interim orders.

<sup>19</sup> Neither does the Administrative Tribunals Rules, framed in 1982 pursuant to sec. 12 of the Administrative Tribunals Act, 1980, for carrying out the procedural aspect of the Act confer on the Administrative Tribunal any such power. See Chowdhury, Khaled Hamid: *Jurisdictional Issues under the Administrative Tribunals Act, 1980*, 50 DLR Vol. L, 1998.

many cases the purpose of seeking relief becomes frustrated.<sup>20</sup> Although in Pakistan, there is no specific provision authorising Service Tribunal to pass orders suspending operation of the challenged action or decision, in Munawar Hussain Bhatti Vs. WAPDA,<sup>21</sup> the tribunal (since a strong *prima facie* case had been made out) suspended the operation of the impugned order till the decision of the appeal. Since the power to grant interim order or injunction is very essential for proper dispensation of justice, the Administrative Tribunal in Bangladesh may be given such a power by amending Section 4 of the Administrative Tribunals Act, 1980.<sup>22</sup>

### **Is the power of Administrative Appellate Tribunal to Punish for Contempt Effective ?**

The jurisdiction of the Administrative Appellate Tribunal to punish for contempt of its authority or those of Administrative Tribunals is conducive to ensure effective and desired implementation of its decisions or those of Administrative Tribunals. Because of this power, it commands respect both from all persons appearing before the Tribunals and their lawyers.<sup>23</sup>

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<sup>20</sup> This issue has been pointed out at 79-80 ante.

<sup>21</sup> 1983 PLC (CS) 86.

<sup>22</sup> In this context, Barrister Abdul Halim Chaklader, is a senior practicing lawyer, in an interview with the author on 07.08.2003, advocated for such power to make Administrative Tribunal more effective and competent.

<sup>23</sup> See at 70-71 ante.



Nevertheless, it is found that in most of the cases, the Government Authorities have, indeed, been accused of contempt of Administrative Tribunals and in all cases, the parties charged with contempt of the Administrative Appellate Tribunal are Government Authorities and Statutory Body, although no contempt petition has reached the final stage because of the compromise struck between the Administrative Appellate Tribunal and defendant parties.<sup>24</sup> Since the Government is accused of contempt of Administrative Tribunals and the Administrative Appellate Tribunal, although it is legally bound to act in aid of the Tribunal, a liaison officer in the Establishment Ministry of the Government may be employed especially to supervise the implementation of the decisions of the Administrative Tribunals or of the Administrative Appellate Tribunal as it is to be found in Pakistan.<sup>25</sup>

### **Is the Procedure of Administrative Tribunal Fair?**

In dealing with an application, the Administrative Tribunal in Bangladesh does not exactly follow the same procedure as the Civil Courts follow in a trial of suit. As most of the disputes concerning service matters of civil servants are based on official record, the Administrative Tribunal is not generally required to take

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<sup>24</sup> This issue has been illustrated at 131-133 ante.

<sup>25</sup> This issue has been pointed out at 154 ante.

evidence of witness by following a lengthy process of trial. Thus, the procedure of Administrative Tribunal in Bangladesh has been made simple.<sup>26</sup>

Furthermore, by adding Sections 7A and 7B by the Administrative Tribunals (Amendment) Act, 1997, important changes have been made in the Administrative Tribunals Act, 1980. Section 7A enables the legal representatives of the deceased servant to have pensionary benefit, which was not available under the original law.<sup>27</sup> By abolishing the provision to the effect that no application to alter or amend his application despite revelation of any serious fault at a later time, Section 7B empowers the applicant to amend his/her application at any stage of the proceedings and even at the stage before the Appellate Division of the Supreme Court.<sup>28</sup> An aggrieved employee has been given the opportunity to appear before an Administrative Tribunal in person or engage lawyer to represent him. The provision to appear before the Tribunal in person by the employee reduces the cost of litigation although representation by lawyer ensures proper and meaningful defence.<sup>29</sup>

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<sup>26</sup> See at 72-84 ante.

<sup>27</sup> See at 83 ante.

<sup>28</sup> See at 77 ante.

<sup>29</sup> This issue has been outlined at 75-76 of Chapter Three.

### **Are the Provisions for Appeal Good Enough ?**

Under Section 6 (1) of the Administrative Tribunals Act, 1980, the Administrative Appellate Tribunal is empowered to decide appeals from any order or decision of the Administrative Tribunals. Neither in the relevant Act nor in the relevant Rules, nothing has been specified as to which of the orders are appealable and which are non-appealable. Since the Code of Civil Procedure, 1908 has been made applicable in a limited manner to the proceedings before the Administrative Tribunals and the Administrative Appellate Tribunal, and the aim is to provide prompt relief in service matters, it may be strongly argued that all orders cannot be appealable taking into account only the appealable orders stated in the Order 43 of the First Schedule to the Code of Civil Procedure. It will be in harmony with the legal objective to hold that only the orders which are conclusively made or which are permanent in nature are appealable. The orders that are temporary, and which in no way affect the interest of any party with regard to the determination of the principal dispute or merit of the cases are non-appealable.<sup>30</sup>

It should be mentioned here that the decisions of Administrative Tribunal have been supported and ratified on appeal

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<sup>30</sup> See at 86-87 ante.

by the Administrative Appellate Tribunal in 61% of the cases. In 34% of the cases, the decisions of Administrative Tribunal have been set-aside on appeal by the Administrative Appellate Tribunal. In 4% of the cases, the Administrative Tribunal Appellate Tribunal has revised the decisions of Administrative Tribunal on appeal.<sup>31</sup> In order to reduce the number of setting aside the decisions of Administrative Tribunal on appeal, it may be suggested that the members of the Administrative Tribunals should be appointed from amongst the District Judges who are of keen intellect, high legal acumen, integrity and impartially. They should be properly trained in their roles and responsibilities. Furthermore, the Executive should be replaced with the Supreme Court as the authority to transfer, posting and promoting members of Administrative Tribunals<sup>32</sup> so that they can perform their functions without fear or favour by strictly adhering to their professional conduct. And with a view to gaining this object, Article 116 of the Bangladesh Constitution may be amended and restored to its original position as enacted in 1972.<sup>33</sup>

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<sup>31</sup> This issue has been illustrated in the previous Chapter Four at 128.

<sup>32</sup> In this connection, Mohammad Fazlul Kairm, Judge of the Appellate Division of the Bangladesh Supreme Court, in an interview with the researcher on 23.06.2003, strongly expressed similar view to strengthen the independence of Administrative Tribunals.

<sup>33</sup> Article 116 of the Bangladesh Constitution as originally enacted in 1972 says - "The control (including the power of posting, promotion and grant of leave) and discipline of persons employed in the judicial service and magistrates exercising judicial functions shall vest in the Supreme Court".

However, at the beginning the Administrative Appellate Tribunal, as mentioned above, was the only forum to decide appeal against the decision of the Administrative Tribunal. The decisions of the Administrative Appellate Tribunal were, therefore, final. Subsequently in 1991, the Administrative Tribunals Act, 1980 was amended empowering the Appellate Division of the Supreme Court to decide appeal against the decisions of the Administrative Appellate Tribunal. But no one can move the Appellate Division against the decisions of the Administrative Appellate Tribunal as a matter of right; appeal is allowed only on leave.<sup>34</sup>

### **Do the Administrative Tribunals Fulfil the Objective of Speedy Disposal of Cases?**

It is found that the actual number of cases instituted in the Administrative Tribunal, Dhaka, from 1-2-1982 to 31-12-2000 is 5207, and during this period the total number of cases disposed of is 3773. Here, the rates of disposed of cases and pending cases are 72% and 28% respectively. But, of the 28% pending cases, the Administrative Tribunal, Dhaka, has even fourteen years' old (as per calculation made on 20.02.2001) cases for adjudication, which suggests that the speed of disposal of cases is not as anticipated, and

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<sup>34</sup> For detail see at 88-90 ante.

in some cases, not even up to the expectations of the litigant employees.<sup>35</sup>

It is also found that the actual number of cases instituted in the Administrative Tribunal, Bogra, from 30-05-1992 to 31-12-2000 is 955, and during this period, the total number of cases disposed of is 846. Here, the rates of disposal and pending cases are 89% and 11% respectively. But, of the 11% pending cases, the Administrative Tribunal, Bogra, has even four years' old (as per calculation made on 26-05-2001) cases for trial. <sup>36</sup> In this respect, i.e. in terms of pending cases, the Administrative Tribunal, Bogra, favourably compares with the Administrative Tribunal, Dhaka, while the former has 14 years old cases for adjudication, the latter has only 4 years old cases for disposal. Therefore, it is evident that one of the principal objectives of establishing Administrative Tribunal i.e. quick disposal of cases by Administrative Tribunal could not be achieved as expected.

### **Which Types of the Cases were Tried Most by the Administrative Tribunal ?**

Administrative Tribunals in Bangladesh mostly dealt with disciplinary cases. Indeed, 64% of the cases instituted in and disposed of by the Administrative Tribunal were related to

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<sup>35</sup> This issue has been illustrated in the preceding Chapter Four at 108-110.

<sup>36</sup> Vide at 111-112 ante.

disciplinary actions. Only 36% of the cases were related to purely service matters.<sup>37</sup> Of the 64% cases relating to disciplinary matters, 31% were related to Dismissal / Removal / Termination, 17% were related to Compulsory Retirement / Retirement, and 12% were related to Promotion / Demotion.<sup>38</sup>

### **Whether There Was Any Preference/Partiality on the Part of the Administrative Tribunal Towards the Government?**

It is found that in 56% of the cases, decisions of Administrative Tribunal have gone in favour of the defendant Government/Statutory Authorities and in remaining 44% cases in favour of petitioner personnel. Since only 12% of the decisions went more in favour of the Government/Statutory Authorities, it may be argued that the Administrative Tribunal in Bangladesh resolves cases without any bias and the so-called blame that it mostly favours the Government side appears to be unfounded.<sup>39</sup>

On the other hand, the lesser of the decisions of the Administrative Appellate Tribunal, 44%, have gone in favour of the Government/Statutory Authorities in set aside cases, while the

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<sup>37</sup> Vide Table-G at 126 ante.

<sup>38</sup> Vide Table-F at 125 ante.

<sup>39</sup> This issue has been illustrated in the preceding Chapter Four at 126-127.

majority of the decisions of the Administrative Appellate Tribunal in set aside cases, 56%, have gone in favour of the personnel. These statistics also show that the Administrative Appellate Tribunal in Bangladesh resolves appeal cases without any predilection to the Government side.<sup>40</sup>

### **Could the Administrative Tribunals Function Uninterruptedly ?**

No, the Administrative Tribunals could not function smoothly and uninterruptedly because of the restrictions imposed on their jurisdiction by the 1982 Martial Law Regime (1982 - 1986). The Martial Law Administration resorted to massive removal/dismissal or compulsory retirement of civil servants and all orders made, acts done, and actions taken in this regard by the Chief Martial Law Administrator were made immune from being challenged in or before any Court or Tribunal on any ground whatsoever. Thus the Administrative Tribunal in Bangladesh could not try any case filed against the order/decision of the Chief Martial Law Administrator during the period of 1982 - 1986 and, as such, unable to give relief against his high-handed actions.<sup>41</sup>

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<sup>40</sup> This issue has been illustrated at 129-130 of Chapter Four ante.

<sup>41</sup> For detail see at 133-136 ante.



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## LEGAL ENACTMENTS USED IN THESIS

### CONSTITUTIONS

<u>Year</u>	<u>Short title</u>
1949	The Constitution of India
1956	The Constitution of the Islamic Republic of Pakistan
1962	The Constitution of the Islamic Republic of Pakistan
1972	The Constitution of the People's Republic of Bangladesh
1973	The Constitution of the Islamic Republic of Pakistan

### CONSTITUTIONAL AMENDMENT ACT - INDIA

<u>Year</u>	<u>Short title</u>
1976	The Constitution (42 <sup>nd</sup> Amendment) Act, 1976

### CODES - BANGLADESH

<u>Year</u>	<u>Short title</u>
1908	The Code of Civil Procedure, 1908

### ACTS - BANGLADESH

<u>Year</u>	<u>Short title</u>
1887	The Civil Courts Act, 1887
1926	The Contempt of Courts Act, 1926
1969	The Customs Act, 1969
1974	The Public Servants (Retirement) Act, 1974

1980	The Administrative Tribunals Act, 1980
1987	The Administrative Tribunals (Amendment) Act, 1987
1991	The Administrative Tribunals (Amendment) Act, 1991
1997	The Administrative Tribunals (Amendment) Act, 1997
2006	Bangladesh Sromo Ain, 2006

### ACTS - ENGLAND

<u>Year</u>	<u>Short title</u>
1660	The Customs and Excise Act, 1660
1799	The Income Tax Act, 1799
1873	The Railways Act, 1873
1908	The Old Age Pensions Act, 1908
1919	The Housing Act, 1919
1920	The Roads Act, 1920
1920	The Unemployment Insurance Act, 1920
1921	The Education Act, 1921
1924	The National Health Insurance Act, 1924
1945	The Family Allowances Act, 1945
1945	The National Service Act, 1945
1945	The Town and Country Planning Act, 1945
1946	The National Assistance Act, 1946
1946	The National Insurance Act, 1946
1946	The National Insurance (Industrial Injury) Act, 1946
1947	The Agricultural Act, 1947
1947	The Transport Act, 1947
1958	The Tribunals and Inquiries Act, 1958

1971	The Tribunals and Inquiries Act, 1971
1992	The Tribunals and Inquiries Act, 1992

### ACTS - INDIA

<u>Year</u>	<u>Short title</u>
1858	The Government of India Act, 1858
1890	The Railways Act, 1890
1923	The Workmen's Compensation Act, 1923
1939	The Motor Vehicle Act, 1939
1947	The Indian Independence Act, 1947
1947	The Industrial Disputes Act, 1947
1951	The Copyright Act, 1951
1958	The Delhi Rent Control Act, 1958
1961	The Income Tax Act, 1961
1961	The Indian High Courts Act, 1961
1985	The Administrative Tribunals Act, 1985
1986	The Administrative Tribunals (Amendment) Act, 1986

### ACTS - PAKISTAN

<u>Year</u>	<u>Short title</u>
1973	The Service Tribunals Act, 1973
1997	The Service Tribunals (Amendment) Act No. XVIII of 1997

### ORDINANCE - BANGLADESH

<u>Year</u>	<u>Short title</u>
1982	The Administrative Tribunals (Amendment) Ordinance, 1982
1983	The Administrative Tribunals (Amendment) Ordinance, 1983
1984	The Administrative Tribunals (Amendment) Ordinance, 1984
1984	The Income Tax Ordinance, 1984
1988	The Administrative Tribunals (Amendment) Ordinance, 1988

### ORDINANCE - PAKISTAN

<u>Year</u>	<u>Short title</u>
1969	The Industrial Relations Ordinance, 1969
1978	The Service Tribunals (Amendment) Ordinance, 1978

### ORDER - BANGLADESH

<u>Year</u>	<u>Short title</u>
1971	The Laws Continuance Enforcement Order, 1971
1972	The Bangladesh Rifles Order, 1972

### PROCLAMATIONS - BANGLADESH

<u>Year</u>	<u>Short title</u>
1971	The Proclamation of Independence, 1971
1982	The Proclamation, Bangladesh, 24 March, 1982



**RULES - BANGLADESH**

<u>Year</u>	<u>Short title</u>
1976	The Government Servants (Discipline and Appeal) Rules, 1976
1982	The Administrative Tribunals Rules, 1982
1985	The Officers and Staff (Administrative Tribunal) Recruitment Rules, 1985
1985	The Officers and Staff (Administrative Appellate Tribunal) Recruitment Rules, 1985
2007	The Bangladesh Judicial Service Commission Rules, 2007
2007	The Bangladesh Judicial Service (Pay Commission) Rules, 2007
2007	The Bangladesh Judicial Service (Constitution of Service, Appointment to Service, Suspension, Dismissal and Removal) Rules, 2007
2007	The Bangladesh Judicial Service (Posting, Promotion, Grant of Leave, Control, Discipline and Other Conditions of Service) Rules, 2007

**RULES - INDIA**

<u>Year</u>	<u>Short title</u>
1985	The Central Administrative Tribunal (Procedure) Rules, 1985

**RULES - PAKISTAN**

<u>Year</u>	<u>Short title</u>
1974	The Service Tribunals (Procedure) Rules, 1974

## BIBLIOGRAPHY

### BOOKS

- AHMED, K. HASIB UDDIN : Administrative Appeal Cases, 1986.  
: Administrative Appeal Cases, 1987.  
: Administrative Appeal Cases, 1988.
- BAKAR, KHONDAKER MD. ABU : The Laws on Service in Bangladesh (2<sup>nd</sup> Edn., 1998).
- BASU D.D. : Administrative Law (5<sup>th</sup> Edn., 1998).
- CHHABRA, SUNIL : Administrative Tribunals (1990).
- FAZAL, M.A. : Judicial Control of Administrative Action in India, Pakistan and Bangladesh (1990).
- FLETCHER, MARCUS : Principles of English Law (Text book, 1985).
- GOYAL, K. N. : Administrative Tribunals Act, 1985 (2<sup>nd</sup> Edn.).
- GRIFFTH, J.A.G. : The Politics of the Judiciary (1977).
- HALIM, MD. ABDUL : Constitution, Constitutional Law

- and Politics : Bangladesh  
Perspective (1998).
- HOQUE, AZIZUL : The Bangladesh Supreme Court  
Digest, Vol. III (1980-81).
- JAIN, M.P. AND JAIN, S.N. : Principles of Administrative Law  
(4<sup>th</sup> Edn., 1986).
- JOSHI, K.C. : Administrative Law (3<sup>rd</sup> Edn.,  
1984).
- KAUTILYA : Administrative Law (9<sup>th</sup> Edn.,  
1993).
- KESARI, U. P.D. : Lectures on Administrative Law  
(7<sup>th</sup> Edn., 1985).
- KHANOM, K.A. NASRINA : Administrative Appeal Cases,  
1992.
- KOTHARI, C.R. : Research Methodology: Methods  
and Techniques, New Delhi,  
Wiley Eastern Ltd., 1986.
- KULSHRESHTHA, V.D. : Landmarks in Indian Legal and  
Constitutional History (5<sup>th</sup> Edn.,  
1981).
- LAL'S : Remedies of Government Servants  
in service matters under the  
Administrative Tribunals Act,  
1985, Vol. I & Vol. II (2<sup>nd</sup> Edn.,  
1987).

- MAHAJAN, V.D. : Select Modern Governments (16<sup>th</sup> Edn., 1988).
- MAHMOOD, EHTSHAM : Principles of Administrative Law (1998).
- MASSEY, I.P. : Administrative Law (2<sup>nd</sup> Edn., 1985).
- NAGEL, S.S. AND NEEF, M. : Operations Research Methods, London, Sage, 1984.
- NAZIB, FATIMA : Administrative Appeal Cases, 1991.
- PHILLIPS, O. HOOD AND JACKSON, PAUL : Constitutional and Administrative Law (6<sup>th</sup> Edn., 1978).
- PRICE, MILES O. : Effective Legal Research (4<sup>th</sup> Edn.).
- RAHMAN, SYED LUTFOR : Administrative Tribunals Manual (2<sup>nd</sup> Edn., 1991).
- RASHID, PIRZADA MAMOON : Manual of Administrative Laws (1998).
- ROBSON, WILLIAM A. : Justice and Administrative Law (1928).
- SEERVAL, H.M. : Constitutional Law of India (1967).

- TAKWANI, C.K. : Lectures on Administrative Law (3<sup>rd</sup> Edn., 1998).
- TALUKDER, S.M. HASSAN : Development of Administrative Law in Bangladesh: Outcomes and Prospects (1997).
- WADE, H.W. R. : Administrative Law (1967).
- WADE, H.W. R. AND FORSYTH, G.F. : Administrative Law (7<sup>th</sup> Edn.).
- WADE, E.C.S. AND PHILLIPS, G. GODFREY : Constitutional and Administrative Law (9<sup>th</sup> Edn., 1997).
- WRAITH AND HUTCHESSON : Administrative Tribunals (1973).
- ZAFAR, EMMANUEL : Administrative Law (Khyber Law Publishers, Lahore, Pakistan).

### RESEARCH PAPER

- BARI, M. ERSHADUL : Importance of an Independent Judiciary in a Democratic State, published in the Dhaka University Studies Part-F (a yearly journal of the Faculty of Law) Vol.IV No.1, June, 1993.
- CHOWDHURY, KHALED HAMID : Jurisdictional Issues under the Administrative Tribunals Act, 1980, 50 DLR Vol. L, 1998.

GUPTA, BALRAM : Need for Administrative  
Tribunals, All India Reporter  
(Journal, 1983).

HOSSAIN, KEMALUDDIN : Independent Judiciary in  
Developing Countries (Justice  
Ibrahim Memorial Lecture) Part  
III (1986).

### DICTIONARY

AIYAR, K.J. : Judicial Dictionary (11<sup>th</sup> Edn.,  
1997).

THE OXFORD ENGLISH DICTIONARY, Vol. I & Vol. VI (1933).

WEBSTER'S NEW TWENTIETH CENTURY DICTIONARY OF THE  
ENGLISH LANGUAGE (UNABRIDGED) (2<sup>nd</sup> Edn.).

## IMPORTANT ABBREVIATIONS USED

A.A.T.	: Administrative Appellate Tribunal
A.D.	: L. <i>Anno Domini</i> (in the year of the lord)
AD	: Appellate Division, Supreme Court of Bangladesh
A.D.C.	: Additional Deputy Commissioner
AIR	: All India Reporter
All	: Allahabad
Art.	: Article
A.T.	: Administrative Tribunal
B.C.S.	: Bangladesh Civil Service
BLC	: Bangladesh Law Chronicles
BLD	: Bangladesh Legal Decisions
Chap.	: Chapter
CJ	: Chief Justice
CLEP	: Clinical Legal Education Program
C.S.	: Civil Service
DAG	: Deputy Attorney General
DLR	: Dhaka Law Reports
Edn.	: Edition
J	: Justice
L.D.	: Lower Division
Ltd.	: Limited

<b>M/O</b>	: Ministry of
<b>No.</b>	: Number
<b>Nos.</b>	: Numbers
<b>PLC</b>	: Pakistan Law Chronicles
<b>PLJ</b>	: Pakistan Law Journal
<b>SC</b>	: Supreme Court
<b>SCMR</b>	: Supreme Court Monthly Review
<b>Sec.</b>	: Section
<b>Sl.</b>	: Serial
<b>S.R.O.</b>	: Statutory Rules and Orders
<b>U.K.</b>	: United Kingdom
<b>VAT</b>	: Value Added Tax
<b>Vol.</b>	: Volume
<b>Vs.</b>	: Versus