(a) Action taken in a matter certified by a Union Minister as affecting the relations with foreign states;
(b) Action taken under the Extradition act 1963 or the Foreigner's Act, 1946;
(c) Action taken for he purpose of investigating crime or protecting the security of the state;
(d) Action taken for the determination whether a matter shall go to court or not;
(e) Action taken in matters which arise out of the terms of contract governing purely commercial relations of the administration with customers or suppliers, except where the complaint alleges harassment or gros delay in meeting contractual obligations,
(f) Actions taken in respect of appointment, removal etc. or public servants;
(g) Grant of honors' and awards.

VIII) Procedure- Investigation shall be conducted in private and the procedure for conducting an investigation shall be such as the Lok Pal considers appropriate in the circumstances of the case.
For the purpose of any such investigation the Lok pal shall have all the powers of a Civil Courts while trying the suit under the Code of Civil Procedure, in respect of the following matters-
(a) Summoning and enforcing the attendance of any person and examming him on oath;
(b) Discovery and production of documents;
(c) Receiving evidence on affidavits;
(d) Requisitioning any public record or copy thereof from any office.

Contempt- The proceeding before the Lok pal shall be deemed to be judicial proceeding. But he shall have no power to punish for contempt.

IX) Lokayukta in States-

Even before the introduction of Lok pal Bill, several states in India enacted the Lokayukta Statute. For example Bihar, Orissa, Maharashtra, Rajasthan, Tamilnadu and Uttar Pradesh enacted the Lokayukta States. In 1979, the State of Karnataka has also adopted this institution.
In U.P., the U.P. Lokayukta and Up-Lokayukta Act of 1975 was passed. According to this Act, the Lokayukta shall be appointed by the Governor with the consultation of the Chief Justice of the High-Court and leader of the opposition in the Legislative Assembly. The Up-Lokayukta shall be appointed by the Governor in consultation with Lokayukta. The Up-Lokayukta is subject to the administrative control of Lokayukta.
Qualification- The Lokayukta shall be a person who is or has been a judge of the Supreme Court or a High Court. The Lokayukta or Up-Lokayukta should not be a member of any Legislature and also should have no connection with any political party. He shall not any office of profit nor should carry any business or any profession.
Term- He shall hold the office for five years unless the resigns earlier or is removed from the office by the Governor on the ground of misconduct or incapacity.
It should be noted he shall be removed from his office subject to the provisions of Art. 311 of the Constitution. An enquiry is to be conducted by a judge of the Supreme Court or of a High-Court and the enquiry report must be approved by at least two-third majority of each house of state legislature.
Lastly the Lokayukta or-Lokayukta may investigate any action taken by-
(a) Minister or a secretary, or
(b) Any public servant including a public servant for this purpose by the State Government. The State Government may exclude any complaint involving a grievance or an allegation made against a public servant from the jurisdiction of Lokayukta or Up-Lokayukta.

The Lokayukta and Up-Lokayukta are required to submit annually a consolidate report on the performance of their functions to the Governor.

***Note**: Please refer Latest Lokpal Act*

In 1968, the proposal for creation of the institutions of **Lokpal** and **Lokayukta** was brought forward in the form of a Bill. During this period, the incumbent in the post moved elsewhere and as an interim measure, pending deliberations on the Bill, the Secretary in the Department of Personnel was asked to perform the functions of the Commissioner. No decision as taken thereafter. Arrangements of the Secretary in the Department of Personnel concurrently functioning as a Commissioner fell into disuse. The system introduced as stated above functioned till March 1985 when a
separate Department of Administrative Reforms and Public grievances was set up.
The institution of Lokayukta is functioning in 13 States. These States are: Andhra Pradesh, Assam, Bihar, Gujrat, Himachal Pradesh, Karnataka, Madhya Pradesh, Maharashtra, Rajasthan, Uttar Pradesh, Orissa, Punjab and Haryana.

CENTRAL VIGILANCE COMMISSION (CVC)

In any system of government, improvements in the grievance redressal machinery have always engaged the attention of the people. This system no matter, howsoever, ineffective completely fails when inertia and corruption filter from the top. It was against this backdrop that the establishment of the Central vigilance Commission (CVC) was recommended by the Committee on Prevention of Corruption, the Santhanam Committee. The committee now after the name of its Chairman was appointed in 1962. It recommended the establishment of a Central Vigilance Commission as the highest authority at the head of the existing anti-corruption organization consisting of the Directorate of General Complaints and Redress, the Directorate of Vigilance and the Central Police Organization. The jurisdiction of the Commission and its powers are co-extensive with the executive powers of the Center. The government servants employed in the various ministries, and departments of the Government of India and the Union territories, the employees of public sector undertakings, and nationalized banks, have been kept within its purview. The Commission has confined itself to cases pertaining only: (i) to gazetted officers, and (ii) employers of public undertakings and nationalized banks, etc. drawing a basic pay of Rs. 1,000 per month and above.

Service Conditions and Appointment of Vigilance Commissioner : - The Central Vigilance Commissioner is to be appointed by the President of India. He has the same security of tenure as a member of the Union Public Service Commission. Originally he used to hold office for six years but now as a result of the resolution of the Government in 1977, his interest for not more than two years. After the Commissioner has ceased to hold office, he cannot accept any employment in the Union or State Government or any political, public office.
He can be removed or suspended from the office by the President on the ground of misbehavior but only after the Supreme Court has held an inquiry into his case and recommended action against him.

Procedure:
The Commission receives complaints from individual persons. It also gather information about corruption and malpractices or misconduct from various sources, such as, press reports, information given by the members of parliament in their speeches made in parliament, audit objections, information or comments appearing in the reports of parliamentary committees, Audit Reports and information coming to its knowledge through Central Bureau of Investigation. It welcomes the assistance of voluntary organizations like Sadachar Samiti and responsible citizens and the press.
The Commission often receives complaints pertaining to maters falling within the scope of the State Governments. Where considered suitable, such complaints are brought to the notice of state vigilance commissioners concerned for necessary action. Similarly, they forward complaints received by the State Vigilance Commission in regard to matter falling within the jurisdiction of the Central Government, to the Central Vigilance Commission for appropriate action.
The Central vigilance Commission has the following alternatives to deal with these complaints:
a) It may entrust the matter for inquiry to the administrative Ministry/Department concerned.

b) It may ask the Central Bureau of Investigation (C. B. I) to make an enquiry.
c) It may ask the Director of the C. B. I to register a case an investigate it.
It had been given jurisdiction and power to conduct an enquiry into transaction in which publics servant are suspected of impropriety and corruption including misconduct, misdemeanor, lack of integrity and malpractices against civil servants. The Central Bureau of Investigation (CBI) in its operations assisted the Commission. The CVC has taken a serious note for the growing preoccupation of the CBI with work other than vigilance. Thus when the CBI is extensively used for non-corruption investigation work such as drugtrafficking, smuggling and murders it hampers the work of the CVC. But how effective this institution has proved in uprooting corruption depends on various factors, the most important being the earnestness on the part of the government, citizens and institutions to clean public life . In its efforts to check corruption in public life and to provide good governance the Apex Court recommended measures of far-arching consequences while disposing a public interest litigation petition on the *Jain Hawala Case*. Three- Judge Bench separated four major investigating agencies from the control of the executive. These agencies are:
Central Bureau of Investigation;
Enforcement Directorate;
Revenue Intelligence Department and
The Central Vigilance Commission.
The Court has shifted the CBI under the administrative control of the CVC.
The Central Vigilance Commission, until now, was under the Home Ministry entrusted with the task of bringing to book cases of corruption and sundry wrongdoings and suggesting departmental action. Now the CVC is to be the umbrella agency and would coordinate the work of three other investigating arms.
In order to give effect to the view of the Supreme Court, the movement issued an ordinance on August 25, 1998. However, this measure had diluted the views of the Supreme Court by pitting one view against the other. Therefore, what ought to have been visualized as a reformative step had begun to seen as a cleaver bureaucratic legalese. It was when the Supreme Court expressed concern over these aspects of the
Ordinance in the hearing relating to its validity that the government decided to amend the Ordinance and thus, on October27, 1998 **Central Vigilance Commission (Amendment) Ordinance** was issued. The Commission was made a four-member body and its membership was opened to other besides bureaucrats. In the same manner the single directive of prior permission was deleted and the membership of Secretary Personnel, Government of India was deleted. It is too early to comment on the functioning of the reconstituted statutory Central Vigilance Commission but one thing is certain that no commission can root out corruption, which has sunk so deep in the body politic. It can only act as a facilitator and propellant.

COMMISSION OF ENQUIRY

The Commission of Inquiry Act, 1952 is an Act to provide for the appointment of Commissions of Inquiry and for vesting such Commissions with certain powers.
Section 3 of this Act provides for appointment for Commission. It lays down that the appropriate Government may, if it is of opinion that it is necessary so to do, and shall, if a resolution in this behalf is passed by the House of the People or, as the case may be, the Legislative Assembly of the State, by notification in the Official Gazette, appoint a Commission of Inquiry for the purpose of-
(i) Making an inquiry into any definite matter of public importance, and (ii) Performing such functions and within such time as may be specified in the notification.
And the commission so appointed shall make the inquiry and perform the functions accordingly.
The Commission consists of one or more members appointed by the appropriate Government and where the Commission consists of more than one member, one of them may be appointed as the Chair-man thereof.

"The appropriate Government shall cause to be laid before the House of the People or, as the case may be, the Legislative Assembly of the State, the report, if any, of the Commission on the inquiry made by the Commission under sub-section (1), together with a memorandum of the action taken thereon, within a period of 6 months of the submission of the report by the Commission to the appropriate Government."

Sec. 3 (4) is conceived as a check upon the Government inaction or deliberate suppression of the report before the Parliament/Legislative Assembly along with the Memorandum of action taken by it thereon.

Section 4 deals with the powers of the Commission. It lays down that the Commission shall have the powers of civil courts while trying a suit under the Code of Civil Procedure 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) Receiving evidence on affidavits;
(d) Requisitioning any public record or copy thereof from any court of office;
(e) Issuing commissions for the examination of witnesses or documents; and
(f) Any other matter which may be prescribed.

Under section 5, where the appropriate Government is of opinion that, having regard to the nature of the inquiry to be made and other circumstances of the case, all or any of the provisions of sub-sections (2) to (5) of section 5 should be made applicable to a Commission, the appropriate Government may, by notification in the Official Gazette, direct that all or such of the provisions as may be specified in the notification shall apply to that Commission, and on the issue of such a notification the said provisions shall apply accordingly.

The Commission shall have power to require any person, subject to any privilege which may be claimed by that person under any law, to furnish on such points or matters, as in the opinion of the Commission, may be useful for, or relevant to the subject matter of the inquiry.

The Commission or any officer, not below the rank of a gazette officer specially authorised in this behalf by the Commission, may enter any building or place where the Commission has reason to believe that any books of account or other documents relating to the subject matter of the inquiry may be found, and may seize any such books of account or document or take extracts or copies there from, subject to the provisions of sections 102 and 103, Cr. P.C. in so far as they may be applicable.

The Commission shall be deemed to be civil court. When any offence as is described in sections 175, 178 to 180 and 228 I.P.C. committed in the view or presence of the Commission, the Commission may, after recording:

(i) The facts constituting the offence, and
(ii) The statement of the accused as provided in the Criminal Procedure Code,

Send the case to Magistrate having jurisdiction to try the same, and the Magistrate to whom any such case is forwarded shall proceed to hear the complaint against the accused as if the case had been forwarded to him under section 482, Cr. P.C. [Sub- section (4)].

Any proceeding before the Commission shall be deemed to be a judicial proceeding within the meaning of sections 193 and 228 I.P.C. [Sub-section (5)].

Thus the Commission of Enquiry is an administrative authority which is constituted to make judicial inquiry into any question of public importance.

The President can appoint an inquiring authority so that an inquiry can be held into the charges against any Chief Minister. During the inquiry, the Chief Minister can be asked to resign or not to resign. The inquiry can be held in private or public.

Normally, only charges which have some prima facie substances in them are subjected to a regular inquiry.

The inquiry is held in private because if it is held in public, it is likely to create public excitement which is not desirable and interferes to some extent with the atmosphere in which such an inquiry is conducted in these matters, public interest is the guiding factor.

Regarding procedure to be followed by the commission, the Commission has, subject to any rules that may be made in this behalf, power to regulate its own procedure including-

(i) The fixing of places and times of its sittings, and

(ii) Deciding whether to sit in public or private,

And may act, notwithstanding the temporary absence of any member of the existence of a vacancy among its members.

No suit or other legal proceeding shall lie against:

(i) The appropriate Government,

(ii) The Commission,

(iii) Any member of the Commission,

(iv) Any person acting under the direction either of the appropriate Government or of the Commission,

In respect of:

(i) Anything which is in good faith done or intended to be done in pursuance of this Act or of any rules or orders made there under, or

(ii) The publication by or under the authority of the appropriate Government or the Commission, of report, paper or proceedings.

The appropriate Government may, by notification in the official Gazette, make rules to carry out the purposes of this Act. In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any the following matters, namely,-

(a) The term of office and the conditions of service of the members of the Commission;

(b) The manner in which inquiries may be held under this Act and the procedure to be followed by the Commission in respect of the proceedings before it;

(c) The powers of civil court which may be vested in the Commission;

(d) Any other matter which has to be, or may be, prescribed.

The Government of India appointed Mr. Sudhi Ranjan Das, former Chief Justice of India, as the one man commission of inquiry to investigate and report on the allegations made by the non-communist opposition members of Punjab against the State Chief Minister, Sardar Pratap Singh Kairon.

The report of the inquiry which was held in camera was to be submitted to the Government by last February, 1964. The scope of the inquiry was restricted to the 21 allegations made in the memorandum submitted to the President of India on 31th July, 1963, by the Punjab opposition leader and others and did not deal with any other allegations or complaints.

Unlike the Lord Denning inquiry into the Perfume scandal in U.K. and the S.K. Das inquiry in respect of Mr. Malviya, this Commission could compel attendance of witnesses, compel production of documents, administer oath to witnesses and allow their cross-examination, and permit counsels to appear on behalf of the parties concerned.

The proceedings before the Commission were treated as judicial proceedings within the meaning of sections 193 and 228, I.P.C. This Commission was set up as the Central Government was of the opinion that it was necessary for the purpose of making an inquiry into a definite matter of public importance.

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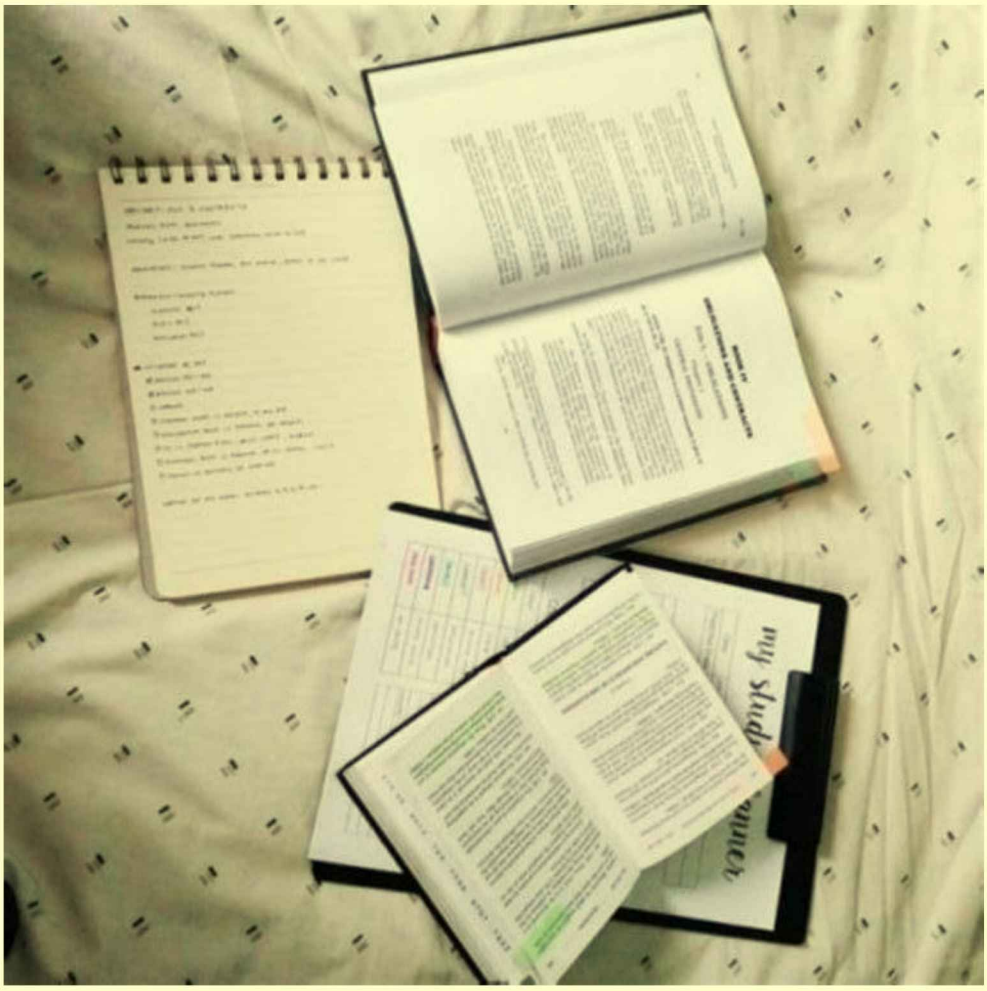

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UNIT-V
ADMINISTRATIVE TRIBUNALS

I) ADMINISTRATIVE TRIBUNALS

Administrative Tribunals are agencies created by specific enactments to adjudicate upon controversies that may arise in the course of the implementation of the substantive provisions of the relative enactments. Unlike that of the court which is parts of the traditional judicial system of a country, the jurisdiction of administrative tribunal is not general. But specific, the courts, known to Anglo-saxon jurisprudence would entertain suits, ranging for a simple claim for recovery of debt to complicated issues of law and facts, but excluding the vires of legislation. Administrative Tribunals are solely quasi-judicial functions.

It should be noted that an administrative body will be administrative tribunal only when that body is constituted by the state and is vested with some judicial powers of the state. The tribunals are generally given the power of a civil Court enjoyable under the code of Civil Procedure in the matters of summoning witness, compulsory production and discovery and documents, receiving of evidence on oath and on affidavit, issuing commissions etc.

There are a large number of laws which charge the Executive with adjudicatory functions, and the authorities so charged are, in the strict scene, administrative tribunals. Administrative tribunals are agencies created by specific enactments. Administrative adjudication is term synonymously used with administrative decision making. The decision-making or adjudicatory function is exercised in a variety of ways. However, the most popular mode of adjudication is through tribunals.

II) Characteristics of Administrative tribunals- The following are the characteristics of Administrative tribunals:

Characteristics of Administrative tribunals

(i) That they are established by the executive under the provisions of statute.
(ii) That though they are required to act judicially, they perform quasi-judicial functions.
(i) That they are independent and imperial and work without being influenced by the Government.
(ii) That they have the powers of Civil Courts in certain matters and their proceeding by the considered to be judicial proceedings.
(iii) That they are required to follow the principles of natural justice in deceiving the cases.
(iv) That they are not bound to follow the technical rules of the procedure and evidence prescribed by the civil procedure Code and Evidence-Act.
(v) That they are not courts in proper sense of terms.

ADMINISTRATIVE TRIBUNALS – EVOLUTION

The growth of Administrative Tribunals both in developed and developing countries has been a significant phenomenon of the twentieth century. In India also, innumerable Tribunals have been set up from time to time both at the center and the states, covering various areas of activities like trade,

industry, banking, taxation etc.The question of establishment of Administrative Tribunals to provide speedy and inexpensive relief to the government employees relating to grievances on recruitment and other conditions of service had been under the consideration of Government of India for a long time. Due to their heavy preoccupation, long pending and backlog of cases, costs involved and time factors, Judicial Courts could not offer the much needed remedy to the government servants, in their disputes with the government. The dissatisfaction among the employees, irrespective of the class, category or group to which they belong, is the direct result of delay in their long pending cases or cases not attended properly. Hence, a need arose to set up an institution, which would, help in dispensing prompt relief to harassed employees who perceive a sense of injustice and lack of fair play in dealing with their service grievances. This would motivate the employees better and raise their morale, which in turn would increase their productivity.

The Administrative Reforms Commission (1966-70) recommended the setting up of Civil Service Tribunals to function as the final appellate authority, in respect of government orders inflicting major penalties of dismissal, removal from service and reduction in rank. As early as 1969, a Committee under the chairmanship of J.C. Shah had recommended that having regard to the very number of pending writ petitions of the employees in regard to the service matters, an independent Tribunal should be set up to exclusively deal with the service matters.

The Supreme Court in 1980, while disposing of a batch of writ petitions observed that

the public servants ought not to be driven to or forced to dissipate their time and energy in the courtroom battles. The Civil Service Tribunals should be constituted which should be the final arbiter in resolving the controversies relating to conditions of service. The government also suggested that public servants might approach fact finding

Administrative Tribunals in the first instance in the interest of successful administration.

The matter came up for discussion in other forums also and a consensus emerged that

setting up of Civil Service Tribunals would be desirable and necessary, in public interest, to adjudicate the complaints and grievances of the government employees.

The Constitution (through 42nd amendment Article 323-A).

This Act empowered the Parliament to provide for adjudication or trial by Administrative Tribunals of disputes and complaints with respect to recruitment and constitutions of service of persons appointed to public service and posts in connection with the affairs of the union or of any state or local or other authority within the territory of India or under the control of the government or any corporation owned or controlled by the government.

In pursuance of the provisions of Article 323-A of the Constitution, the Administrative Tribunals Bill was introduced in Lok Sabha on 29th January 1985 and received the assent of the President of India on 27th February 1985.

STRUCTURE OF THE TRIBUNALS

The Administrative Tribunals Act 1985 provides for the establishment of one Central

Administrative Tribunal and a State Administrative Tribunal for each State like Haryana Administrative Tribunal etc; and Joint Administrative Tribunal for two or more states. The Central Administrative Tribunal with its principal bench at Delhi and

other benches at Allahabad, Bombay, Calcutta and Madras was established on Ist November 1985. The Act vested the Central Administrative Tribunal with jurisdiction, powers and authority of the adjudication of disputes and complaints with respect to recruitment and service matters pertaining to the members of the all India Services and also any other civil service of the Union or holding a civil post under the Union or a post connected with defense or in the defense services being a post filled by a civilian. Six more benches of the Tribunal were set up by June, 1986 at Ahmedabad, Hyderabad, Jodhpur, Patna, Cuttack, and Jabalpur. The fifteenth bench was set up in 1988 at Ernakulam.

The Act provides for setting up of State Administrative Tribunals to decide the services cases of state government employees. There is a provision for setting up of Joint Administrative Tribunal for two or more states. On receipt of specific requests from the Government of Orissa, Himachal Pradesh, Karnataka, Madhaya Pradesh and
Tamil Naidu, Administrative Tribunals have been set up, to look into the service matters of concerned state government employees. A joint Tribunal is also to be set up for the state of Arunachal Pradesh to function jointly with Guwahati bench of the Central Administrative Tribunal.

COMPOSITION OF THE TRIBUNALS

Each Tribunal shall consist of Chairman, such number of Vice-Chairman and judicial and administrative members as the appropriate Government (either the Central Government or any particular State Government singly or jointly) may deem fit (vide
Sec. 5.(1) Act No. 13 of 1985). A bench shall consist of one judicial member and one administrative member. The bench at New Delhi was designated the Principal Bench
of the Central Administrative Tribunal and for the State Administrative Tribunals.
The places where their principal and other benches would sit specified by the State
Government by Notification (vide Section 5(7) and 5(8) of the Act).

QUALIFICATION FOR APPOINTMENT

In order to be appointed as Chairman or Vice-Chairman, one has to be qualified to be
(is or has been) a judge of a High Court or has held the post of secretary to the Government of India for at least two years or an equivalent-pay-post either under the
Central or State Government (vide Sec. 6(i) and (ii) Act No. 13 of 1985).
To be a judicial member, one has to be qualified for appointment as an administrative member, one should have held at least for two years the post of Additional Secretary
to the Government of India or an equivalent pay-post under Central or State Government or has held for at least three years a post of Joint Secretary to the Govt. Of India or equivalent post under Central or State Government and must possess adequate administrative experience.

APPOINTMENTS

The Chairman, Vice-Chairman and every other members of a Central Administrative
Tribunal shall be appointed by the President and, in the case of State or joint
Administrative Tribunal(s) by the President after consultation with the Governor(s) of the concerned State(s), (vide Section 6(4), (5) and (6), Act No. 13 of 1985).
But no appointment can be made of a Chairman, vice-chairman or a judicial member except after consultation with the Chief Justice of India. If there is a vacancy in the office of the Chairman by reason of his resignation, death or otherwise, or when he is unable to discharge his duties / functions owing to absence, illness or by any other cause, the Vice-Chairman shall act and discharge the functions of the Chairman, until the Chairman enters upon his office or resumes his duties.

TERMS OF OFFICE

The Chairman, Vice-Chairman or other member shall hold office for a term of five years from the date on which he enters upon his office or until he attains the age of
a) Sixty five, in the case of Chairman or vice-Chairman,
b) Sixty-two, in the case of any other member, whichever is earlier.

RESIGNATION OR REMOVAL

The Chairman, Vice-Chairman or any other member of the Administrative Tribunal may, by notice in writing under his hand addressed to the President, resign, his office; but will continue to hold office

until the expiry of three months from the date of receipt of notice or expiry of his terms of office or the date of joining by his successor, whichever is the earliest.
They cannot be removed from office except by an order made by the President on the ground of proven misbehavior or incapacity after an inquiry has been made by a judge of the Supreme Court; after giving them a reasonable opportunity of being heard in respect of those charges (vide Sec. 9(2). Act No. 13 of 1985).

ELIGIBILITY FOR FURTHER EMPLOYMENT

The Chairman of the Central Administrative Tribunal shall be ineligible for further employment under either Central or State government, but Vice-Chairman of the Central Tribunal will be eligible to be the Chairman of that or any other State Tribunal or Vice-Chairman of any State or Joint Tribunal(s). The Chairman of a State or Joint Tribunal(s) will, however, be eligible for appointment as Chairman of any other State or Joint Tribunals. The Vice-Chairman of the State or Joint Tribunal can be the Chairman of the State Tribunal or Chairman, Vice-Chairman of the Central Tribunal or any other State or Joint Tribunal. A member of any Tribunal shall be eligible for appointment as the Chairman or Vice-Chairman of such Tribunal or Chairman, Vice-Chairman or other member of any other Tribunal.Other than the appointments mentioned above the Vice-Chairman or member of a Central or State Tribunal, and also the Chairman of a State Tribunal, cannot be made eligible for any other employment either under the Government of India or under the Government of a State.

JURISDICTION, POWERS AND AUTHORITY

Chapter III of the Administrative Tribunal Act deals with the jurisdiction, powers and authority of the tribunals. Section 14(1) of the Act vests the Central Administrative Tribunal to exercise all the jurisdiction, powers and authority exercisable by all the courts except the Supreme Court of India under Article 136 of the Constitution. One of the main features of the Indian Constitution is judicial review. There is a hierarchy of courts for the enforcement of legal and constitutional rights. One can appeal against the decision of one court to another, like from District Court to the High Court and then finally to the Supreme Court, But there is no such hierarchy of Administrative Tribunals and regarding adjudication of service matters, one would have a remedy only before one of the Tribunals. This is in contrast to the French system of administrative courts, where there is a hierarchy of administrative courts and one can appeal from one administrative court to another. But in India, with regard to decisions of the Tribunals, one cannot appeal to an Appellate Tribunal. Though Supreme Court under Article 136, has jurisdiction over the decisions of the Tribunals, as a matter of right, no person can appeal to the Supreme Court. It is discretionary with the Supreme Court to grant or not to grant special leave to appeal. The Administrative Tribunals have the authority to issue writs. In disposing of the cases, the Tribunal observes the canons, principles and norms of 'natural justice'. The Act provides that "a Tribunal shall not be bound by the procedure laid down in the Code of Civil Procedure 1908, but shall be guided by the principles of natural justice. The Tribunal shall have power to regulate its own procedure including the fixing of the place and times of its enquiry and deciding whether to sit in public of private".A Tribunal has the same jurisdiction, powers and authority, as those exercised by the High Court, in respect of "Contempt of itself" that is, punish for contempt, and for the purpose, the provisions of the contempt of Courts Act 1971 have been made applicable. This helps the Tribunals in ensuring that they are taken seriously and their orders are not ignored.

PROCEDURE FOR APPLICATION TO THE TRIBUNALS

Chapter IV of the Administrative Tribunals Act prescribes for application to the Tribunal. A person aggrieved by any order pertaining to any matter within the jurisdiction of the Tribunal may make an application to it for redressal of grievance. Such applications should be in the prescribed form and have to be accompanied by relevant documents and evidence and by such fee as may be prescribed by the Central

Government but not exceeding one hundred rupees for filing the application. The Tribunal shall not ordinarily admit an application unless it is satisfied that the applicant has availed of all remedies available to him under the relevant service rules.

This includes the making of any administrative appeal or representation. Since consideration of such appeals and representations involve delay, the applicant can make an application before the Tribunal, if a period of six months has expired after the representation was made no order has been made. But an application to the Tribunal has to be made within one year from the date of final order or rejection of the application or appeal or where no final order of rejection has been made, within one year from the date of expiry of six months period. The Tribunal. May, however admit any application even after one year, if the applicant can satisfy the Tribunal that he/she had sufficient cause for not making the application within the normal stipulated time.

Every application is decided by the Tribunal or examination of documents, written representation and at a times depending on the case, on hearing of oral arguments. The applicant may either appear in person or through a legal practitioner who will present the case before the Tribunal. The orders of the Tribunal are binding on both the parties and should be complied within the time prescribed in the order or within six months of the receipt of the order where no time limit has been indicated in the order. The parties can approach the Supreme Court against the orders of the Tribunal by way of appeal under Article 136 of the Constitution. The Administrative Tribunals are not bound by the procedure laid down in the code of Civil Procedure 1908. They are guided by the principles of natural justice. Since these principles are flexible, adjustable according to the situation, they help the Tribunals in molding their procedure keeping in view the circumstances of a situation.

ADVANTAGES OF THE TRIBUNAL:

•= Appropriate and effective justice.
•= Flexibility
•= Speedy
•= Less expensive

LIMITATIONS OF THE TRIBUNALS:

•= The tribunal consists of members and heads that may not possess any background of law.
•= Tribunals do not rely on uniform precedence and hence may lead to arbitrary and inconsistent decision.

III) Difference between Administrative Tribunal and Court-

- The main distinction between the court and an administrative tribunal lies in the law policy distinction. Because the court first ascertains facts and applies law to these fast as such the function or a judge is like as solt machine- controlled fact finding and controlled application of law. On the other hand, an Administrative Tribunal proceeds with a controlled fact finding and an uncontrolled application policy.
- Secondly, there is no uniform procedure which the administrative tribunals are required to follow exercising adjudicatory powers, whereas the Courts follows a uniform, fixed statutory procedure,
- Thirdly, the Court exercises only judicial functions whereas Administrative Tribunals undertake various other administrative functions.
- Fourthly, tribunal is wider than Court. All Courts are tribunals but all tribunals are not courts.

IV) Reason for development Administrative Tribunal

(1) The procedure adopted by the Court is very much technical and the approaches of the Courts are highly individualistic and ritualistic.
(2) Secondly, a litigation before a Courts of Law is time consuming & costly.
(3) Thirdly, the administrative adjudicatory system came into existence with intent to carry out of the modern governmental plans of public health, education, planning, social security, transport, agriculture, industrialization and national assistance and to provide a system of adjudication which was informal, flexible, cheap and rapid.

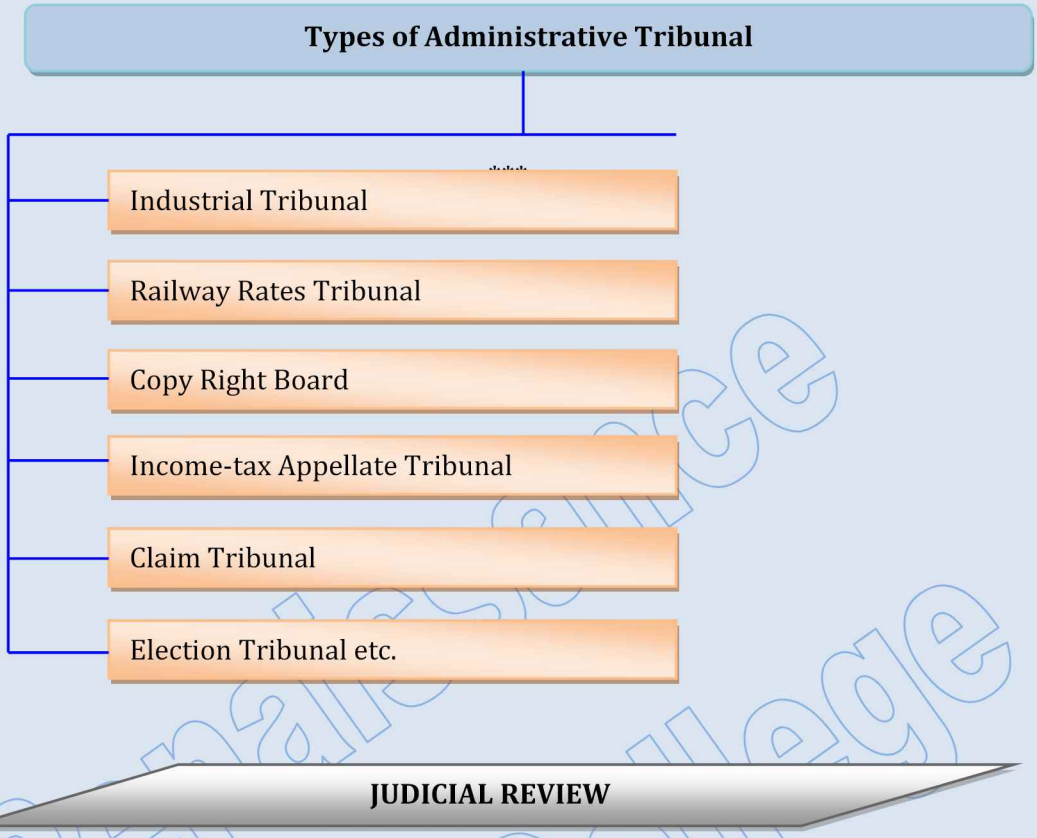
V) Growth in India-

The necessities of modern collectivist socialist state economic programme of the state covering all the aspects of human life, delay in civil proceedings, in the technicality of disputes and growing demand of justice and economic resulted in
vas proliferation of powers of administration, regulating human activities in multifarious way which ultimately resulted in the growth of innumerable quasi-judicial bodies. These tribunals are established the law, although its members are appointed by the Government. It decides the matters while acting judicially, free from the technical rules of procedure and evidence of a court of law keeping fully in view the social needs accepted public policy.
It should be noted that administrative tribunals are constitutionally recognized under Article 32, 136,226 and 227 of the constitution of India.

VI) Demerits of Tribunals

1. The variety of administrative tribunals has grown like mushrooms in the rainy season.
2. No uniform system of appeal against the decisions of tribunals. Medical Council of India, Central Government.
3. The technical rules of Evidence Ac do not apply to administrative tribunals.
4. "A court of no appeal has been put in the hands of men who are generally neither qualified lawyers, magistrates nor judges."
5. In India, except in the cases of civil servants, in all disciplinary proceedings the functions of prosecutor and the judges are either combined in one person or in the same department which is in violation of the principles of natural justice.
6. Sometimes, no one knows from where the decision comes. In G. Nageshwara Rao Vs. A.P.S.R.T.C. 1956, case was not beared by the authority from whom he received the communications. This divided responsibility, where one hears and another decides is against the concept of fair hearing.
7. In any disciplinary proceeding the presumption is of guilt rather than innocence.
8. Official or departmental bias is one of most buffering problems of administrative law.
9. The administrative tribunals are not required to give reasons for their decisions.

In India, there is no law to eliminate the dangers inherent in off-the record consultation by an administrative authority.



JUDICIAL REVIEW

I) Judicial Review in England- In England the administrative law is concerned with the actual working of the government machinery and the greater part of it has never come before the courts for interpretation. After the passing of the Administrative of Justice (Miscellaneous Provisions) Act, 1938, does not alter the principles of law upon which prerogative writs were issued.

II) Judicial Review in India-

In India the Courts occupy key position as regards the judicial control of administrative action. Our Constitution guarantees certain fundamental rights enumerated in Articles 13 to 35 o the Constitution. These rights provide a limitation on the legislative and executive powers as well as some effective dimensions of control over administrative discretion.

The Constitution of India contains express provisions for judicial review of legislation as to its conformity with the constitution unlike in America where the Supreme Court has assumed extensive powers of reviewing legislative acts under over the widely inter prated "due process" clause in the Fifth and Fourteenth Amendments. If, when the courts in India face up to such important and none too easy task, it is not out of any desire to tilt at legislative authority in a crusder's spirit but in discharge of a plainly laid upon them by the Constitution.

In India the Judicial Review of administrative actions falls into three distinct heads-

(i) Public law review which is exercised through writs 9For Detail please refer last preceding chapter).
(ii) Statutory review which may be either by way of-
(a) Statutory appeals; and
(b) Reference to the High-Court or statement of case.
(i) Private Law review which is exercised through suits for damages, injunctions.

Again where the decisions of administrative bodies are purely of administrative nature, the scope of judicial review is limited but it is not so where the decision of quasi-judicial nature. Judicial review of quasi-judicial action of administrative authorities has become of greater importance for the reason that there has been a tremendous increase of judicial functions of administrative authorities.

III) Grounds for Review of Quasi-Judicial Order- The quasi-judicial orders of an administrative authority can be reviewed on the following grounds

Grounds for Review of Quasi-Judicial Order

- Jurisdictional errors, which includes absence of jurisdiction or refusal to exercise jurisdiction
- Erroneous exercise o jurisdiction on a point of law which is apparent on the face of the record
- Violation of the principles of natural justice
- Unconstitutionally

IV) Exclusion of judicial Review- It should be noted that judicial review of an administrative action may be excluded by legislation. An administrative action cannot be reviewed judicially-

(a) Where the statutes provide such administrative act or decision as final or, conclusive;
(b) Where the same result is sought to be achieved more directly, by a negative provision barring particular remedies or providing that such administrative action or decision shall not be liable to be questioned in any court or in any legal proceeding.

V) Express Bar or exclusion of Jurisdiction of courts-

(i) Where the tribunal was not properly constituted;
(ii) Where the tribunal has abused its power under the state by acting in violation of its provisions
(iii) Where the statute providing the finality clause is itself unconstitutional-Rayala Sena construction vs. Dy. C. T. O.
(iv) Where the tribunal has acted in excess of its jurisdiction conferred upon it under the statute or where it was ostensibly failed to exercise a potent jurisdiction.
(v) Where the tribunal has based its decision partly on conjures, surmises and suspicious-
(vi) Where the tribunal gave a decision of fat by considering material which is irrelevant to the enquiry or by considering material which is party relevant and partly irrelevant-Dhirajlal Girdhari Lal vs. Commissioner of Income Tax, Bombay
(vii) Where the decision is given in violation of the principles of natural justice causing substantial and grave injustice to parties.

VI) Case Laws –

For reference –

In Corporation of Calcutta vs. Calcutta Tramways it has been held that where a statute which contained a finality clause, imposed an unreasonable restriction upon the fundamental right guaranteed under Article 19 (1) (g), then such statute will be struck down.

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PUBLIC CORPORATION

I) Public Corporation-

"The public corporation is a hybrid organism, showing some of the features of a Government department and some of the features of a business company, and sanding outside the ordinary frame work of Central or Local Government".

According to GARNER:

"The modern public corporation is a compromise between nationalization and private enterprise; the institution is essentially an instrument devised of administering some particular enterprise in the public interest.

The public corporation are Semi-Government autonomous bodies, primarily concerned with managerial, commercial and industrial enterprises and run various public utilities which the state does not choose to run departmentally as it normal Government function.

II) Essential Features of public Corporation-

Essential Features of public Corporation

(i) Statutory public corporation is created by a statute which lays down its rights, duties and obligation. Any act of such public corporation out side the authorized area of operation shall be ultravires and cannot bind the corporation. Such ultravires acts cannot be ratified.

(ii) It is wholly owned by the state

(iii) It has a separate legal entity and such it can use or be used, enter into contract or acquire property in its own name.

(iv) Public corporation is largely autonomous in finance and management except for appropriation to provide capital or to cover losses. It has funds o its own and is authorized to use and re-use its revenue.

(v) A public corporation is generally exempted from most regulatory and prohibiting statutes applicable to expenditure of public funds.

(vi) It is ordinarily not to the budget, according and audit lams and procedures applicable to non-corporate agencies.

(vii) A Statutory public corporation is a 'state' within the definition of the term in Article 12 of the constitution and such, it is subject to the writ jurisdiction of the Supreme Court and High Courts under Articles 32 and 226 of the constitution.

(viii) In majority of the cases, the employees of public corporations are not civil servants. They are appointed and remunerated under the terms and conditions which the corporation determines itself.

(ix) A public corporation however, is not a citizen within the meaning of Part II of the constitution and as such cannot claim the fundamental rights given in Article 19 of the constitution – **State Trading Corporation of India Vs. C.T.O.**

Public corporation can not enjoy the privilege of the Government to withhold the document.

III) Common Features of public corporation- The following are the common features of the constitution of public corporations, though every public corporation is different in matters of its constitution.

(i) The public corporations are identical in their constitution. Each has a governing body, established by a constituent statute, consisting of a chairman and a defined number of members.
(ii) The public corporations are largely autonomous I finance and management. They have their own separate accounts, which are audited by qualified auditors. The audition reports are published annually together with the general report to the activities of the corporation.
(iii) Some public corporations are expressly required by their constituent statutes to act for and on behalf of the crown; other can act only on the directions of a specific minister.

In India, the public corporations were set up after independence and have been give constitutional recognition.

IV) Constitutional Position of Public Corporations- The Constitution of India recognizes the public corporations. Article 19 (6) of the constitution. Subclasses (2) of Article 19 (6) provides that the state can make law relating to the carrying on the state or by corporation, owned or controlled by the state, of any Trade, business, industry of service, whether to the exclusion, complete or partial, of citizens or otherwise.

V) Classification of Public Corporation- Thoughts, no exact classification is provided, the statutory public corporations may be classified as under:

Classification of Public Corporation

- Commercial and Financial – commercial lines Eg. LIC
- Social – welfare activities Eg. STC
- Commodity – function of development of commodity Eg. ONGC
- Development – development work Eg. Damodar Valley Corporation.
- Controlling – to control eg. RBI

VI) Parliament Control –

The Parliamentary Control is implied in statutory corporation as they owe their origin and continued existence to a statute passed by the Parliament. The initial control is exercised at the tie when the bill proposing the creation of a statutory corporation is introduced for discussion in the House. The following process has been adopted for controlling the corporation:

(i) Legislation- The Parliamentary control begins with the very Act of Legislation which brings the corporation into existence.

(ii) Laying of rules and regulation- The parliament supervises the statutory corporations though the process of laying of rules and regulations on the Table of Houses as some of the Acts bringing up the public corporations provide that the rules made the under these Acts are to be laid before the Parliament.

(iii) Question- Under rule 32 of the rules procedure of the Lok Sabha the first hour of every sitting shall be available for the question-answer, unless the speaker directs otherwise. In this period the Member of the Parliament may question regarding the state of affairs of any statutory corporation.

(iv) Resolution- Discussion the matters relating to public corporation may occur through the medium of resolutions in the Parliaent.

(v) Motions- Motions provide the general form of discussion of matters related to a public corporation.

(vi) Parliamentary Committee- The Parliament constituted the committee on public undertaking in 1964. Prior to the establishment of Parliamentary Committee, tch Estimates Committee and the Public Accounts Committed were looking after the public undertaking's affairs. It should be noted that a Minister cannot be a member of this Parliamentary committee.

VII) Government Control-

The general Government control over theworking of the public Corporation is highly desirable to ensure the affairs of the statutory corporations are being conducted in the best interest of the society. The Goernemtn control over a public undertaking may be conducted though any or combination of the following devices:

(i) By appointing the Governing Board and Managers of a public undertaking;
(ii) By issuing general policy directions
(iii) By issuing specific direction to the public undertaking.
(iv) By participating in management as member of the Governing Board.

By instituting inquires into the working of the corporation under certain circumstances.

VIII) Judicial Control-

A stated above, a statutory corporation is a 'State' within the meaning of Article 12 of the constitution of India and such it is subject to writ jurisdiction of the Supreme Court under 32 and of the High-Court article under Article 226 of the Constitution.

CONSTITUTIONAL REMEDIES

I) Constitutional Remedies available against an Administrative action- Article 32, 136, 226 and 227 of Indian constitution provide strong powers to the Courts to control the administrative authorities if they exceed their limit to do what they should do, omit or abuse the powers given to them.

Art, 32 and 226 of the constitution provide remedies by way of writs. Under Article 32 (2) the Supreme Court of India is empowered to issue appropriate directions or orders or writs, including writs in the nature of habeas corpus, certiorari, mandamus, prohibition and quo-warranto which may be appropriate. The five writs specifically mentioned in Article 32 (2) are known as prerogative writs in English law.

Article 32- Article 32 provides a "guaranteed" remedy for the enforcement of those rights, and this remedial right is itself made a fundamental right by being included in Part III. Where there is no question of the enforcement of a fundamental right, Article 32 has no application.

Article 136- Under Article 136 of the constitution, the Supreme Court is empowered to grant special leave to appeal against an order or determination of not only court of law but also of tribunal.

Article 226- Under Article 226, the High-Court are empowered to issue directions, orders or writs including writs in the nature of habeas Corpus, mandamus, prohibition certiorari and quowarrato for the enforcement of any of the rights conferred by Part III of the constitution or for any other purpose.

Article 227- Article 227 gives powers of superintendence over all courts and tribunal by the High-Court thought the territories in relation to which they exercise jurisdiction

II) Difference between Article 226 and Article 32

Article 226	Article 32
1. Under this Article Court may issue writs. 2. Article 226 is not fundamental right. 3. During emergency the President of India cannot suspend this Article. 4. No doubt under Article 226 High Court may issue writs. But this jurisdiction is discretionary in nature therefore reedy may be refused also. 5. High Courts no doubt grant or issue writs even for the enforcement of fundamental right yet it is not obligatory for them. 6. High Courts may take into consideration of the existence of other adequate legal remedy and decline to issue a writ if there exist other adequate legal remedy.	1. Under Article 32 Supreme Court may issue writs. 2. Article 32 is itself a fundamental right. 3. Since Article 32 itself is a fundamental right therefore President of India ay Suspend it. 4. Article 32 itself is a fundamental right and constitution has granted a fundamental right to move to Supreme Court in case of breach of fundamental right. 5. In case of breach of fundamental right a person may invoke jurisdiction of Supreme Court as a matter of right. 6. The Supreme Court can not, on the ground of the existence of an adequate legal remedy, decline to entertain a petition under Article 32 for the right to move the Supreme Court for the enforcement of the rights conferred by Part III of the Courts is itself a guaranteed right.

III) Types of writs

i) Habeas corpus

Habeas corpus is a latin term and it develop out of the prerogative writ of absubjiciendum which literally means to have the body" and by which the people could secure their release from illegal.

The writ can be issued on the application either-

(a) Of the prisoner himself, or
(b) Of any person on his behalf, or
(c) Where the prisoner cannot act, then on the application of any person who believes him to be unlawfully imprisoned.

Who can apply for the writ of Habeas Corpus- The writ of habeas corpus can be made either by the person detained or any other person provided that he is not an utter stranger, but is at least a friend or relative of the imprisoned person.

Grounds of the writ of Habeas Corpus-As stated above, the writ of habeas corpus is a process by which a person who is confined without established procedure of law may secure a release from his conferment. The following grounds to seek a remedy by way of habeas corpus-

(i) The person must be confined;
(ii) petition for writ of habeas corpus may be filed either by the detenue or any person who is not a stranger but is a friend or relative of the person detained
(iii) That the detention was malafide or for collateral purpose.
(iv) That the order is defective e.g. misdiscription of detenue failure to mention place of detention etc.
(v) That the detainer has not applied his mind in passing the order of detention.
(vi) That the ground supplied to the detenue was vague and indefinite.
(vii) That the detention is illegal.
(viii) That were was delay in furnishing ground.
(ix) That there was delay in considering the Representation.
(x) That orders of Detention is irregular.

Refusal of the writ of Habeas Corpus

(i) Where the prisoner is detained outside the jurisdiction of the High-Court to which the application is made, the court will refuse the writ of habeas corpus.
(ii) Where the effect of granting the writ would be to review the judgment of a Court which is open or which shows jurisdiction on its face.
(iii) When the detention is found legal on the relevant date, the court refused to issue the writ of habeas corpus. Jagannath Hisra and other Vs. State of Orissa.
(iv) Where the Court is of the opinion that the order of issuing writ defeat the ends of justice.

Circumstance in which the writ of habeas does not lie- The writ of habeas corpus will not lie in the following circumstances:

(i) The writ of habeas corpus does lie where arrest and detention not giving grounds, is confirmed by remand order of the Magistrate in case falling under section 9 of the Punjab Security of State act.
(ii) When a person in committed to jail custody by a competent court by an order which pria facie not appear to be without jurisdiction or wholly illegal.

(iii) When all the issue of the fact can be tricks in other proceedings, the writ of habeas corpus will not lie.
(iv) Where a person has been convicted by a duly constitute tribunal, a writ of habeas corpus will not lie for questioning the validity of such conviction.
(v) Where a person convicted or in execution under legal process including person in execution of a legal sentence after conviction on indictment in the usual course.
(vi) Where a person undergoing a sentence of imprisoned imposed on him by a competent court, the writ of habeas corpus will not lie.
(vii) Where the physical restraint is put upon a person under law, no habeas corpus will lie.
(viii) Where the petithen has been filed is seeking others available remedy.

Statutory bar to writ of habeas corpus- Article 21 is the sole repository of rights to life and personal liberty against the state. And Art 22 provides a right of protection against illegal arrest and detention. But the President of India can issue a proclamation of emergency under Article 359 of the constitution and suspend of the fundamental rights. And when fundamental rights have been suspended, the writ of habeas corpus for the enforcement of such right is also not maintainable. When the fundamental rights were suspended under the Presidential order, no writ habeas corpus will lie.

Limitations on the issue of habeas Corpus- The following are the limitations on the issue o habeas corpus-

(i) The habeas corpus cannot be use as a device to evade the ordinary law for the review revision or appeal of a judgment under which a person is imprisoned.
(ii) That the application should be in a proper manner.
(iii) That generally whenever there is an adequate alternative restraint remedy, habeas corpus should not be given.
(iv) That for the issue o habeas corpus, the wrongful restraint must exist at the when the court has to make the rule absolute for its issue.

(ii) Writ of Mandamus-

Mandamus is an order issued by the king's Bench Division of compel the performance of a public duty.
Against whom the writ of mandamus can issue- Writ of Mandamus can be issue to or against any person holding a public office, a corporation on or an interior.
Who can apply for writ of Mandamus- No one can ask for a mandamus without a legal right. The legal right must be one which is judicially enforceable and legally protected. And a person can be said to be aggrieved only when a person is denied a legal right by someone who has a legal duty to do something or to abstain from a dong something –**Mani Subrat Jain Vs. State of Haryana 1977.**

Grounds of the Mandamus- The writ of mandamus can be issued on the following grounds:

(i) That the petitioner must have a legal right.
(ii) That such right must exist on the date of the petition.
(iii) That such a legal right of the petitioner has been infringed.
(iv) That the infringement of such legal right has been owning to non- performance of the corresponding duty by the public authority.
(v) That the petitioner has demanded the performance of the legal duty by the public authority and the authority has refused to act.

(vi) That there has been no effective alternative legal remedy. And the alternative remedy need not be a statutory remedy.
(vii) The duty imposed on the public authority must be mandatory and not discretionary.
(viii) Where there has been abuse of power.
(ix) Violation of statutory provisions.
(x) Malafide exercise of power.

Grounds on which Mandamus may be refuse-

(a) That the act against which mandamus is sought has been completed and the writ, if issued, will be infractions.
(b) That the petition is premature-**E.I. Commercial Co. Vs. Collector 1957.**
(c) When it appeals that it would be futile in its result. The court will refuse the writ were no benefit could arise from granting it.
(d) Where there is suppression or misstatement of material facts in the petition. **Ibrahim vs. High-Court Commissioner 1951.**
(e) Where there is an alternative remedy which is adequate to meet the needs of the case.
(f) Where there is a long delay on the part of the petitioner in applying for mandamus.
(g) Where the petition is filled to get the contract enforced by a public servant independently of any statutory duty or obligation to the petition.
(h) Where the petition is field to seek directions for the Tribunal to decide in first instance a mixed question of law and fact.
(i) Writ of mandamus is refused in respect of exercise of administrative functions.
(j) Mandamus would not issue for correcting mere errors of law.
(k) Writ of Mandamus will not issue to compel a person to institute legal proceedings- **Nagpur Glass Works Vs. State of M.P. 1955.**
Mandamus will also not lie against the Governor of a State directing hi to recall nomination to the Legislate Council, and forbear from giving to the nominations.

Against whom a writ of Mandamus cannot lie-Normally a writ of mandamus cannot issue against a private individual.
Secondly, it will lie for the inference in the internal administration of the authority.
Thirdly, against the educational body, for the decision taken by the unfair means committee of the University after giving opportunity of hearing the examinee, the writ of mandamus will not issue.

(iii) Writ of Certiorari

Definition and Nature of the writ of Certiorari-Certiorari is an order or command issued by the High-Court to an inferior court or body exercising judicial or quasi-judicial functions to transit the records of a cause or matter pending before them the High-Court in order that its legality may be investigated and if the order of an inferior court is found to be without jurisdiction or against the principle of natural justice, it is quashed.
It enables a Superior Court, a court of record, to correct the orders and the decisions of inferior courts and inferior Tribunals discharging judicial functions.

Against whom the writ of certiorari be issued-It is well settled that writ of certiorari be issued against-

(i) Any judicial or quasi-judicial authority acting in judicial manner;
(ii) Any other authority which performs judicial functions and acts in a judicial manner.

The person who can apply for the writ of certiorari- In **Charanjit Lal Vs. Union of India,** it has been that an application for the issue of writ Article 32 or 226 can only be made by the aggrieved party and not by a stranger.

Necessary conditions for the issue of the writ of certiorari-Writ of certiorari is issued when anybody or person-

(a) Having legal authority,
(b) To determine questions effecting rights or subjects,
(c) Having duty to act judicially, either
 (i) Acts in excess of its legal jurisdiction; or
 (ii) Commits an error apparent on the face of the record or
 (iii) Acts in violation of the principles of natural justice.

Grounds of writ of Certiorari-The writ of certiorari can be issued on the following grounds:

(a) That the impugned order is vitiated by error of want of jurisdiction, which includes-
  (i) Excess of jurisdiction
  (ii) Abuse of jurisdiction
  (iii) Absence of jurisdiction.
(b) That there was an error of law apparent on the face of the record and
(c) That there had been a violation of principles of natural justice.

Grounds of refusal of the writ of certiorari-The writ of certiorari may be refused on the following grounds:

(i) Where alternative remedy not availed.
(ii) Futile writ-Where the writ is futile, it will be refused.

(iv) The writ of Prohibition

In the words of Prof. A.T. Markos:
"Prohibition is a judicial writ issued from a superior jurisdiction to an ecclesiastical or similar tribunal or an inferior temporal court including under the latter description, administrative authorities having a duty imposed on them to proceed judicially to prevent those tribunal from continuing their proceeding in excess of or abuse of their jurisdiction in violation of the rule of natural justice or in contravention of the laws of the land.
The writ of prohibition lies only when the inferior court or tribunal has not made a decision were as the writ of certiorari lies when the court or tribunal has made a decision.

Grounds for the writ of Prohibition

(i) Absence of jurisdiction or excess of jurisdiction
(ii) Violation of the Principles of Natural justice.
(iii) Infringement of the Fundamental Rights.
(iv) Contravention of the law of the land
(v) Fraud.

Against whom the right of Prohibition lies- The writ of Prohibition, like certiorari lies only against the judicial and quasi judicial authorities. A writ of Prohibition can issue only in a case in which certiorari can be issued. In other words he writ of Prohibition lies against-

(i) Judicial authorities; or
(ii) Quasi-judicial; or
(iii) Statutory body having judicial powers.

(v)The writ of Quo-warranto

The quo-warranto proceedings affords judicial enquiry in which any person holding an independent substantive public office, or franchise, or liberty, is called upon to show b what right he holds the said office, franchise or liberty. If the inquiry leads to the finding that the holder of the office has not valid title to it, the issue of the writ of quo-warranto ousts him from the office.

Who can apply for the writ of quo-warranto –information in the nature of quo-warranto would lie even at the instance of a relation who is not personally interested in the matter nor affected by the illegal assumption of the office y the opposite party.

Condition when the writ of quo-warranto will not lie-As state above, the writ of quo-warranto is discretionary in nature, the petitioner is not necessarily entitled o the issue of a writ. The writ of quo-warranto will not lie in the following cases;

(i) The writ of quo-warranto will not lie in respect of an office of a private nature.
(ii) Where there is acquiescence on the part of the petitioner, the writ of quo-warranto will not lie
(iii) When the office is abolished, no information in the nature of quo-warranto will lie.
(iv) Where it will be vexatious, the High-Court shall in 'its' discretion refuse to issue a writ of quo-warranto –**Bari Nath Vs. State of U.P.1965.**
(v) When the application for quo-warranto is a belated one 1964.
(vi) The writ of quo-warranto may also be refused if there is an adequate alternative remedy.
(vii) Where it will be futile.
(viii) The writ of quo-warranto will not lie in case of mere irregularity.

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