

**ADDRESS BY THE HON'BLE CHAIRMAN, CAT ON
NOVEMBER 1, 2009 (SUNDAY),**

Justice K. G. Balakrishnan, Hon'ble the Chief Justice of India / Dr. Veerappa Moily, Hon'ble Minister of Law and Justice / Dr. Justice Mukundakam Sharma, Hon'ble Judge Supreme Court of India / Shri Prithviraj Chavan, Hon'ble Minister of State for Personnel Public Grievances and Pensions / Hon'ble Judges of Supreme Court of India and Delhi High Court / Hon'ble former Judges of Supreme Court and High Court / my esteemed brother Justice M. Ramachandran, Vice Chairman (Judicial) / Shri Shantanu Consul, Secretary (Personnel) Government of India / Hon'ble Vice Chairmen (Judicial and Administrative) / Hon'ble Members (Judicial and Administrative) / learned members of legal fraternity / persons from print and electronic media / ladies and gentlemen!

It is indeed a happy augury for the future of the Central Administrative Tribunal / and the service law / that vice Chairmen and Members of the Tribunal all over the country / have gathered here on the occasion of All India Conference of the Tribunal / for the purpose of discussing / in and out-house issues and problems / with the sole aim of strengthening the Tribunal / to make it an Institution to excel for speedy and quality justice related to service law / The Conference is being inaugurated by the Hon'ble Chief Justice of India.

I am fortunate to be amongst this august gathering for the second year in succession / In the last Annual All India Conference / we had an occasion to discuss / several topics which come within the rubric of challenge / of the justice system prevailing in the Tribunal / but amongst them / one of the most important was jurisdiction of the Tribunal in respect of service matters of departments and

institutions which needed to be covered under the provisions of Section 14(2) of the Administrative Tribunals Act and had not yet been covered simply for want of notification by the Government of India / While stressing upon the need to bring within the jurisdiction of the Tribunal / disputes of employees of the departments and institutions funded by the Central Government / I had mentioned that the purpose of the Act would be defeated to a large extent if half of the service disputes / which could be under the jurisdiction of the Tribunal / were still being entertained and disposed of by the High Courts / which are overburdened / I also mentioned that whereas the judiciary at every level in the country / is under tremendous pressure of workload / primarily for the reason that appointments of judicial officers at district level and the High Court level are far less commensurate to the work / we are starving and

craving for more work / I am happy to inform that our efforts made on that behalf / have brought positive results / The Government found justification with our views / and from July 2007 till date 144 more institutions/organizations have been notified / and employees of all such institutions/organizations are now covered under jurisdiction of the Tribunal / As a result hundreds of cases pending in Delhi High Court have been transferred to the Tribunal / So is the position with regard to other Benches located all over the country / This would go a long way in achieving the object of the Act of speedy and inexpensive justice/ Despite increase in the workload / the Tribunal has kept its pace in disposing of cases / Disposal of the Principal Bench of the Tribunal in 2008 was 110% as compared to the institution in the said year / and is likely to be the same by the end of this year / The position in other Benches/ is similar / Year by year / month by

month / pendency of cases all over the country is coming down / The disposal far exceeds the institution thereof / Every endeavour is being made to dispense quantitative and qualitative justice / We have decided it as a matter of policy that life of no case in the Tribunal / in any part of the country / would be more than six months/ Every effort is being made to achieve this objective / and I am sure that with cooperation and untiring efforts of all the Vice Chairmen and Members / Judicial and Administrative / we shall achieve the benchmark as mentioned above in a short span of time / In our effort to do so / the President of Bar Association and members of legal fraternity and the staff have given us their full support /

There would be number of issues on which we/ in this Conference / would have an elaborate debate and discussion / and arrive at our conclusions with proper recommendations made to

the Government for implementation / One issue which has constantly engaged the judiciary at every level in the country / is the ever increasing backlogs / The High Courts played a definite and significant role in evolving the service jurisprudence in the exercise of their power of judicial review / The positive contribution by the High Courts / coupled with the growth in the number of employees in the public field / and the manifold problems arising in the context of their recruitment and conditions of service / and their implicit faith and confidence in the High Courts as the unfailing protector of their rights and honour / led to a gradual increase in the institution and pendency of service matters in the High Courts / This in turn focused the attention of the Union Government on the problems of finding an effective alternative institutional mechanism for disposal of such specialized matters / A committee set up by the

Union Government in 1969 under the chairmanship of Justice J. C. Shah / recommended for setting up of an independent Tribunal / to handle service matters pending in High Courts and the Supreme Court / In its 162nd Report (Justice Jeevan Reddy Report) / the Law Commission of India recommended for establishment / at the Centre and the State / of an appellate Tribunal or Tribunals presided over by a legally qualified Chairman / and with experienced civil servants as Members / to hear appeals from Government servants in respect of disciplinary and other action against them / The First Administrative Reforms Commission had also recommended for setting up of Civil Services Tribunals / to deal with the appeals of Government servants against disciplinary actions/ Part XIV-A comprising Articles 323-A and 323-B was inserted in the Constitution of India by the 42nd Constitutional Amendment Bill 1976 / with effect from 3rd January

1977 / Article 323-A authorized Parliament to provide by law for setting up of Administrative Tribunals / for adjudication of disputes and complaints with respect to recruitment and conditions of service of certain categories of employees in the field of public employment / including Government servants and also / to provide for the exclusion of the jurisdiction of all courts / except that of the Supreme Court under Article 136 / The Parliament ultimately enacted the Administrative Tribunals Act 1985 / which received the assent of the President on the 27th February 1985/ In pursuance of the provisions contained in the Act / the administrative tribunal is set up exercising original jurisdiction in respect of service matters of employees / The Statement of Objects and Reasons accompanying the Constitutional Amendment Bill / by which Article 323-A was sought to be inserted in the Constitution / states (**quote**) To

reduce the mounting arrears in High Courts / and to secure the speedy disposal of service matters ... it is considered expedient to provide for administrative tribunals / for dealing with such matters / while preserving the jurisdiction of the Supreme Court / in regard to such matters under Article 136 of the Constitution (**unquote**) / The Statement of Objects and Reasons appended to the introduced version of the Administrative Tribunals Bill / which on being passed and approved / became the Act of 1985 / also contained similar recitals (**quote**) / The establishment of Administrative Tribunals under the aforesaid provision of the Constitution / has become necessary since a large number of cases relating to service matters are pending before the various Courts / It is expected that the setting up of such Administrative Tribunals to deal exclusively with service matters / would go a long way in not only reducing the burden of the various courts and

thereby giving them more time to deal with other cases expeditiously / but would also provide to the persons covered by the Administrative Tribunals / speedy relief in respect of their grievances (unquote) /

“In the beginning / under Section 29 of the Act of 1985 / the Tribunal received on transfer from High Courts and subordinate courts 2,963 cases / Till November 2001 / 3,71,413 cases were instituted in the Tribunal / Out of these / 3,35,742 cases have already been disposed of / The total number of cases received on transfer / as well as those instituted at various Benches of the Tribunal till 30.6.2006 is 4,76,336 / of which the Tribunal has disposed of 4,51,751 cases / leaving a balance of 24,585 cases / which constitutes disposal of 95% / By the end of 2008 / the total pendency in the Tribunal was 21,712 / Even though institution in Tribunal has increased manifold / more particularly

after jurisdiction of 144 institutions/organizations came to be vested with the Tribunal during 2007-2008 / but the rate of disposal has also quantitatively increased / and at the Principal Bench of the Tribunal at New Delhi / the rate of disposal is above 100% / On an average 91% of cases of the Principal Bench have been upheld in the writ petitions filed in Delhi High Court / The Tribunal has performed well qualitatively and quantitatively / By virtue of provisions contained in Section 28 of the Act of 1985 / no court except the Supreme Court / shall have jurisdiction / powers and authority in relation to service matters / Vires of the Act of 1985 came to be challenged / but the Hon'ble Supreme Court in *S. P. Sampath Kumar v Union of India* / while directing carrying out certain measures / with a view to ensuring the functioning of the Administrative Tribunals along constitutionally sound principles / upheld its validity / subject of

course / to certain amendments related to the form and content of the Administrative Tribunals / The suggested amendments were carried out by another amending Act (Act 51 of 1987) / The Administrative Tribunals / with the amendments / became an effective and real substitute of the High Courts in service matters / In 1997 however / a seven-judge Constitution Bench in *L. Chandra Kumar v Union of India* / held that clause 2 (d) of Article 323A and clause 3 (d) of Article 323B / to the extent they exclude the jurisdiction of the High Courts under Articles 226/227 of the Constitution / are unconstitutional / Section 28 of the Act and the "exclusion of jurisdiction" clauses in all other legislations enacted under the aegis of Articles 323A and 323B / to that extent / were held to be unconstitutional / It was held that the jurisdiction conferred upon the High Courts under Articles 226/227 of the Constitution is part of the inviolable

basic structure of the Constitution / The jurisdiction of the Tribunal was made subject to scrutiny before Division Bench of the High Court /

Considering that the judgment in *L. Chandra Kumar's* case has resulted into three-tier litigation / from the Tribunal to the High Court / and from the High Court to the Supreme Court / and the very object for which the Act of 1985 came into being might not be achieved / a Bill to amend the Act by incorporating an enabling provision for abolition of the Central Administrative Tribunal and State Administrative Tribunals / was introduced / A high powered Parliamentary Committee under the Chairmanship of Dr. E. M. Sudarsana Natchiappan / considered in all its minute details / the Administrative Tribunals (Amendment) Bill 2006 / for abolition of the Tribunal and transfer of pending cases to some other authority after its abolition / The Committee invited views and suggestions from

desirous individuals and organizations on the Bill / In response thereto / number of representations and memoranda were received from all over the country / After an in-depth study of the issues / the Parliamentary Committee / far from recommending abolition of the Tribunals / rather observed that the abolition of the Tribunals will defeat the purpose and object of the Parliamentary wish / and large number of citizens would be deprived of speedy justice if the Tribunals are abolished / It also observed that the record of disposal of cases in the Tribunal has been excellent / as compared to that of other judicial *fora* / and that abolition of the Tribunals would increase pendency of cases / by putting additional burden on the High Courts / The Committee strongly recommended that the Tribunal should be strengthened / I may quote a part of the recommendations of the Committee which says/ **(quote)** By enlarging the jurisdiction of the

Central Administrative Tribunal / its stature will be elevated in the eyes of the people / In many organizations/ constitutional bodies / the employees' grievances redressal mechanism / has not grown to their level of expectation / Therefore the committee feels that it is high time / that a proper mechanism is put in place for the employees of other organizations also (**Unquote**) / Accepting to an extent the recommendations made by the high powered Committee / significant amendments have been brought about in the Act of 1985 / The conditions of service of Chairman and Members are now to be the same as applicable to Judges of High Courts / The criteria for eligibility for Administrative Members has been enhanced / Whereas earlier / Joint/^{ad}Additional Secretaries were also eligible for being considered as Administrative Member / now only a Secretary with a minimum of two years' experience/Additional Secretary with

five years' experience / is eligible / Even though / a Judge of the High Court is eligible to be Chairman / by tradition / considering the importance of the Tribunal / only Chief Justices are being appointed as Chairman / The first seven Chairmen of the Tribunal were all Chief Justices / which included legal luminaries like / Justice K. Madhava Reddy / Justice Amitav Banerji / Justice V. S. Malimath / and Justice Ashok Aggarwal / Only for a brief period / two Chairmen were Judges / It is reliably learnt that the Hon'ble Chief Justice of India / on administrative side / has already passed an order that hence forth the post of Chairman of the Tribunal / shall always be occupied by a Chief Justice / The Law Commission / headed by Dr. Justice A. R. Lakshmanan / a former Judge of the Supreme Court / in its 215th Report / has recommended amendment in the Act of 1985 to substitute "Judge" with "Chief Justice" for

appointment as Chairman / The cadres of the Tribunal have grown and matured in the last 25 years / Because of the amendments made in the Act of 1985 / and administrative orders passed on that behalf / whereas Chairman of the Tribunal is to be a Chief Justice of a High Court / its Judicial Members are by and large Judges of High Courts / who are naturally preferred over others/ having vast judicial experience / whereas the Administrative Members are those who have occupied highest administrative posts with the Government / Considering all these facts / the Law Commission / headed by Dr. Justice Lakshmanan / in its 215th report titled "*L. Chandra Kumar be revisited by Larger Bench of Supreme Court*" / has recommended to the Government to request the Hon'ble Supreme Court to re-consider L. Chandra Kumar's case / or / in the alternative / necessary and appropriate amendments in the Act of 1985

may be effected in accordance with law / The issue / it is reliably learnt / is under active consideration of the Government /

I have been a part of the High Courts for sixteen years / I know from personal experience that Judges in the High Courts have totally dedicated themselves to the cause of the litigating public / They are untiringly working so that the problem of backlog is addressed / They have even sacrificed their LTCs and holidays in their endeavour to achieve the desired object / Despite this and substantial increase in strength of High Court Judges in 2007 / the delay in disposal persists / Very recently a two-day conference was organized by the Hon'ble Law Minister to find out ways and means to reduce arrears / The problem however still persists / with no magic solution in hand / It is high time that the judiciary / legislature / and executive may put their heads together / to come

up with a solution which may advance the object of the Act of 1985 / Surely all of us who are engaged in dispensing justice / have only one goal to achieve / the object being common / I am sanguine that in near future some solution to the problem would be found / Till that may happen / may I request the Hon'ble Chief Justice of India to have a topic in the agenda of the Chief Justices' Conference / to consider this aspect of the case / I have a very very humble suggestion to make / and that is / that writs arising from orders passed by the Central Administrative Tribunal / may be disposed of at the motion stage / as surely / their admission would result into great deal of loss to an employee that may never be compensated in his life / If a property dispute may prolong / the affected party may suffer / but ultimately there is some consolation for the litigant / as in the interregnum / the price of the property may go manifold / but there is no

consolation / no reprieve to an employee whose case is delayed/ Decision of his case after retirement or death would be of no meaning and consequence to him /

The Tribunal to have its own buildings as court complexes all over the country / financial independence to the Tribunal / powers of the Chairman for framing rules for employees of the Tribunal akin to Article 229 of the Constitution / ways and means to further reduce pendency of cases in the Tribunal / are some of the proposals which the Conference would deliberate / and I am sure that the Hon'ble Union Minister for Law and Justice / Hon'ble Minister of State for Personnel, Public Grievances and Pensions / and the Secretary DOP&T being here / our recommendations would be dealt with objectively / This conference is being inaugurated in the benign presence of My Lord the Chief Justice of India / in the gracious presence of

other Hon'ble Judges and guests / His Lordship / the Chief Justice of India despite being immersed in respect of his official duties / has been pleased to spare time for inauguration of this Conference / and this only shows His Lordship's total and absolute support and concern for the Tribunal / for which I feel indebted personally and also on behalf of Hon'ble Vice-Chairmen, Members and staff all over the country / I am also indebted to Hon'ble Dr. Justice Mukundakam Sharma / who on my request/ sparing time from his busy schedule / graciously agreed to give a talk on service law / I am also grateful to the Hon'ble Union Law Minister and the Hon'ble Minister of State for Personnel, Public Grievances and Pensions for sparing their valuable time to be present in this Conference / I am also grateful to the Hon'ble Judges of Supreme Court / former and present / as also the Hon'ble Judges of the Delhi High Court / who have spared time to

attend this conference / Their presence
encourages all of us / Let's have good wishes and
views for this Conference / from the Hon'ble Minister
of State for Personnel / the Hon'ble Law Minister /
Hon'ble the Chief Justice of India K. G.
Balakrishnan/ and Dr. Justice Mukundakam
Sharma/

Thank you so much !