



Pendency of Cases

Atul Kumar*

Department of Law, Dr Ram Manohar Lohia Avadh University, Uttar Pradesh, India

Introduction

Pendency of Cases in both Supreme Court and High Courts gave rise to the emerging need for specialised courts on specific matters for speedy justice and to take off some load from the Courts. Tribunals come into the light as the specialised court. The term ‘Tribunal’ is derived from the word ‘Tribunes’, which means ‘Magistrates of the Classical Roman Republic’. ‘Tribunal’ is an administrative body established to discharge quasi-judicial duties. An Administrative Tribunal is neither a Court nor an executive body [1]. It stands somewhere midway between a Court and an administrative body. The exigencies of the situation proclaiming the enforcement of new rights in the wake of escalating State activities and furtherance of the demands of justice have led to the establishment of Tribunals. The Income Tax Appellate Tribunal was created in 1941 to reduce the pendency of income tax-related cases from the courts. In 1976, Article 323A and Article 323B were inserted empowering Parliament to constitute administrative Tribunals (both at central and state level) for adjudication of matters related to recruitment and conditions of service of public servants. Article 323B specified certain subjects (such as taxation and land reforms) for which Parliament or state legislatures may constitute tribunals by enacting the law. In 1985, The Administrative Tribunals Act was enacted and due to which various tribunals received 13,350 pending cases on transfer from the High Courts and subordinate Courts under section 29 of the Administrative Tribunal Act, 1985. The purpose for which the Act was enacted was seemed to be achieved, but this was not the case. (Problems faced by tribunals that made them ineffective). In the starting, when cases were transferred to these tribunals to reduce the burden from High Court and Supreme Court, the tribunals worked good and reduced significant burden from the courts but after some years everything came back to where it was started from [2]. The pendency of cases didn’t get reduced instead as of now the first tribunal i.e The Income Tax Appellate Tribunal has 91,538 cases pending as of End of 2016. Before talking about the reasons due to which the situation didn’t improve rather worsen with passing time. I would like to tell you about the recent situation and interview of Chief Justice of India and farewell speech of Justice Rohinton F. Nariman who also pointed out the pending vacancy of judges all over India and their appointment must be merit-based and more direct appointments in Supreme Court. (One of the reasons for the increase in Pendency of Cases.) CJI Ramana Says 4.5 Crore Cases Pending, Here’s What Has Been Fuelling Backlog In Indian Courts by News 18, Dated 18th July 2021. Delivering his address at India-Singapore Mediation Summit, Chief Justice of India NV Ramana cited the “often-quoted statistic that pendency in Indian courts has reached 45 million cases” [3]. A few months back in April, reports said that combined with Covid-19 induced lockdowns and restrictions, the pendency of cases rose by 19 per cent since March 2020 [4]. The CJI also told that the perception regarding pendency of cases in Indian courts as being reflective of the “inability of the judiciary to cope with the caseload is an overstatement and an uncharitable analysis”. Even former Supreme Court Judge Justice (retd.) Markandey Katju had said in an article in The Tribune in 2019 that “it is estimated that if no fresh case is filed, it will take 360 years to clear the backlog of cases in all the courts.” He was writing this at a time when the pendency was about 33 million cases. Merit Must Predominate In Judges Appointments; Time For More Direct Appointees: Justice Nariman In Farewell Address Live law, Dated 12th August 2021 Justice Rohinton Nariman, who retires as a

Supreme Court judge today, said in his farewell speech that merit must be the predominant factor to be considered in judicial appointments [5]. He said, “I believe there is a legitimate expectation in the people of India and the litigating public to get a certain quality of justice from this final court. For that, it is very clear, merit must predominate, subject of course to other factors. But merit always comes first.

Acknowledgement

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Conflict of Interest

None

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*Corresponding author: Atul Kumar, Department of Law, Dr Ram Manohar Lohia Avadh University, Uttar Pradesh, India, Tel: 08005478585, E-mail: atulkurmaurya@gmail.com

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