



## Tribunals

**For Prelims:** [Tribunals](#), [Supreme Court](#), High Court, Armed Forces Tribunal (AFT), Judge Advocate General, Article 226 of the Constitution.

**For Mains:** Tribunals, Statutory, regulatory, and various quasi-judicial bodies.

[Source: TH](#)

### Why in News?

Recently, the [Supreme Court \(SC\)](#) in case **Union of India (UoI) & Ors. v. AIR Commodore NK Sharma (2023)**, has clarified that [Tribunals](#) functioning under the strict parameters of their governing legislations cannot direct the government to make policy.

- The SC was dealing with a question on whether the **Armed Forces Tribunal (AFT)** could have directed the government to **make a policy to fill up the post of the Judge Advocate General (Air)**.

### What is the SC's Ruling in UoI & Ors. v. AIR Commodore NK Sharma Case?

- Tribunals, including the **Armed Forces Tribunal (AFT)**, do not have the authority to direct the government to **formulate specific policies**.
- The **role of making policy is not within the domain of the judiciary**, including quasi-judicial bodies like the AFT.
- Even though the AFT is vested with powers **akin to a civil court, it lacks the authority of the Supreme Court** or the High Courts. Additionally, the High Courts, exercising powers under Article 226 of the Constitution, **cannot direct the government or its departments to create particular policies**.
  - **Article 226 provides** the High Courts the authority to bring a lawsuit against a government entity if any citizen's rights and freedoms are violated. The High Court has broad **powers to issue orders and writs to any person or authority under Article 226** of the Indian Constitution.
- The formulation or sanctioning of policies regarding the service of defense personnel or their regularization falls **solely within the government's prerogative**.
- A tribunal functioning within the confines of its governing legislation **lacks the power to mandate the creation of a policy**.

### What is a Tribunal?

- **About:**
  - Tribunal is a **quasi-judicial institution** that is **set up to deal with problems such as resolving administrative** or tax-related disputes. It performs a number of functions like adjudicating disputes, determining rights between contesting parties, making an administrative decision, reviewing an existing administrative decision and so forth.

#### ▪ **Constitutional Provisions:**

- Tribunals were **not part of the original constitution**, it was incorporated in the Indian Constitution by **42<sup>nd</sup> Amendment Act, 1976**.
  - **Article 323-A** deals with Administrative Tribunals.
  - **Article 323-B** deals with tribunals for other matters.
- Under **Article 323 B**, the Parliament and the state legislatures are authorized to provide for the establishment of tribunals for the adjudication of disputes relating to the following matters:
  - Taxation
  - Foreign exchange, import and export
  - Industrial and labour
  - Land reforms
  - Ceiling on urban property
  - Elections to Parliament and state legislatures
  - Food stuff
  - Rent and tenancy rights
- **Articles 323 A and 323 B** differ in the following three aspects:
  - While Article 323 A contemplates the establishment of tribunals for public service matters only, Article 323 B contemplates the establishment of tribunals for certain other matters (mentioned above).
  - While tribunals under Article 323 A can be established only by Parliament, tribunals under Article 323 B can be established both by Parliament and state legislatures with respect to matters falling within their legislative competence.
  - Under Article 323 A, only one tribunal for the Centre and one for each state or two or more states may be established. There is no question of the hierarchy of tribunals, whereas under Article 323 B a hierarchy of tribunals may be created.
- **Article 262:** The Indian Constitution provides a role for the Central government in adjudicating **conflicts surrounding inter-state rivers** that arise among the state/regional governments.

### What are the Different Tribunals in India?

#### ▪ **Administrative Tribunals:**

- Administrative tribunals, instituted under the **Administrative Tribunals Act, 1985**, stem from **Article 323 A of the Constitution**. They serve as specialized quasi-judicial bodies tasked with adjudicating disputes and grievances concerning **recruitment and terms of service for individuals in public posts** under Union and State governance.
- These tribunals include the Central Administrative Tribunal (CAT), state-specific tribunals upon request, and **joint tribunals for multiple states**.

#### ▪ **Water Disputes Tribunal:**

- The Parliament has enacted **Inter-State River Water Disputes (ISRWD) Act, 1956** have formed various Water Disputes Tribunal for adjudication of disputes relating to waters of inter-State rivers and river valleys thereof.
  - Standalone Tribunal: The Inter-State River Water Disputes (Amendment) Bill, 2019 is passed by Parliament for amending the existing ISRWD Act, 1956 to constitute a standalone Tribunal to remove with the need to set up a separate Tribunal for each water dispute which is invariably a time-consuming process.

#### ▪ **Armed Forces Tribunal (AFT):**

- It is a military tribunal in India. It was established under the **Armed Forces Tribunal Act, 2007**.
- It has provided the power for the adjudication or trial by AFT of disputes and complaints with respect to commission, appointments, enrolments and conditions of service in respect of persons subject to the **Army Act, 1950, The Navy Act, 1957 and the Air Force Act, 1950**.
- The Judicial Members are retired High Court Judges and Administrative Members are retired Members of the Armed Forces who have held the rank of Major General/ equivalent or above for a period of three years or more, Judge Advocate General (JAG), who have held the appointment for at least one year are also entitled to be appointed as the Administrative Member.

▪ **National Green Tribunal (NGT):**

- The **National Green Tribunal (NGT)**, established by the National Green Tribunal Act 2010, is a body dedicated to **swiftly resolving environmental disputes**.
- Comprising judges and environmental specialists, it expedites **cases involving nature conservation and damage compensation**.

▪ **Income Tax Appellate Tribunal:**

- **Section 252 of the Income Tax Act, 1961** provides that the Central Government shall constitute an Appellate Tribunal consisting of many Judicial Members and Accountant members as it thinks fit to exercise the powers and functions conferred on the Tribunal by the Act.

### UPSC Civil Services Examination Previous Year Question (PYQ)

**Q. The National Green Tribunal Act, 2010 was enacted in consonance with which of the following provisions of the Constitution of India? (2012)**

1. Right to healthy environment, construed as a part of Right to life under Article 21
2. Provision of grants for raising the level of administration in the Scheduled Areas for the welfare of Scheduled Tribes under Article 275(1)
3. Powers and functions of Gram Sabha as mentioned under Article 243(A)

**Select the correct answer using the codes given below:**

- (a)** 1 only
- (b)** 2 and 3 only
- (c)** 1 and 3 only
- (d)** 1, 2 and 3

**Ans: (a)**