# J.B. Chopra And Ors. vs Union Of India (Uoi) And Ors. on 19 December, 1986

## Equivalent citations: AIR1987SC357, 1987(35)BLJR382, 1987(28)ELT3(SC), [1987(54)FLR297], (1987)ILLJ255SC, 1986(2)SCALE1097, (1987)1SCC422, 1987(1)UJ128(SC), AIR 1987 SUPREME COURT 357, 1987 (1) SCC 422, 1987 LAB. I. C. 466, 1987 28 ELT 9, 1987 UPLBEC 83, (1987) 28 ELT 3, (1987) PAT LJR 59, 1987 (1) UJ (SC) 128, (1986) JT 1104 (SC), 1987 BLJR 382, (1987) 1 SERVLR 203, (1987) 1 SUPREME 80, (1987) 1 LABLJ 255, (1987) 1 LAB LN 307, (1987) 54 FACLR 297, (1987) 1 SCJ 544, (1987) 2 STC 344, (1987) UPLBEC 83

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## Bench: A.P. Sen, B.C. Ray

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ORDER


A.P. Sen, J.
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1. In this special leave petition a question was raised regarding the authority and jurisdiction of the Central Administrative Tribunal constituted under the Administrative Tribunals Act, 1985 to strike down as constitutionally invalid a rule framed by the President of India under the proviso to Article 309 of the Constitution as being violative of Articles 14 and 16(1) of the Constitution. That depends on a construction of Sections 14(1), 28 and 29(1) of the Act, as amended, read in the light of Article 323A of the Constitution. Since the question raised was of far-reaching importance we issued a notice to the learned Attorney-General to appear and assist the Court. We heard learned Counsel for the parties including the Union of India on the question at considerable length and reserved judgment. We were later informed by the learned Counsel that the same question had been argued before a Constitution Bench and its judgment was awaited, and they requested us to defer the judgment.

2. In S.P. Sampath Kumar v. Union of India and Ors. JT 1986 SC 996, the Constitution Bench has held that the Act is a law made by Parliament under Clause (1) of Article 323A to exclude the jurisdiction of the High Courts Under Articles 226 and 227 of the Constitution. Section 28 of the Act which bars the jurisdiction of all courts except the Supreme Court is relatable to Clause 2(d) of Article 323A for adjudication of service matters including questions involving the validity or otherwise of such laws on the ground that they abridge the fundamental rights under Articles 14 and 16(1) of the Constitution, and that the Administrative Tribunal set up under Section 4 of the Act is a

substitute of, and not supplemental to, the High Court providing an equally efficacious alternative remedy for adjudication of such disputes. It has further held that the establishment of the Administrative Tribunal under the Act therefore takes away the jurisdiction and power of the High Court to interfere in such matters but it is not violative of the doctrine of judicial review which is a fundamental aspect of the basic structure of our Constitution because Section 28 of the Act which bars the jurisdiction of the High Court under Articles 226 and 227 of the Constitution preserves the jurisdiction and power of the Supreme Court under Articles 32 and 136 of the Constitution. It accordingly follows that the Administrative Tribunal being a substitute of the High Court had the necessary jurisdiction, power and authority to adjudicate upon all disputes relating to service matters including the power to deal with ail questions pertaining to the constitutional validity or otherwise of such laws as offending Articles 14 and 16(1) of the Constitution That being so, the contention advanced by the petitioners that the Administrative Tribunal had no authority or jurisdiction to strike down the impugned notification dated March 15, 1980 purporting to amend Section 4 4 of the Central Hindi Directorate (Class III and Class IV) Posts Recruitment Rules, 1961 reserving 100 per cent vacancies to the post of Superintendent to be filled by the Head Clerks and thereby debarring Stenographers (Sr.) from being considered for promotion to that post as being wholly mala fide, arbitrary and irrational and thus offending Articles 14 and 16(1) of the Constitution, must therefore fail.

3. The Special Leave Petition is accordingly dismissed. No order as to costs.