

Constitutionally in the
latter case observed
as



**ASSIGN
BUSTER**

Constitutionally it is recognised under Articles 32, 136, 226 and 227. The words "all Courts and tribunals" in Article 136 give to the system of administrative tribunals a firm constitutional base. The Constitution bars the jurisdiction of the courts in election matters and requires the election disputes to be decided by "such authority as may be provided for by or under any law." The recognition of the tribunals is also extended under articles 32 and 226.

The scope of these articles is very wide and the Supreme Court and the High Court's under these respective Articles exercise their jurisdiction not only over the administrative tribunals but other administrative bodies also. A clear definition of such a tribunal was given by the Supreme Court in Durga Shankar's Case, A. I. R. 1954 S. C. 570 and its characteristics were earlier noted by Mukherjea, J.

in the Bharat Bank case, (A. I. R. 1950 S. C. 188).

The learned judge speaking of industrial tribunals in the latter case observed as follows: "They are Governmental bodies appertaining to the executive and not to the judicial branch of the State though in various matters they are armed with judicial powers analogous to these normally carried out by courts of law." (P. 206).

The system of the tribunals:

The administrative tribunals do their work, as Robson puts it "more rapidly, more cheaply, more efficiently than the ordinary Courts possess greater technical knowledge and fewer prejudices against government; give greater heed to the social interest involved decide disputes with a conscious effort at

<https://assignbuster.com/constitutionally-in-the-latter-case-observed-as/>

furthering the social policy embodied in the legislation “. In this country the number of such tribunals is well over hundred under the control laws alone. The various State laws also provide for setting up of such tribunals. The system of these tribunals, it may be noted, cannot be compared with the Fresh System of Administrative Courts. In France there are two distinct systems of Courts; ordinary courts and administrative courts.

The latter decide all cases against the administration and the cases in which the administration is a party are not taken to the ordinary courts. These courts are headed by the council d' Etat. The Counsel is both the highest administrative agency and a court. It gives decisions in all matters and causes relating to complaints against the administration, and takes cognizance of disputes against the departments or the comments and enforces the legitimate rights of the citizens against the administration. It hears petitions on the grounds of excess of power, abuse of power, etc. It has an appellate jurisdiction over the Courts of accounts and other administrative courts.

Its decisions are in final forms. It has the jurisdiction to decide what cases are out of the ordinary courts. In course of time it has built up a system of dealing with protection of the individuals against excess and arbitrary actions of the administration. In India the system of administrative tribunals on the French model with the Council at the top is favoured. The Law of Commission observes in its Fourteenth Report that “ its very peculiar growth rated in French History and tradition makes it unsuitable for being adopted with any success in India.

” Thus the proposal of establishing a Supreme Appellate Tribunal to supervise the work of administrative tribunals on the French pattern does not appear to be feasible. That purpose is sufficiently served by Articles 32, 136 and 226 providing an inherent jurisdiction in the Supreme Court and the High Courts to exercise some control over these tribunals on such grounds as excess of abuse of jurisdiction, errors of law, non-observance of rules of natural justice, etc.