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# The Interface between Central Vigilance Commission and Administrative Tribunals: A Study of Conflict Resolution Mechanisms

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## ABSTRACT

*This study explores the functioning of Central Vigilance Commission and Administrative Tribunal, delving into the intricacies in the conflict resolution mechanisms within this interface. When an Administrative Tribunal and CVC (Central Vigilance Commission) interacts issues pertaining to discipline, vigilance, and internal conflicts in government agencies are usually dealt. Vigilance operations are managed by the CVC, and employee conflicts and appeals are handled by the Administrative Tribunal. This partnership guarantees equity and openness when resolving problems in the public sector.*

*Analyzing cases and procedures, the author aims to provide insights into the effectiveness and challenges one entity faces from the intervention of another which compromises with the administrative integrity and justice.*

**Keywords:** *Central Vigilance Commission, Administrative Tribunals, Conflict Resolution, Corruption, Judicial Interference.*

## I. INTRODUCTION

Corruption is a sad and bitter reality that is corroding, like cancerous lymph nodes attacking the vital veins of the body social fabric, politics, and efficiency in the public service and demoralizing the honest officers. In public administration, corruption refers to the misuse of authority for one's own benefit, frequently by bribery, embezzlement, favoritism, or nepotism. It weakens moral principles, taints decision-making procedures, and results in the inefficient use of resources. This erodes public confidence, obstructs progress, and levels the playing field. Transparent mechanisms, strong oversight, and an integrity-driven culture are all necessary for effective prevention. Given the recognition that conflict in public administration is inevitable, necessary, and potentially useful, it is important to have relevant conflict resolution processes in place to handle differences when they arise to combat the social and legal evil of corruption. Since the early times, there has been an explosion in interest in how Indian society handles conflicts. The task of settlement of dispute in India is not entrusted in judiciary only. In their

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book on principled negotiation, Fisher and Ury<sup>2</sup> stated, "***Conflict is a growth industry. Everyone wants to participate in decisions that affect them; fewer and fewer people will accept decisions dictated by someone else.***" This kind of thinking is reflected in the development of a wide range of mechanisms for the purpose of effective conflict resolutions in public administration i.e. Administration Tribunals and Central Vigilance Commission. In corruption cases where public servants are accused, the complainants and the prosecution make sincere efforts to see to it that that corrupted public servants are punished, in order to eradicate corruption from administration. *The underlying purpose for the establishment of both these bodies can be summarized as: trials before these bodies are supposed to be less cumbersome, less expensive, and less time consuming than courtroom hearings*<sup>3</sup>. Throughout the functioning of these bodies, the courts were to ensure that the action taken was not arbitrary or capricious, and certainly within the bounds of legality, but other than that they were to ensure rule of law. *Many administrative agencies, the programs they administer, and individual regulations they issue can be explained, at least somewhat, by a dissatisfaction with existing mechanisms for resolving either rights or interest disputes.*<sup>4</sup> The response has been the creation of the following agencies that are designed to alter the substantive rights of the affected parties and supplant judicial processes with an administrative one that, it is hoped, will better fulfill the goals of the administrative efficiency.

- **Central Vigilance Commission**: Traditional legal concepts and doctrines which were applied by the courts, in cases of criminal prosecutions alleging corruption by the public servants were not creating a credible deterrence against corruption by prompt enforcement of anti-corruption laws and regulations against officials employed in public services. The result was the setting up of CVC by the Government in February, 1964 on the recommendations of the Committee on *Prevention of Corruption*, headed by **Shri K. Santhanam**. The CVC is not controlled by any Ministry or Department. It is an independent body which is only responsible to the Parliament. The CVC receives complaints on corruption or misuse of office and recommends appropriate action. It also has the authority to investigate offences alleged to be committed by specific categories of public officials in violation of *Prevention of Corruption Act, 1988*.
- The CVC's mandate includes a broad variety of duties, including as developing anti-

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<sup>2</sup> Fisher, Roger and William Ury, *Getting to Yes: Negotiating Agreement Without Giving In* 6 (Penguin Books, 2011)

<sup>3</sup> K. Davis, Administrative law text, JSTOR, 194-21,4 (1972).

<sup>4</sup>Henry H. Perritt Jr., And the Whole Earth Was of One Language, A Broad View of Dispute Resolution, 29 Vill. L. Rev. 1221 (1984).

corruption policies, counseling government agencies on topics of vigilance, and supervising inquiries into claims of misbehavior or corruption involving public officials. It acts as a watchdog, guaranteeing public employees' accountability and upholding the credibility of political procedures. The CVC stands out for its role in oversight of vigilance, which includes advising organizations on how to improve their vigilance processes and keeping an eye on the execution of anti-corruption measures. In addition, the CVC looks into claims of misbehavior and corruption, either on its own or in collaboration with the Central Bureau of Investigation (CBI).

- **Administrative Tribunals**: The concept of tribunals came into existence in India with the establishment of the Income Tax Tribunal, 1941. The aim behind the establishment of tribunals was to reduce the burden of court by creating tribunals for special matters having an equivalent status to High Court to adjudicate the matters.
- Administrative Tribunals are specialized quasi-judicial organizations, to address certain kinds of appeals and disputes resulting from administrative decisions. These tribunals are intended to provide a more easily accessible, effective, and knowledgeable means of resolving disputes in a variety of administrative law contexts. They function independently of the mainstream court system. In the administrative justice system, administrative tribunals are essential because they provide specialized knowledge, effectiveness, and accessibility in settling conflicts resulting from administrative actions. Their continued presence is essential to preserving an equitable and efficient legal system across public administration domains.
- In the year 1976, *Swaran Singh Committee* recommended the establishment of administrative tribunals at both state and center level. The **42<sup>nd</sup> Amendment Act of 1976** added a new Part XIV-A to the Constitution. This part is entitled 'Tribunals' and consists of Article 323A and Article 323B.
- Article 323A<sup>5</sup> deals with administrative tribunals- It empowers the Parliament to provide for the establishment of administrative tribunals for the adjudication of disputes relating to *recruitment and conditions of service of persons* appointed to public services of the Centre, the states, local bodies, any corporation owned or controlled by the Government. Since, the amendment several administrative tribunals are established at Central and State level.

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<sup>5</sup> India Const. Art 343 A, amended by The Constitution (Forty Second Amendment) Act, 1976

## II. DEVELOPMENT OF LEGAL FRAMEWORK

### (A) Central Vigilance Commission:

**1998:** The Government promulgated an *Ordinance* in 1998, conferring statutory status to the CVC and the powers to exercise superintendence over functioning of the Delhi Special Police Establishment (CBI).

**2003:** The Commission was given statutory status by the enactment of “*The Central Vigilance Commission Act, 2003*”. The CVC is not controlled by any Ministry/Department. It is an independent body which is only responsible to the Parliament. CVC was not an investigating agency. The CVC either gets the investigation done through the CBI or through chief vigilance officers (CVO) in government offices. It advises and guide Central Government agencies in the field of vigilance.

After enactment of CVC Act, 2003, the Commission became a *multi-member body* consisting of a Central Vigilance Commissioner (Chairperson) and not more than two Vigilance Commissioners (Members), to be appointed by the President on the advice of:

- *Prime Minister*
- *Ministry of Home Affairs*
- *Leader of Opposition*
- **2013:** The Parliament enacted the **Lokpal and Lokayuktas Act, 2013**.<sup>6</sup> This act has amended CVC Act, 2003 whereby the Commission has been empowered *to conduct preliminary inquiry and further investigation into complaints referred by the Lokpal.*

### (B) Administrative Tribunals:

**1976:** The 42nd Amendment Act added a new Part XIV-A to the Constitution which gave administrative tribunals its constitutional status.

**1985:** In this year, The Administrative Tribunals Act, 1985 was enacted which made the establishment of tribunals more easier and lot of tribunals were established.

**2017:** The Finance Act, 2017 reorganised the tribunal system of India. It merged tribunals performing the similar functions and established tribunals into one. It reduced the number of tribunals from 26 to 19. It delegated power of central government to decide the service conditions of member of tribunals.

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<sup>6</sup> Lokpal and Lokayuktas Act, 2013, No. 1, Acts of Parliament, 2014 (India).

**2020:** The 'Tribunal, Appellate Tribunal, and other Authorities (Qualifications, Experience and other Conditions of Service of Members) Rules, 2020' were framed by the Ministry of Finance in exercising powers under Section 184 of the Finance Act 2017.

- **Appointment:** Appointments to the above Tribunals will be made by the Central Government on the recommendations of the "Search cum Selection Committee".
- **Removal:** The search Cum Selection Committee has the power to recommend the removal of a member and also to conduct inquiries into allegations of misconduct by a member.
- **Qualifications for tribunal members:** Only persons having *judicial or legal experience are eligible for appointment*.
- **Independence:** The condition in the 2017 Rules (which were set aside by Court) that the members will be eligible for re-appointment has also been dropped in the 2020 Rules.

**2021:** The Tribunals Reforms (Rationalization and Conditions of Services) Bill, 2021 was converted into ordinance wherein it abolished 9 tribunals and gave the function to other judicial body such as High Court.

### III. JUDICIAL PRECEDENTS: INTERFACE BETWEEN BOTH THE BODIES

It is pertinent to note that the powers, purpose, jurisdiction, scope of both the authorities differ however their functioning are interlinked. In the sense that the charges alleging corruption against a public servant falls under the ambit of commission, in almost all the cases the aggrieved party approaches the administration tribunals contending on the ground of "matter of services". These are the matters where these two independent authorities intersects and administrative tribunals and other appellants authorities adjudicate upon the cases relating to corruption which comes under the domain of Central Vigilance Commission.

In the case of *Union of India & Ors. V. P. Balasubramanayam*<sup>7</sup> - The respondent was promoted as Assistant Superintendent of Posts in the year 2008, a Group-B Gazetted cadre post. A memo was issued to him by the Disciplinary Authority, Department of Posts under Rule-14 of the Central Civil Services Rules. The Memo enumerated charges related to procedural as well as illegal gratification received by way of bribes. The respondent contested the Memo at the threshold itself on the ground that it could not have been issued without prior approval of the Central Vigilance Officer (hereinafter referred as "CVO") as mandated by a circular. The respondent assailed the Memo before the Central Administrative Tribunal which concluded that

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<sup>7</sup> Union of India & Ors. V. P. Balasubramanayam, 2021 INSC 151

the approval by the CVO was *more of a safeguard and* the Circular did not mandate any prior approval of the CVO before issuance of the memo the same was opined by the High Court.

This case is a prima facie example of how administrative tribunals and judicial bodies often disregards the functions of the Central Vigilance Commission, moreover perceives its “mandatory advice” as a “mere formality” which ought not be taken into consideration. It was opined at the outset by Supreme Court that the Circular had to be read in the context of safeguarding the interest of the employees. The case of the respondent was said to have a vigilance angle as it involved allegations of bribery. The petition filed by the appellant was dismissed and the authorities were directed to reinstate the respondent into service with all consequential benefits.

In another case of *Supreme Court Vijay Rajmohan v. State*<sup>8</sup> the question before Hon’ble SC was that whether an order of the Appointing Authority granting sanction for prosecution of a public servant under the Prevention of Corruption Act, 1981, would be rendered illegal on the ground of acting as per dictation, *if it consults the Central Vigilance Commission for its decision*. This case highlights that the Central Vigilance Commission, is specifically entrusted with the duty and function of providing expert advice on the subject. The statutory scheme under which the appointing authority could call for, seek and consider the advice of the CVC can neither be termed as ‘*acting under dictation*’ nor a factor which could be referred to as an ‘*irrelevant consideration*’. The opinion of the CVC is only advisory. *It is nevertheless a valuable input in the decision-making process of the appointing authority.*

The abovementioned case evidences the interplay of powers and duties of the three agencies, being the sanctioning authority (Union Government), the prosecuting agency (the CBI), and the advisory body (the CVC), all subserving the same public interest of ensuring integrity in governance. Yet, the trial court in this case failed to consider the role of CVC and allowed the application of the public servant with the reasoning that the DoPT failed to apply its own mind and merely relied on the advice tendered by the CVC. Such decision negates the very intent of the CVC Act and results into the backlog of cases in the Supreme Court and Administrative Tribunals

In the case of *The Chief Commercial Manager v. G. Ratnam & Ors.*<sup>9</sup> The Railway Authority conducted departmental inquiry against the respondent. The appellant modified and substituted the penalty to that of compulsory retirement of the respondent from service. Being aggrieved

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<sup>8</sup> Supreme Court Vijay Rajmohan v. State (2022) SC 1377

<sup>9</sup> The Chief Commercial Manager v. G. Ratnam & Ors. (2007) 8 SCC 212 4

the respondent approached the tribunal, wherein the tribunal, allowed the applications of the respondents on a technical ground holding that the departmental traps were not laid by the Vigilance Officers of the Railways in accordance with the provisions of the Indian Railways Vigilance Manual, 1996 and as a result of the defective investigations, orders of imposition of penalty upon the respondents are quashed. SC held that the impugned judgment and order of the High Court, upholding the orders of the Tribunal, is not legal and justified and shall be set aside on the ground that the teeth of the legal aspect of the matter, the instructions contained in paragraphs 704 and 705 of the Vigilance Manual, 1996 are procedural in character and not of a substantive nature. The violation thereof, if any, by the investigating officer in conducting departmental trap cases would not ipso facto vitiate the departmental proceedings initiated against the respondents on the basis of the complaints submitted by the investigating officers to the railway authorities. This judgement raises a concern that if the procedure laid down by the vigilance commission is not at all taken into account by the Vigilance Officers, then the very purpose of the institution become otiose, and more importantly the concerning issue it raises is the denial of the court to vitiate proceeding on a valid ground of defects in investigation.

#### **IV. CONCLUSION**

Administrative agencies are essential to governance because they carry out and uphold laws, rules, and policies. They oversee complicated matters, offer specialist knowledge, and guarantee that rules are applied consistently. In addition to facilitating public services, administrative agencies also help the government run smoothly and meet the requirements of the populace. Through effective and specialized administration, their involvement in regulation, licensing, and dispute resolution adds a layer of accountability and knowledge, supporting the general well-being of society.

It is not wisdom alone but public confidence in that wisdom which can support an administration.<sup>10</sup> This statement underscores the importance of public confidence and legitimate expectation as a test of the efficacy of administration. The fundamental principle of administrative law has always remained the same, namely, that in a democracy, the people are supreme, and hence all State authority must be exercised in the public interest<sup>11</sup>. Regarding administrative effectiveness, having a solid dispute resolution process in place is essential. It promotes a collaborative work atmosphere, reduces interruptions, and expedites decision-making procedures. It avoids protracted disputes that could impair productivity and good

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<sup>10</sup> Biplab Kumar Lenin, Administration of Central Vigilance Commission: A critical Analysis.

<sup>11</sup> Justice Markandey Katju, Administrative Law and judicial review of administrative action, (2005) 8 SCC



governance and ensures that the fundamental principles on which democracy is formed is achieved.

However, various instances have been presented in this paper wherein it can be seen that how the public trust in CVC has been bruised by the interference and disregarded by the decisions of administrative tribunals. Apart from the public trust the very intent behind the formation of Central Vigilance Commission i.e. to create deterrence for corruption, is also being overlooked by the decisions of administrative tribunals and other authorities. It is the need of hour to not only let the CVC to function independently but also to make their decisions independent of other organs of the government.

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