CHAPTER VI

DISPUTE SETTLEMENT MACHINERY IN UNIVERSITIES AND AFFILIATED COLLEGES WITH SPECIAL REFERENCE TO UNIVERSITIES IN THE STATE OF GUJARAT

Introduction:

This chapter examines the existing provision for settlement of disputes and redressal of grievances in the universities and colleges, pinpoints its shortcomings and develops a detailed model for such a machinery at the grass root, state and the central levels. The proposed model is related with prescriptions for the composition of the tribunals, mode of appointment of the members, their tenure and jurisdiction. It thus takes a step further to the proposals to establish a Central Educational Tribunal mooted by the Law Commission of India vide its working paper published in the University News of 23rd March, 1987.

This chapter is confined to existing machinery of disputes settlement at the grass root level, their shortcomings and some suggestions for improvement. However special attention has been given to working of Gujarat Education (affiliated) college Tribunal.
Existing dispute settlement Machinery at Grass Root Level in various Universities in India:

The Machinery which presently exists at the grass root level in the universities and colleges for the settlement of disputes of various types could be classified into the following categories:

1. As regards the service matters of the teachers and non-teachers in most universities/colleges any dispute arising out of the contract of service has to be referred to a tribunal of arbitration consisting of one member appointed by the university and another member nominated by the employee concerned and one nominee of the Chancellor to act as an umpire (e.g. S. 74 Poona University Act, 1974). In case of college teachers, the tribunal is to be composed of representatives of the management, aggrieved employee and a nominee of the Vice chancellor to act as an umpire.

Their decision is considered as final and no suit is permissible before any civil court in respect of the matter decided by the tribunal.

Under a few university enactments, however, such a tribunal has been given jurisdiction only when there is
removal or dismissal.

In certain other universities e.g., Rajasthan, disputes are referred to arbitration only in case of contracts between an affiliated college not maintained by the government and the members of its teaching staff including the Principal.

In case of Maharashtra, however, independent tribunals (not a tribunal of Arbitration) called college Tribunals, have been contemplated under the Maharashtra Universities (Second Amendment) Act, 1977, for deciding disputes arising only out of the dismissal, removal or termination or reduction in rank of employees of non-government/non-university affiliated colleges and recognised institutions.

This tribunal therefore does not have jurisdiction over employees of a government college or a recognised institution managed and maintained by the state government or the university.

The Maharashtra State Government has constituted such tribunals to cover six universities (Poona, Shivaji, Bombay, SNDT, Marathwada and Nagpur).

This College Tribunal, however, is not a tribunal of arbitration; it is a tribunal in substitution of a civil court.
The case before the tribunal shall be decided expeditiously preferably within three months of the date of its receipt by the tribunal.

The tribunal can pass its own appropriate order substituting the one passed by the management.

The decisions of the tribunal shall be final and no suit, appeal, or any legal proceeding shall lie in any court or before any tribunal, or authority, in respect of the matters decided by the tribunal.

If the management fails without reasonable cause to comply with any direction issued by the tribunal it could be visited with certain penalties as specified therein.

The legal practitioners are excluded from appearance before the tribunal, except with special permission.

In certain universities (e.g. Osmania), any dispute arising out of contract of service may be referred by the Vice-Chancellor to a Grievance Committee consisting of certain members of the syndicate.

A pattern also exists (Guwahati), under which disputes arising out of the contract of service are referred to the
Executive Council and if the dispute is between employee and the Executive Council, then to the Chancellor. The Executive Council or the Chancellor may either dispose off the appeal or may refer it to a board of arbitration.

The conditions of service in a university/college are now governed by the provisions of the relevant University Act and Statutes, though as a matter of form a contract of service is also entered into. The University Act and statutes, thus elaborately lay down the conditions of service of its employees (leave rules, pension and gratuity rules, qualifications, promotion, retirement etc.) They also lay down the grounds for taking disciplinary action against the employees, the minor. and major penalties that can be inflicted on those grounds as well as the procedure for inflicting these penalties.

Many a time the genesis of the dispute lies in the faulty framing or non-framing of appropriate statutes/ordinances by university authorities.

The major problem with these tribunals of arbitration is that they are hardly taken recourse to. An aggrieved party would better like to approach the High Court through a writ petition under article 226 of the Constitution and obtain
some procedural and interim relief, and then stall the hearing on substantive issues through all possible strategem.

Unless approach to the High Courts under article 226 and to the ordinary civil courts is totally prevented, the aggrieved persons would not be inclined to approach a tribunal of arbitration, in service matters.

It, however, be emphasised that under Part XIV A of the Constitution (introduced by the Forty-Second Amendment, 1976), administrative tribunals can be set up for certain defined purposes, by the Parliament and State Legislatures; a Law setting up such a tribunal can also exclude the jurisdiction of all courts, except the Jurisdiction of the Supreme Court under article 136. Unfortunately, settlement of educational disputes is not a matter mentioned under Part XIV A either under article 323 A or article 323 B.

The Law Commission of India, in its 123rd Report has taken note of this difficulty (p. 20 of the Report); they have, however, suggested that entry 11A read with entry 25 of the concurrent list of the Seventh schedule of the Constitution unquestionably clothe Parliament with power to enact the legislation for setting up tribunals as discussed above. Entry 11A reads "Administration of Justice; Constitution and organisation of all courts, except the Supreme
Court and the High Courts”. Entry 25 reads: "Education, including technical education, medical education and universities, subject to the provisions of entries 63, 64, 65 and 66 of List I; Vocational and technical training of labour".

Though the above interpretation of the law by the Law Commission is laudable, it is suggested that the matter being extremely important, the Union Government be moved to have Article 323 B of the Constitution amended and have 'education' added as still another matter under clause (2), for adjudication by tribunals of disputes etc. relating thereto.

Still another important development needs to be noted in this connection. In pursuance of Article 323 A of the Constitution, the Parliament has passed the Administrative Tribunals Act, 1985. Under this Act, the Central Government can also establish an administrative tribunal for a state on request and the provision of this Act can be applied to that State Tribunal (S.4(2), (3)). All jurisdiction, powers and authority exercisable by all courts (except the Supreme Court) in relation to recruitment and matters concerning recruitment and all service matters concerning a person appointed to any service or post of any local or other authority and corporations or society, owned or controlled by the State Government, can be entrusted to such state administrative tribunals by notifi-
cation by the State Government (S. 15(2)). The question is pending before the Supreme Court in Himachal Pradesh University, V. Jeet Ram Thakur and others (Civil appeal No. 1820 of 1988), if Himachal Pradesh University is a corporation (or authority) controlled by the State Government of Himachal Pradesh.

A State Administrative Tribunal was set up in Himachal Pradesh in 1986. The Jurisdiction of this Tribunal was extended over the H. P. University employees through a State Government notification. Consequently, the service matters of HP University employees were transferred from the High Court to this tribunal. An employee moved the HP High Court that the notification in question was beyond the powers of the State Government since a University is not under the 'control' of the State Government under S.15(2) of the Act. The High Court held in favour of the petitioner in 1987.

Surprisingly, the HP University has preferred a special leave petition before the Supreme Court in 1988 contending that it is under the control of the State Government and as such all service matters concerning university employees should be heard and decided by the Administrative Tribunal and not by the High Court. The petition is pending consideration by the Supreme Court. The Association of Indian Universities, being vitally interested in the autonomy of universities and in a finding and declaration by the Supreme Court that
universities are not corporations under the control of state governments, moved the Supreme Court in 1990 and has got itself impleaded as an intervener.

Such State Administrative Tribunals have been created for Himachal Pradesh, Andhra Pradesh, Gujarat, Karnataka, Kerala, Maharashtra, Madhya Pradesh, Orissa and Tamil Nadu. The question is thus moot at the moment if these tribunals shall have jurisdiction over the service matters etc. of university employees. It has, however, to be noted that these tribunals are not the ones which were envisaged to decided the service matters of university employees; they were initially established for central and state government employees. Secondly, it is a little too early to pass a judgement on the functioning of these tribunals. Their success or failure, however, could not be a conclusive argument for the establishment or non-establishment of educational tribunals) which will have a much wider jurisdiction and will operate in a different environment with a different ethos. The proposed educational tribunals should really benefit from the experiences, and improve on the performance of both favourable and unfavourable, of the Central/State administrative tribunals, as regards their composition, supportive facilities and actual functioning.

It is felt, however, that questions of appointment seniority and promotion are not governed by service contracts.
As such disputes arising with respect to them are generally governed by separate provisions, viz., (i) for appointments elaborate provisions have been laid down in university act/statutes, for the ultimate decision by the university Executive Council (with provision for reference to the Chancellor in exceptional cases); (ii) for seniority and promotion the decisions are taken by ad hoc/standing committees of the Executive Council, on the basis of detailed guidelines as laid down by the University bodies.

A state level machinery would, however, be necessary for appeals against such decisions in case an employee feels aggrieved therefrom.

It was, perhaps, to get over such a difficulty that the Visva Bharati Act, 1951 provides that besides the disputes arising out of service contracts, disputes relating to non-compliance of the provisions of the Act, statutes or the ordinances can also be referred to the Tribunal of arbitration.

2. The disputes in which the STUDENTS are pitted against the University and the College emanate from three main areas of activities: ADMISSIONS, EXAMINATIONS and other DISCIPLINARY matters.
The final authority to decide questions of admission vest with the Vice Chancellor. Under most university enactments/Statutes, the Vice Chancellor delegates this authority to an Admissions Committee whose decisions are considered as final. The Admissions Committee is differently constituted in various universities/colleges. It generally consists of senior teachers and principals.

Detailed rules of admission to the various courses of the university exist in most universities.

The initial question of admission is decided by the Heads of Department/College concerned or by committees headed by them. It is against the final decision of these various departments and colleges that the Admissions Committee of the University receives representations. For receiving these representations a detailed procedure is prescribed as also the manner in which the representations are to be disposed off. Obviously, this procedure will have to incorporate the principles of natural justice. Compliance with the requirements of opportunity of hearing would not necessarily imply the right to appear before the committee or the right to be represented by a legal practitioner. A written representation by the aggrieved student could be considered as adequate to satisfy the requirement of an opportunity of being
heard. However, in order that the candidate may be able to make meaningful representation, it is necessary that the department/college concerned clearly states the reason as to why admission has been denied to him.

This Admission Committee, it is implied, would also consider cases of reservations as per university rules and that the university rules shall carry clear provisions for these reservations.

The second category of disputes relating to the students i.e. complaints regarding unfair means at examinations, are referred to a Committee generally known as the 'Examinations Committee'.

University/College teachers and principals are represented on this committee. The decisions of this committee have ultimately to be approved by the Governing Body of the University.

The Committee while arriving at a decision for awarding any punishment is required to proceed according to the principles of natural justice, giving an opportunity to the candidate to explain the case against him. All the material or other evidence against him has to be brought to the notice
of the candidate by the university/college. Personal hearing is not generally given to the candidate, nor is it absolutely necessary under the law, or practicable when the number of cases of unfair means is so large. (However, personal hearing and the right to present witnesses too is provided under certain university enactments e.g. Rajasthan). The candidate has to reply to the charge against him as based on the evidence brought to his notice. The candidate can submit a written reply. All this material is considered dispassionately by the Examinations Committee.

In order to facilitate the work of this committee it is necessary that the examination malpractices are specifically listed and appropriate punishment prescribed for each malpractice. The punishment should not be excessive and unreasonable when considered in the light of the malpractice concerned.

The last category of disputes involving students relate to the general disciplinary matters in an institution. If the behaviour of a student is found to be undesirable, in the first instance the punishment can be inflicted upon him by the head of the department/college or proctor concerned. This is the delegated power of the Vice Chancellor which he enjoys for maintaining discipline on the campus or in the hostels.
A disciplinary committee generally hears representations against such punishments inflicted upon the students. This committee would again have to observe the principles of natural justice i.e., to obtain written representation from the student concerned as regards the charges against him and the punishment imposed. This disciplinary committee generally consists of certain teachers nominated by the Vice Chancellor/Principal. On the basis of material submitted to it, the Committee arrives at appropriate decisions.

To enable a disciplinary committee to function properly, it is necessary that detailed rules of discipline along with the penalty contemplated for each major act of indiscipline are laid down exhaustively by the university through ordinances/regulations.

Under certain university enactments, appeal or review of the decisions of the disciplinary committee is made possible, to the university Governing Body.

Under the Vishva Bharati University and the NEHRU ACT, 1973, as a unique feature, any dispute arising out of any disciplinary action taken by the university against students resulting in removal of the student from the rolls of the university for more than 3 months, can be referred to a student
 Tribunal on the request of the student. This tribunal shall consist of a person nominated by the Executive Council, another member nominated by the student concerned and the umpire nominated by the Visitor.

In case of Aligarh Muslim University, any disciplinary action taken against the student whether by the Vice-Chancellor, the Disciplinary Committee or the Examinations Committee, if his name has been removed from the rolls of the University and he has been debarred from appearing at the examinations of the University for more than a year, may appeal to the Executive Council within a specified period, which may confirm, modify or reverse the decision.

Any dispute arising out of any disciplinary action taken against a student shall at the request of the student be referred to a Tribunal of Arbitration. The decision of the Tribunal shall be final.

3. The disputes relating to university property and contracts (other than service contracts) are under the jurisdiction of civil Courts. No change in that arrangement seems to be necessary.

4. It also requires to be noted that under several university enactments, jurisdiction of the Civil Courts
has been totally barred as regards matters arising under the University Acts. Despite such a provision, the civil courts in several states have been entertaining suits and have been granting injunctions with respect to matters arising under the Act of the university in that State. The matter requires to be looked into by the concerned High Court under its powers of superintendence over subordinate courts under article 227 of the Constitution. The consequence of barring the jurisdiction of civil courts is that only a writ petition can be moved to the High Court under article 226 of the Constitution.

II

Major Shortcoming of the Machinery of Dispute Settlement at the Grass Root Level.

1. There is no uniform model which is followed in the universities with respect to any type of dispute. Consequently, some of these models do not even satisfy the basic requirements of natural justice, e.g., even if punishment is provided for misconduct, it is not matched to the gravity of the offence (misconduct); or no opportunity of hearing is provided at any stage.

2. Even though the Act and/or statutes provide for detailed provisions to be laid down by the university bodies
and authorities e.g., the discipline of students or the infliction of penalties on teachers and non-teachers or norms to be followed by the examinations committee etc., several universities have done little to discharge this basic obligation.

Consequently, in so many universities the norms/guidelines do not exist with respect to several of these obligations.

3. As regards service matters, the tribunal of arbitration which generally exists under university enactments:

   (i) does not have jurisdiction over all service matters; e.g., those not arising out of the service contract; (e.g. initial appointment, seniority, promotion);

   (ii) in case of certain universities recourse to tribunal of arbitration is possible only when there is removal or dismissal from service;

   (iii) in several university enactments this tribunal of arbitration has been contemplated only for the teachers and not for the non-teachers;
(iv) separate tribunals for teachers of affiliated colleges have not always been constituted, or have been constituted for them only and not the university teachers;

(v) it has been experience in most universities that arbitration procedure is generally not resorted to. Perhaps an interim relief from the High Courts through a writ petition which is easily, cheaply and quickly obtainable on procedural grounds is found to be more satisfying.

4. In case of Maharashtra where College Tribunals have been constituted for adjudication of disputes only between the employees and the management of affiliated colleges, law, procedure and practice of the tribunals suffer from the following major drawbacks:

(a) The tribunal has not been given jurisdiction over disputes arising in government colleges or institutions maintained directly by the university;

(b) The tribunal hears appeals only in respect of dismissal, removal, termination or reduction in rank;

(c) The tribunal is manned by one member only.
A Study Prof. S. P. Sathe of ILS Law College, Pune also indicates that out of the responses received from the respondents in the survey, by and large, the feeling was expressed that the tribunals is a satisfactory method for settlement of disputes. These tribunals have also acted speedily and inexpensively. They have also given satisfaction to a large number of employees of private affiliated colleges. There is a feeling against the appointment of a Principal of a college as the Presiding officer of the tribunal, though the law permits it. A person with judicial experience, preferably a retired judge of the High Court is suggested by several respondents. The feeling was expressed that a College Principal may not be able to ensure the same impartiality, fairness and objectively.

It is obvious that the tribunal should be given the power for enforcement of its decisions by giving it the power to punish for contempt. Perhaps the jurisdiction of the tribunal should also be widened so as to cover all service matters and not be restricted to dismissal, removal or termination.

However, this is only one study on the state tribunal which is available and that too with respect to the first year of the functioning of the tribunal. The conclusions drawn in the study therefore have to be considered with caution.
5. For matters not covered by service contracts which are not preferred to the tribunal of arbitration, or to the college tribunal, the university enactments do not generally contemplate an appellate machinery. It would be necessary that from the decisions of university bodies which may ultimately decide such matters, an appeal to the state level tribunal is provided for.

6. (i) As regards dispute regarding students, in case of several universities detailed rules relating to admission, examination and discipline do not exist, nor has any definite machinery been contemplated which may proceed to hear them according to well laid down procedures.

(ii) Even if there are written rules and procedures, it is often not known by those who decide these matters as to what would satisfy the requirements of natural justice. In other words, a certain amount of training in these principles for those who sit on these committees seems to be absolutely necessary.

(iii) Amongst the questions of admission, the most ticklish are the ones relating to the application of the rules regarding reservations, mostly in technical institutions like Engineering, Medicine, Management.
(iv) In most universities there is no provision for appeal from the University, to any higher body or authority. In certain cases of major punishments like the expulsion of a student or barring him from appearing at the university examination for a certain number of years, an appeal to state level tribunal seems to be necessary.

Visva Bharati or NEHU model of referring such disputes to a Student Tribunal seems to be completely inappropriate. It is the state level tribunal which can consider these matters too, more appropriately and judiciously.

7. If the jurisdiction of the Civil Court is excluded over disputes arising under the university enactments, and it is felt that they ought to be so excluded, it is necessary that the High Court may issue directives to the district courts in its supervisory powers that by virtue of such a provision the jurisdiction of district level courts stands totally barred and they are not free to entertain any application for any injunction etc.

8. We also broadly endorse the analysis as incorporated in the NIER Report: 'National Commission on Teachers in Higher Education: Grievances and their Redressal'; that:
(i) Code of Conduct, in some cases, does not exist. Even where elaborate provisions exist, in practice, they are not utilised.

(ii) The punishments are not related to gravity of offence, in most cases.

(iii) Distinction needs to be made between group grievance and individual grievances. (and also between Dispute and Grievance).

(iv) The Industrial Disputes machinery is not suitable for settling university disputes, nor is arbitration.

(v) For resolution of individual grievances, the Ombudsman could provide a good model or a tribunal with simplified procedure.

(vi) In case of group grievances a tribunal or a joint consultative machinery could be considered.

(vii) The grievances should include questions of transfer. The service conditions should lay down clear guidelines for transfer, leave rules etc.
Suggestions and Recommendations Regarding the Machinery to be set Up at the Grass Root Level:

1. (a) As regards the dispute settlement machinery at the grass root level, the law Commission in its 123rd Report has suggested that (i) it should be accessible; (ii) it should be of a nature as to inspire confidence among disputants; (iii) it should be of a participatory model; (iv) it should not be governed by any technical procedural rules; (v) it should follow the principles of natural justice; (vi) it must handle the disputes expeditiously; and (vii) it must give reasons for its decisions.

The Law Commission did not suggest any specific model and expected that each university would evolve its own model in the context of the above minimum requirements. It also expected that the disputes would be settled expeditiously, not exceeding six months in any case.

(b) As regards the nature of disputes to be handled by this machinery, the law commission envisaged that they would not merely be of the character of disputes, but also of the character of complaints and grievances e.g., students complaint against teachers, complaint regarding inadequate facilities etc.
It is felt that whereas all other suggestions made by the Law commission should, by and large, be accepted, a participatory modal of dispute settlement as regards the students is not likely to function smoothly under the conditions presently existing in most of the universities in the country.

The participatory model could either be arbitral in character or it could be a committee in which student are also members. Even institutions where this arbitral modal exists e.g., Visva Bharati, NEHU, AMU, entertain grave reservations regarding the advisibility of such a provision in the university enactments. Moreover, in an affiliating university, for example the member of unfair means cases at examinations is so large that they are never disposed off in time even when several committees work simultaneously in a university. Even if only some of these matters were to be referred to arbitration, it would take years before they are all finally concluded if at all.

A participatory committee model in which teacher/principals, a judicial member and students are represented would just not function in most of the universities, because the students would not permit these committees to proceed with their work in a detached and impartial manner. The committees would be pressurised to act in predetermined ways. Besides, there could hardly be any agreement regarding
the mode of representation of students on such committees. Such committees, instead of being able to resolve the disputes, would become forums for open confrontation between the teacher members and the student members.

It is also felt that it would not be advisable to entrust the function of disposing off the 'GRIEVANCES' of the teachers, karmacharis and the students to the same machinery which is set up for setting 'DISPUTES'. There is a qualitative different between disputes and grievances. A 'dispute' arises out of the violation of a legal right. It is based on a well defined law including a statutory provision or a piece of delegated legislation e.g., statue or ordinance, framed by the University. For example a claim for salary, increment, leave, promotion etc., by an employee shall be based on a provision of law and the interpretation put on it by the party. A dispute thus involves 'lis' - an assertion of a right by one party and its denial by the other, both the assertion and the denial being based on law (s) and its interpretation as suits the two parties. It is the function of the deciding authority to adjudicate the dispute after establishing the facts on the basis of evidence and applying the law with proper interpretation to those facts. A 'grievance', on the contrary arises out of a situation which is not legally redressable. It might be due to delay, unfairness, inequity, callousness or insensitivity or parallel situations - which might be real or imagined. The grievances thus could have all shades and character. A teacher
may say that he does not have a cubicle or that the black board in the classroom is not proper or that the library facilities are not adequate. A student may say that there are no sport facilities available in the college or that the toilet facility in the hostel is lacking. These grievances in any institution are innumerable. Some of them may also be genuine. It is necessary that they must be entertained and if genuine they must also be appropriately disposed off.

The genuine grievances will have to be distinguished from the rest and would then have to be disposed off within a definite time frame. Grievances which arise out of shortage of funds cannot all be met by any university body or committee. Such grievances should be put together; if genuine, the financial implications of the same rationally worked out and the recommendations passed on to the authorities of the university through the Vice-Chancellor for suitable action. On that basis a representation for greater financial grant to the educational institution can also be made to the concerned Government.

It would be necessary that the grievances are received regularly or periodically and a reply to these grievances also given within a definite time frame. Separate Joint Consultative Committees are being suggested for disposal
of grievances of teachers, students and karmacharis of the university and of the colleges.

2. As regards the disputes between the university and its employees, it is first necessary that the university Act and statutes elaborately lay down as to what the conditions of service of the employees - teaching and non-teaching, should be. The university Act and statutes should also elaborately lay down as to what punishment, minor and major, can be inflicted by the university authorities, for which misconduct/omission of dereliction of duty. They must also lay down as to what procedure shall be followed in imposing these punishments, and by which machinery.

Such elaborate provisions must also be laid down for the service conditions of college employees.

3. The grass root level machinery should provide for the settlement of disputes between: (i) university and its employees - teachers and non-teachers relating to conditions of service as based on the contract of service or statutory provisions; (ii) similar dispute between the affiliated colleges and its employees - teachers and non-teachers; (iii) disputes between university and colleges on the one side and the students on the other which would
relate to admissions, unfair means at examinations and other disciplinary matters.

4. In order that all disputes may not reach the highest body in appeal, it is necessary to provide at each stages as to which decisions in respect of which category of disputes would be considered as final. It is only under such a system that serious disputes deserving consideration by higher body would go in appeal and that the highest tribunal would deal with disputes which have got an all-India implication.

5. It is also noticed that a body composed of third party judicial element enjoys a better confidence amongst the teachers and students than a body composed totally of university elements. It is therefore suggested that judicial elements be incorporated in the composition of these bodies, wherever feasible.

6. In the context of the above, the following machinery for dispute settlement in the universities and colleges at the grass-root level is recommended:

Teachers and Employees of a University and its colleges:

After initial determination has been made by the relevant committees of the university, a right to represent to the
University Governing Body by the aggrieved party ought to be provided. The University Governing Body ought to be obligated to decide the issue within a pre-defined time schedule.

Any dispute arising out of such determination should be referred to a Tribunal of Arbitration. For a university teacher or employee the tribunal of arbitration shall consist of a representative of the University, a nominee of the aggrieved teacher or employee and an umpire appointed by the Chancellor.

In case of the college teachers and employees, the Tribunal of Arbitration shall consist of a representative of the college management, a nominee of the aggrieved teacher or employee of the college, and an umpire nominated by the Vice-Chancellor.

These Tribunals of Arbitration shall be constituted as and when a complaint is received by the authorities against the final determination by the University Governing Body.

These tribunals of arbitration shall have jurisdiction over ALL service matters including initial appointment; promotion; seniority.
Since these are Tribunals of Arbitration, their decisions shall be binding on the parties concerned and no appeal would be permissible to any other court or authority including the High Court or authority including the High Court. Thus special leave to appeal under Article 136 of the Constitution, to the Supreme Court only would be possible.

However, if the aggrieved person does not want to take recourse to arbitration as above, a one man tribunal ought to be provided to which the disputes mentioned above could be referred by the aggrieved person concerned. This one man tribunal should consist of a person of the level of a district judge. To make the appointment of retired district judges also possible, the age of retirement should be 62. The appointment(s) ought to be made by the Governor in consultation with the Chief Justice of the High Court and the Vice-Chancellor concerned.

One tribunal may be set up for each university. Separate tribunal or tribunals may be set up for the college of university. If Maharashtra experiment of one man College Tribunals is any guide one tribunal could deal with disputes of employees from the College of more than one University. However, it has to be remembered that the jurisdiction of college tribunal in Maharashtra extends only to questions.
arising out of dismissal, removal or reduction in rank, if the jurisdiction of these tribunals is to be enhanced to cover ALL service matters beginning with appointment, as is being presently suggested one tribunal will not be able to deal with disputes from the colleges of more than one university.

A person with judicial qualification to man the tribunal is being suggested for the reason that such a person has been found to be generating greater confidence for impartiality than any principal or teacher. However, in order that the Presiding Office may have all the necessary inputs as regards the academic ethos, procedures of university/College bodies as well as aspirations of teachers and karmacharis etc. he should have the assistance of an assessor available to him. This assessor would be a university or college teacher of at least 10 years standing, as the case may be. He shall be picked up by the Presiding Officer from panels prepared by the Academic Council of the university and approved by the Executive Council. The assessor shall assist the Presiding Officer by providing the necessary information but he will not participate in decision-making.

The decisions of this one man tribunal should be made final as regards the following matters:

(i) disputes concerning minor punishments inflicted upon employees;
(ii) disputes involving establishment of facts or not involving interpretation of a substantive question of law.

In case of other decision an appeal should be to the State Education Tribunal, which has been separately contemplated in this paper.

(5) Disputes concerning students:

So far as the disputes of students are concerned whether relating to admission, examinations or general discipline, firstly a right of representation to the University Governing Body, from the decision of relevant committees should be available.

If a student has been denied admission because of the interpretation of a substantive question of law or is debarred from appearing at the university examination for more than one year or is rusticated, an appeal to the State Level Tribunal which is being separately contemplated would be possible from the decision of the university governing body. In the rest of the matters, the decision of the university Governing Body should be final.

7. The jurisdiction presently given to the Chancellor under certain university enactments, viz. to decide questions
concerning the composition of the University Bodies and to decide whether the decisions of the university authorities are in accordance with the university Act, statutes and ordinances, should be totally withdrawn. Representation against the decision of university committees/bodies on such matters should first be made to the University Governing Body. On legal questions the opinion of the legal advisory committee as suggested below, should first be obtained.

8. Appeals from the determination of the University Governing Body with respect to such matters only which involve the interpretation of a substantive provision of law ought to be permissible to the State Education Tribunal which shall determine if the matter qualifies to fall within its appellate jurisdiction.

ALL LEGAL QUESTIONS of the university coming up before and body or authority should first be referred to this Committee. The opinion of this Committee thereon should be communicated to the body or authority which initially referred the matter to this committee.

10. Disputes are not the same things as grievances, as discussed elsewhere in this paper. The machinery for the settlement of the two should also therefore not be identical.
As suggested by the National Commission of Teachers in Higher Education in India, in the volume on 'Grievances and their Redressal', by the UGC Committee report on Central Universities, the grievances could be referred to an ombudsman. He should necessarily be a person enjoying a very high credibility, who could recommend directly to the Vice-Chancellor as to how the grievance could be removed. This person should have held senior administrative, academic and/or legal positions and his appointment should be made by the Visitor out of a panel of names suggested by the Vice-Chancellor. He should have a right to call for any papers he may require and could if it is so considered necessary, associate senior academics with his work with the Vice-Chancellor's permission.

After some experience is gained in this direction and it is found that the quantum of work before the Ombudsman is much too large, the question of the appointment of a Deputy (or deputies) to him could also be considered.

What distinguishes a dispute from a grievance shall have to be clearly defined; norms will have to be laid down for sorting out the grievances which require to be looked into from those which are trivial. The Ombudsman will have to be provided with an appropriate secretariat and a time-frame for disposal of grievances shall have to be fixed.
The Ombudsman shall hear the grievances from all concerned viz., the teachers, the students, the karmacharis, and the general public against the university.

11. For Group Grievances, however, a joint consultative machinery seems to be most appropriate. The grievance of different groups (viz., teachers, karmacharis, students) have to be considered separately by different Consultative Committees. (a) For teachers’ grievance, this should consist of a retired district judge (nominated by the Chief Justice) who would be the Chairman, a teacher nominated by the Academic Council, and a representative of the University nominated by the Vice Chancellor/Executive Council. (b) If it is a group grievance relating to karmacharis, instead of the teacher, a representative of the karmacharis from amongst employees up to the level of Assistants of at least ten years' standing as selected by lot, shall be a member of the joint consultative machinery. (c) If it is a group grievance relating to students, a representative of the students from amongst the members of the Students Council, selected by lot shall be a member of the joint consultative machinery. (d) Similarly, joint consultative committees have to be constituted for each college.

Such joint consultative committees shall be the standing committees of universities/colleges constituted in advance of
the dispute. After considering one dispute and making its recommendations, the committees concerned shall become infructuous; a fresh one will have to be constituted in its place immediately.

The joint consultative committee(s) shall submit its report with recommendations, covering each grievance, within a specified time frame. The recommendations in order to be viable and practical, shall have to be formulated after making into account the financial implications and their financial viability.

The recommendations of each joint consultative committee shall be considered by the executive council of the university managing committee of the college, as the case may be, at its next meeting. The reason(s) for rejecting any recommendation shall be stated by these bodies in writing.

If the Executive Council feels that it cannot implement the recommendations since they are outside their powers or because adequate finances are not available to the university, it may refer them to the State Government with its clear opinion if it supports the recommendations of the joint consultative committee or opposes them along with reasons therefor.
The managing committee of a college shall refer them to the university and the State Government in parallel circumstances.

The State Government shall dispose them off within reasonable time in the interests of peace and amity on the campuses.

State Level Dispute Settlement Machinery:

The Law Commission in its 123rd report has suggested that there should be a state level educational tribunal in every state. It shall have both Original and Appellate jurisdiction. If vital matters of policy are involved, the matter can be brought up before the State Level tribunal enjoying original jurisdiction. Its appellate jurisdiction shall be over the decision of the University level dispute settlement machinery.

However, the illustration which the Law Commission give of matters which would fall under the tribunal's original jurisdiction, e.g., date of examination or postponement of examination, in my opinion are not the matters which could be subjected to a judicial settlement as a dispute. The matter of date of examination or its postponement is a purely administrative question and cannot and should not, be subjected to any judicial settlement.
As regards the composition of the State Education Tribunal, the Law Commission suggest that it should have as its Chairman a sitting or retired judge of the High Court and two other members who are eligible for being appointed as High Court judges. The remaining two must be from the rank of Vice Chancellors and eminent professors. Thus the tribunal would consist of five members.

We are in general agreement with the broad recommendations of the Law Commission. We agree that: (i) the State level tribunal should consist of five members; the Chairman being a sitting or retired judge of the High Court; two other persons who are also sitting or retired High Court judges; (We are not in favour of an advocate eligible for being appointed as High Court judge to be appointed as member of this Tribunal); the remaining two being from the category of distinguished educationists - former Vice chancellors, principals, educational administrators and eminent professors.

The jurisdiction of the State Education Tribunal should be both Original and Appellate.

Its Original jurisdiction shall extend to disputes over matters which have a state level implication or require uniformity in approach throughout the state.
The disputes may be referred under the Original jurisdiction by the party concerned, by the lower tribunal or body concerned; and may even be called to itself by the Tribunal suo motu.

The State Education Tribunal should decide itself if the matter falls within its original jurisdiction.

Its appellate jurisdiction shall extend to the following matters - (i) decisions of one man tribunals in case of the disputes of employees of the universities and their colleges in the state when any major punishment is inflicted on the employee, or the matter involved the interpretation of a substantive provision of law; (ii) decisions of Governing Bodies of universities in the state in case of dispute involving students in case of disputes involving students when he has been denied admission because of interpretation of a substantive question of law or is debarred from appearing at the university examination for more than one year or is rusticated; (iii) decisions of governing bodies of universities in the State in case of disputes relating to composition of university bodies or those involving determination if the decision of the university bodies or authorities are in accordance with the Act, Statutes and Ordinances.
Age of Retirement:

The age of retirement for the members of the State Education Tribunal should be 65 (to make the appointment of retired High Court judges, on the tribunal, possible).

Power of Appointment:

The judicial members of the State Education Tribunal should be appointed by the National Judicial Service Commission as and when it is set up (as discussed in the following section), and till it is set up through the same machinery as provided in the Constitution for the appointment of high Court judges. The non-judicial members shall be appointed by the Governor in consultation with the UGC and the proposed State Councils for Higher Education.

Central Education Tribunal:

This section deals only with the Central Education Tribunal that has been recommended by the Law Commission.

Jurisdiction:

The Law Commission has recommended that the Central Educational Tribunal should have both Original and Appellate jurisdiction. It mentions that appeals against the decision of the state level tribunal shall lie to the national tribunal.
It has suggested that central tribunal should have original jurisdiction with respect to even vital policy questions, on which sometimes difference of opinion emerges. The Law Commission has cited the example of the All India Teachers' strike in 1987. It observes "it may be that the view of the Government of India was that the strike was not justified. It is equally possible that the teachers say that a raw deal has been done to them. These are not individual grievances. There may be different shades of opinion on policy matters. But ultimately, there is confrontation which implies there is a dispute and which can be resolved. The national level tribunal can be invested with jurisdiction even with matters of policy". The Law Commission has mentined that with relation to the question of the selection of Vice Chancellors even, the central tribunal could lay down guidelines. It could also consider the question of setting up of an all India educational service. The Code of Conduct governing relationship between the Vice-Chancellor and the State Government, etc. could also be drawn up by this national level tribunal. Thus according to the Commission the jurisdiction of the widest amplitude should be conferred on the national level tribunal.

It may be noted that the AIU in this connection had pointed out that "issues concerning the relationship of Vice-Chancellors with State Government, or matters of finance,
relationship of the university with the UGC, Vice-Chancellor with
the Chancellor etc., are matters of policy." The AIU had
further suggested the models based on the Press Council and
Bar Council of India which could be considered for handling
such matters.

Considering both these points of view in depth, we are
convinced that the jurisdiction of the Central Education
Tribunal (CET) cannot be so extended as to cover policy matters

I am of the view that jurisdiction of the CET should be
ORIGINAL, APPELLATE AND ADVISORY.

The original jurisdiction of the CET should relate to:

(a) matters of constitutional interpretation, e.g.,
reservations in admissions under article 15; Central State
Relationship, Entitres, regarding education in the Seven
Schedule of the Constitution, and the like;

(b) Such matters which require a uniform national policy
to be developed on the subject-matter of dispute may be refe-
rred by the State tribunal to the central tribunal;

(c) The Central Tribunal could also call all pending
disputes before the State level tribunals to itself in case
it feels that the matter in question requires a national approach to be developed on the issue.

The Appellate jurisdiction of CET:

Appeals shall be lie to the CET from all decisions of the State Education Tribunals.

It is felt that the Central Tribunal should also have an Advisory jurisdiction. The Central government, the State governments and the University Grants Commission should have a right to refer a matter for the advisory opinion of the Central Tribunal. The Central Education Tribunal shall be free to render or not to render an advisory opinion on the question as it might deem proper. The advisory opinion rendered by the central tribunal shall not be binding upon any body.

It is felt that with such an approach, the work-load of the central level tribunal could be made manageable. It should ensure that only matters of national character and matters calling for the attention of the central tribunal are brought to its attention and that the considered advisory opinion of a body like the CET is available on matters which are vital but on which disputes have not as yet arisen. The appellate jurisdiction shall cover all matters decided by the State tribunals. (for the reason that the jurisdiction of state tribunals have been limited to most important matters
only. The jurisdiction of the Supreme Court of India under article 136 shall remain unimpaired).

Composition:

The composition of all administrative tribunals is to be so envisaged as to ensure a combination of the judicial element and the specialist element. With this end in view, the Committee recommends that the tribunal should be constituted as below:

(a) Sitting or retired judge of the Supreme Court (Chairman).

(b) Two other judicial members who are sitting or retired judges of the Supreme Court or are eligible for being appointed as a judge of the Supreme Court;

(c) Two members from amongst the distinguished educationists; distinguished Vice Chancellors, whether serving or retired; eminent professors, and principals, whether serving or retired; distinguished educational administrators, whether serving or retired, who have extensively dealt with the problems of higher education for at least ten years.

This composition conforms with the recommendations of the Law Commission totally and we endorse it.
We also endorse the recommendation of the Law Commission that the tribunal should not sit en banc but can sit in benches ensuring that one member of the bench must necessarily be a judicial member. The strength of the CET could be enlarged with reference to the number of benches required to be constituted. The benches could sit in the different regions of the country or could even be permanent benches, as considered necessary.

Method of Appointment:

The Law Commission has discussed at great length in para 7.8 of its Report, the unfounded apprehension that a tribunal which will replace the courts would be manned by people who would not inspire confidence. Some such apprehension was also expressed during the course of certain discussions. However, we stand convinced that there is no valid reason for entertaining any such apprehension. The proposed tribunal should and would enjoy as much of public confidence as any High Court or the Supreme Court itself does. It would, however, depend upon the manner in which it works and the persons who are appointed to the Tribunal.

The Law Commission has recommended that the National Judicial Service Commission recommended by it in its 121st Report could be entrusted for making recommendations for the
appointment of non-judicial members, the President of India in consultation with the UGC could be entrusted with this responsibility.

(The 121st report of the Law Commission on "A New Forum for Judicial Appointments" July, 1987) has recommended that National Judicial Service Commission shall consist of 11 members as follows:

1. Chief Justice of India - Chairman
2. Three senior most puisne judge of the Supreme Court
3. Preceding retired Chief Justice of India
4. Three Chief Justices of the high court according to their seniority as Chief Justices.
5. Minister of Law and Justice, Government of India
6. Attorney General of India
7. Outstanding law academic

National Judicial Service Commission while deliberating over the Selection and appointment of Judges of a High Court, must coopt the Chief Justice of the High Court in which the vacancy has occurred and which is under the process of being filled-in as well as the Chief Minister of the State in which the high courts is situated).
It is felt that such a composition and method of appointment would certainly inspire public confidence. Human ingenuity, perhaps, cannot devise a method better than the one through the proposed National Judicial Service Commission, in case of the appointment of judicial members and the President of India in consultation with the UGC in case of the appointment of non-judicial members.

However, till the National Judicial Service Commission is agreed upon and constituted, the method of appointment of the judicial members of the proposed CET should be the same as that of Supreme Court Judges.

Age of Retirement:

When the appointment of retired Supreme Court judges to the tribunal is also envisaged, the age of retirement of the members of the CET will have to be 68. A different age cannot be contemplated for non-judicial members.

The terms and conditions of service should be those of a Supreme Court judge. Again, differential emoluments and conditions of service cannot be contemplated for non-judicial members. They will have to be uniform for all the members.

The Tribunal will have the 'right to evolve its own procedure as in case of several other administrative tribunals.
We also endorse the recommendations of the Law Commission that the expenses of the CET should be borne by the Union of India. The expenses of the State Education Tribunal be borne by the concerned State, and those of university and college level tribunals, by the university concerned.

The above would leave questions of the relationship of the Vice-Chancellors with the State Government, matters of finance, the relationship of the university with UGC, Vice-Chancellor with the chancellor etc., which we feel ought to be resolved through the models based on the Press Council and the Bar Council of India. As the AIU had suggested, these problems could also be handled through an alternative model which could be termed as 'Collective ombudsman'.
An Educational Tribunal known as the Gujarat Affiliated Colleges Service Tribunal was established by an Act of the Gujarat Legislature known as the Gujarat Affiliated Colleges Services Tribunal Act, 1982. The Act has come into force from 9th Dec. 1981.

2. This Tribunal is to be presided over by a person who has been or is qualified to be a Judge of the High Court or District Court. He is appointed by the State Government.

3. The role of the Tribunal is to decide the disputes relating to or connected with the conditions of the service of the college employees and the management of the college.

4. Members of the teaching and other academic and non-teaching staff of the affiliated colleges in the service of a such college whether confirmed or temporary or in probation, are all considered as college employees and come within the purview of the Tribunal. Whereas college employees as described above, of all colleges affiliated to a University under the relevant University Act are covered by the Act and are amenable to the jurisdiction of the Tribunal, the employees of a college owned by Gujarat State are left outside the purview of the Act and the Tribunal whose jurisdiction does not cover such employees.

5. In order to make the Tribunal effective the Act has provided that it shall have the powers of a Civil Court to summon and enforce attendance of any person and examine him on oath and require the discovery and production of documents, issue commission for the examination of the witness. The proceedings before the Tribunal are deemed to be judicial proceedings for certain purpose and it is deemed to be court for limited purpose.
6. It is important to note that every decision of the Tribunal shall be final and cannot be called in question before any Civil Court or other authority. By this provision, the findings and judgments of the Tribunal are given a touch of finality and the judicial courts are kept out of the arena relating to disputes in the educational campus between the college employees and the college authorities. An effort is thus made to put an end to the litigation and leave the disputes within the four walls of the college authorities the Vice Chancellor and the Tribunal. The Act has made it very clear that no Civil Court shall have jurisdiction to settle, decide or deal with any question which is required to be settled, decided or dealt with by the Tribunal. However, the jurisdiction of the High Court can be invoked under Article 226 of the Constitution for remedy in suitable cases. It may also be noted that the Tribunal does not have powers to initiate contempt proceedings for which one has to goto High Court.

7. The management of the college has to comply forthwith the directions given by the Tribunal after it has decided that the dismissal, removal, reduction in rank or termination of the services of the employee is wrong unlawful or unjustified.

7(A) A perusal of the cross section of the judgments delivered by the Tribunal showed that it has dealt with variety of complaints and disputes such as :-

1. For appointment of full time Lecturer from part time Lecturer.
Applicant working as part time Lecturer in the College requested for appointment as full time Lecturer in the same college in the vacancy.

2. Request for continuing the applicant to be designated as head of the Gujarati Department and be allowed to discharge the functions of the head of such department.
3. Request for double payment for the salary pertaining to June 1985 to August 1985 as per the Govt. policy and Resolutions which were accepted by the South Gujarat University.

4. Request for part time Lecturer to the full time Lecturer in Sanskrit - whether it should be automatic.

5. Request that the opponent college should not prevent the applicant from attaining his duty and it should not withhold his regular salary.

6. Request that the applicant who was lecturer and worked as in-charge Principal of the College should be paid the salary at the pay scale of the Principal with allowance for the period as he so worked as in-charge Principal.

7. Department ruled that after the leave without pay of about two years the salary of the applicant should be fixed afresh at the basic minimum of the pay scale of the applicant. The ruling of the Department was challenged before the Tribunal.

8. Applicant's services were terminated by the College treating the services of the applicant as temporary tenure - decision challenged.

9. Dispute regarding date of superannuation as per the University Rules.

10. Request for payment of salaries and vacation salaries.
11. Tutor of the College claiming the as per the work taken from him as lecturer and as per recognition given by the University as Lecturer as per the Government policy and resolution, of coverting the post of tutor into that of lecturer, he should be declared as entitled to be placed in the salary scale of a Lecturer.

12. Prayer for quashing the action of the College relieving the applicant on the strength of their so-called resignation.

13. Request for payment of arrears for backwages.

14. Request that the services of the applicant may not be terminated on the closure of the College.

15. Order of the opponent college for the penalty of withdrawing the three increments and non-payment of salary for one month challenged.

8. Though the Tribunal has been set up to settle the disputes between the College authorities and employees, it does not prevent or impinge upon the right of the management of the College to initiate disciplinary proceedings against its employees for their misconduct or being remiss in discharge of duties. However, the employee cannot be dismissed, removed or reduced in rank nor his services terminated unless the rules of natural justice are followed i.e. he is given reasonable opportunity of being heard in respect of these charges for which action as above is proposed to be taken by the management.

The Act has also sought to achieve the purpose of bringing the Vice-chancellors of the Universities in close contact with the management and employees of the colleges by providing that the aforesaid action proposed by the management against the employees of the college
shall not be taken unless it is approved by the Vice-chancellor of the University concerned who has to communicate his approval or disapproval within 45 days from the date of receipt of such proposal failing which the proposed action shall be deemed to have been approved by him. However, in case of employees appointed temporarily for less than one year the approval of Vice-chancellor is not necessary.

9. Similarly, the suspension of the college employee is also subject to ratification by the Vice-chancellor within 45 days of the receipt of the proposal failing which the suspension will cease to have effect after the 45 days are over.

10. The orders of approval or disapproval of the action of management of the College by Vice-chancellor can be appealed against to the Tribunal both by the management as well as the employees just as either of these parties can approach the Tribunal for the decision of the dispute connected with the conditions of the service of such college employee.

11. In order to ensure that there is transparency in the matter of the resignation of the college employees and to prevent any mal-practices in such matters, it is provided that the resignation of the college employee has to be tendered by him in person to the Registrar of the University and the management shall not accept such a resignation unless it is tendered to the Registrar and it is forwarded to the management by the Registrar duly endorsed. If the management accepts the resignation in violation of the above procedure it will be considered ineffective.

12. From the aforesaid discussion it will be seen that the jurisdiction and powers of the Tribunal are vast and comprehensive and made quite effective in the matter of disputes between management and colleges.
However, there is dilution of such powers and jurisdiction of the Tribunal vis-a-vis the educational institution established and administered by a minority based on religion or language. The Act has made it clear that the provisions relating to the approval of the Vice chancellor for the action proposed by the management with regard to dismissal, removal, reduction in rank and in the matter of suspension will not apply to such colleges established by linguistic or religious minority communities.

However, the colleges owned by Government are completely out of the purview of this Act.

13. Looking to the set up of the Tribunal, its powers and jurisdiction, it seems that the Gujarat affiliated Colleges Service Tribunal Act, 1988 has struck a balance between the autocracy of the college management and license to run amuck by the college employees. The responsibility and power to punish go hand in hand when performance is expected of any organisation or institution which has to supervise and control employees responsible for bringing about the desired results. Due to various reasons such as loss of old values, diminution in the esteem of students the college employees, the rampant malpractices indulged in by the management, the presence of pressure of the union and the political pressure, it was necessary to put a brake to the deteriorating and run away situation where the relations between the management and employees had reached its nadir. An atmosphere of loss of mutual confidence in each other was all pervading. The Act has managed to restore this confidence and tried to create objectivity in the action of management and confidence to the employees without interfering in the internal administration of the management of the College.
A separate Tribunal known as Gujarat Universities Service Tribunal is established by the State Government under section 3 of the Gujarat Universities Service Tribunal Act, 1983.

2. The role of the Tribunal is to decide the disputes which are connected with the conditions of the service of the University employees.

3. The University or the University employee, as the case may be, can make an application to the Tribunal for the decision of such disputes.

4. The Tribunal is to be presided over by a person who has been or is qualified to be a Judge of the High Court or District Judge. He is appointed by the State Government.

5. Members of the teaching, other academic and non-teaching staff of a University, whether confirmed, temporary or on probation are covered by this Act. Similarly all the Universities in the State established under relevant Universities Act as shown in the schedule come within the purview of the Tribunal for the purpose of deciding disputes relating to the disputes between the University employees and the Universities. Any institution of higher education in the State which is declared to be deemed University under the University Grants Commission Act, 1956 is also treated as a University for the purpose of this Act.

6. In order to make the Tribunal effective the Act has provided that it shall have the powers of a Civil Court to summon and force attendance of any person and examine him on oath and require the discovery and production of
documents, issue commission for the examination of the witness. The proceedings before the Tribunal are deemed to be judicial proceedings for certain purposes and it is deemed to be court for limited purpose.

7. It is important to note that every decision of the Tribunal shall be final and cannot be called in question before any Civil Court or other authority. By this provision, the findings and judgments of the Tribunal are given a touch of finality and the judicial courts are kept out of the arena relating to disputes in the educational campus between the employees of the University and the University authorities. An effort is thus made to put an end to the litigation and leave the disputes within the four walls of the University and the Tribunal. The Act has made it very clear that no Civil Court shall have jurisdiction to settle, decide or deal with any question which is required to be settled, decided or dealt with by the Tribunal. However, the jurisdiction of the High Court can be invoked under Article 226 of the Constitution of India for the remedy in suitable cases. It may also be noted that the Tribunal does not have powers to initiate contempt proceedings for which one has to go to High Court.

8. The University has to comply forthwith with the directions given by the Tribunal after it has decided that the dismissal, removal, reduction in rank or termination of the services of the employee is wrong, unlawful or unjustified.

9. Though the Tribunal has been set up to settle the disputes between the university authorities and employees, it does not prevent or impugn upon the right of the university to initiate disciplinary proceedings against its employees for their misconduct or being remiss in discharge of duties. However, the employees cannot be dismissed, removed or reduced in rank nor his services terminated unless the rules of natural justice are followed.
i.e. he is given reasonable opportunity of being heard in respect of these charges for which action as above is proposed to be taken by the University.

10. As regards suspension if it is ordered by an officer or authority not being the disciplinary authority, the facts of such suspension together with grounds thereof, are to be communicated to the disciplinary authority within 7 days after such suspension for ratification. If no ratification is communicated by the disciplinary authority to the officer or authority who sent the orders of suspension for ratification within a period of forty five days from the date of receipt of such communication, then the suspension shall cease to have effect.

11. While the autonomy of the Universities in the matter of taking disciplinary action against their employees is not interfered with, the employees are given a right to make an appeal to the Tribunal in case the employee feels aggrieved by an order of the penalty of dismissal, removal from service or reduction of rank passed by the disciplinary authority of the University. The appeal is to be made within 30 days of such order and decision of the Tribunal will be final.
1. No. of Case: Appeal 114/87
2. Name of Parties: Smt. Anita Varesh
   Vs.
   Vasuben Bhatt & Ors.
3. Brief facts of the case: The applicant's services were terminated by cancelling the order of appointment.
4. Principle laid down in the decision:

No principle is laid down as the parties have amicably settled the matter during pendency of the application.
1. **No. of Case:**
   - Appeal No. 47/88

2. **Name of Parties**
   - Principal, Darbar & Anr.
   - Vs.
   - Jhaverilal Premjibhai Chavda & 2 ors.

3. **Brief facts of the case**
   - Review application asking to review the order passed by the Tribunal that the applicant is entitled to the pay of Rs.820/- as per the terms of the contract.

4. **Principle laid down in the decision**
   1. Review order is not maintainable under Rule 1 (Order 47) of Civil Procedure Code.
   2. If it is assumed for the sake of argument that the tribunal has taken erroneous view then also, the contract which is not prohibited by any law or rule or unless it is illegal or void can always be enforced.
   3. In the end review application is rejected.
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<th>No.</th>
<th>Description</th>
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<tr>
<td>1.</td>
<td>No. of case</td>
<td>Appl. No. 81/88</td>
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<td>2.</td>
<td>Name of the Parties</td>
<td>Shri Malvantray Vasantray Joshi Vs. Chairman, Nagarpalika Gondal &amp; Ors.</td>
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<td>3.</td>
<td>Brief facts of the case</td>
<td>The applicant should be allowed to continue upto 31.10.88 and the order relieving w.e.f. 30.6.88 be quashed.</td>
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<td>4.</td>
<td>Principle laid down in the decision</td>
<td>The date of superannuation falls within the first term and, therefore, as per the University rules, the applicant should be continued upto the end of the first term which is fixed as 31st October.</td>
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1. No. of case

2. Name of the parties

3. Brief facts of the case

4. Principle laid down in the decision

**Appl. No.69/86**

J.W. Williams

Vs.

Gujarat Uni. & ors.

The applicant has prayed for the salaries for the period between 1.10.86 and 28.10.86 as duty leave and for the period between 29.10.86 and 16.11.86 as vacation salaries.

As the opponent has sanctioned the leave for the period between 1.10.86 and 28.10.86, as duty leave, the applicant is entitled for the salaries for that period. After the duty leave, if vacation is followed, the vacation salary was to be allowed to the applicant.
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<td>1. <strong>No. of case</strong></td>
<td><strong>Appl. No. 34/88</strong></td>
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<td>2. <strong>Name of the parties</strong></td>
<td><strong>A.T. Cheeta</strong></td>
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<td>3. <strong>Brief facts of the case</strong></td>
<td>It is the prayer of the applicant that as per the work taken from him as a Lecturer and as per recognition given by University as a Lecturer and as per the Govt. policy and resolution of converting the post of a Tutor into that of a lecturer he should be placed in the salary scale of a Lecturer.</td>
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<td>4. <strong>Principle laid down in the decision</strong></td>
<td>The applicant is qualified for the post of Lecturer. The work is taken from him as a Lecturer when the workload in a college increases to that of a Lecturer, the post of a Tutor is required to be converted into that of a Lecturer by promoting the Tutor provided the Tutor is qualified. Therefore, the applicant is entitled for the salary scale of a Lecturer.</td>
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1. **No. of Case**
   Appl. No. 117/87

2. **Name of the parties**
   CA Mekwan & Ors.
   Vs.
   Dha. Dha. Acharya
   Tejendraprasadji & Ors.

3. **Brief facts of the case**
   The applicants have prayed that the action of the opponent college relieving them on the strength of their so-called resignations be quashed and set aside.

4. **Principle laid down in the decision**
   The officer before whom resignations are required to be submitted is not to act merely as a post office. The concerned officer should inquire in the matter and satisfy himself regarding the voluntary nature of the resignations. Nothing of the sort seems to have been done by the Registrar. Therefore, the applicants continue in the service as before.
1. **No. of case**
   Appl. No. 32/87

2. **Name of parties**
   M.K. Chauhan
   Vs.
   Shri G.S. Desai & Ors.

3. **Brief facts of the case**
   The applicant has challenged the order of termination

4. **Principle laid down in the decision**
   After filing of this application, the applicant has got a job and resigned from the college. In view of that position, the college has agreed to give the discharge certificate and service book showing him as having been relieved w.e.f. 30.11.88.
### Brief facts of the case

The opponent no. 2 was reinstated in the service by the order of the Tribunal. But the arrears of backwages for the period in which the opponent no. 2 was out of job were not sanctioned by the opp. l. Therefore, the applicant i.e. the college made a prayer in this application to consider the salaries of the opp. no. 2 as admissible for the purpose of grant.

### Principle laid down in the decision.

When the opponent no. 2 was out of job, the applicant college had appointed someone in the leave vacancy and the salaries of the person on the leave vacancy have been paid by the applicant. Therefore, the Dept. is directed to hold the backwages of the Opp. no. 2 as admissible for the purpose of grant. In this matter, the Tribunal recommended to consider the case sympathetically and held the grant for the backwages of the applicant no. 2 admissible for the purpose of grant if allowed by Rules.
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<th>1. No. of case</th>
<th>appl. No.64/87 &amp; Appeal 2/87</th>
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<td>3. Brief facts of the case</td>
<td>The applicant has challenged the order terminating her services from the college</td>
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<tr>
<td>4. Principle laid down in the decision</td>
<td>No principle is laid down as there is compromise between the parties.</td>
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1. **No. of case**  
   Appl. no.67/88

2. **Name of parties**  
   Patel Purshottambhai  
   Vs.  
   Nagarpalika Umreth Sanchalit  
   Mahila College & Ors.

3. **Brief facts of the case**  
   Whether the Tribunal has jurisdiction to entertain the matter which is related to SNDT Women's University, Bombay

4. **Principle laid down in the decision**  
   As per section 2(a) of Gujarat affiliated Colleges Services Tribunal Act, only the colleges which are affiliated viz. Gujarat Uni., Sardar Patel. Uni., South Guj. Uni., Saurashtra Uni., Saurashtra Uni., & Bhavnagar Uni., are amenable to the jurisdiction of this Tribunal. In this case, the college is affiliated to SNDT women's Uni. Bombay. Therefore, the Tribunal has no jurisdiction.
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<th><strong>No. of case</strong></th>
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<th><strong>Brief facts of the case</strong></th>
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<td>1</td>
<td>Appl. No. 56/87 &amp; 104/87</td>
<td>Smt. Prabhadevi Durge &amp; ors. vs. Ballubhai Desai, Managing Trustee Vidya Bhavan Trust, Surat</td>
<td>The applicants prayed that the services may not be terminated on the closure of the college.</td>
<td>No principle of law is laid down as the matter is adjourned for the Department’s review.</td>
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1. **No. of case**
   
   | Appln. no. 150/89 & 95/90 |

2. **Name of parties**
   
   | Vallabhbhai P Dhudakiya Vs. Adivasi Arts & Commerce College Santrampur & Ors. |

3. **Brief facts of the case**
   
   | The applicant be appointed as full time teacher on the ground that at present he is working as a part time teacher. |

4. **Principle laid down in the decision**
   
   | There is no rule either by the University or Department to promote or convert a part timer into a full timer when a full time post is available. Hence, the application is rejected |
1. No. of case  
   Appl. no. 29/88 & 51/88

2. Name of the parties  
   Kanaiyalal Bhatt  
   Vs.  
   Secretary, Sardar Patel Edn. Trust & Ors.

3. Brief facts of the case  
   The applicant has challenged the order of opponent college for the penalty of withholding three increments and also challenged the non-payment of salaries for the month of February 1987.

4. Principle laid down in the decision  
   No principle is laid down as the parties have settled the matter
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<td>Name of parties</td>
<td>Director of Higher Education Vs. Mrs. Kusumben J Bhatt &amp; ors;</td>
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<td>3.</td>
<td>Brief facts of the case</td>
<td>A review application for reviewing or modifying</td>
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<td>4.</td>
<td>Principle laid down in the decision</td>
<td>Review application is not allowed as there is no clerical or material error in the judgment.</td>
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1. No. of case
   Appl. 31/90

2. Name of parties
   I.M.K. Patel
   Vs.
   Principal
   Birla Vishwakarma Mahavidyalaya & ors.

3. Brief facts of the case
   By a previous order of the Tribunal, the opponent college was directed to continue the applicant upto the end of 2nd term the applicant has come with a case that the 2nd term should be read as 2.7.90.

4. Principle laid down in the decision
   In the Resolution of Syndicate of S.P. University it is clearly stated that 2nd term ends on 28.4.90. The summer vacation commences on 30.4.90 and ends on 2.7.90. As per the provisions in the statute, 201, if a teacher retires during the vacation, he is not to be paid till the end of vacation, but he is to be paid only till the end of the month in which his date of superannuation falls.
CONCLUSION - SOME SUGGESTIONS:

It is felt that though efforts have been made to solve the disputes on the campus of colleges and in the universities without affecting the autonomy of the colleges and universities, the Acts are not comprehensive and tackle only a fringe of the problem. The main problem these days is of student indicipline, unfair practices in the conduct of examinations and other related matters. The Acts are confined to disputes only between employees and colleges/universities.

With a view to make the legislation useful and productive in tackling the aforesaid problems which plague the educational campus, following suggestions are made.

1. The educational Tribunals should be presided over by the person qualified to be the High Court Judge. This will induce better credibility of the Tribunals and create more confidence and respect for the Tribunals.

2. There appear no reasons why Government owned colleges should be kept outside the purview of the act. This robs the legislation of its impartiality and gives an impression that Government can get away with any act of arbitrariness. The principle of equality before law is also affected. Such discrimination breeds contempt for law.

3. The jurisdiction of Tribunals should extend to the act of indicipline by students and also to the unfair practices in the conduct of examinations. A suitable legislation after proper thought needs to be introduced to tackle these problems.

4. There should be panel of 2 judges out of which one should preferably be a lady.
While minority educational institutions are free to establish their colleges etc., there appear no valid grounds to keep them out of the purview and control of the Vice chancellor of the university. Such a discrimination is unnecessary and keep such institutions away from the national channel. There is no place for sectarianism in the matter of supervisorial educational institution. The Constitution has provided for the establishment of educational institutions by minorities but these institutions have to have the guidance, supervision and control of the Universities.