

IN THE CENTRAL ADMINISTRATIVE TRIAUNAL  
AHMEDABAD BENCH

O.A. No. 488 OF 1993.  
TxNo.

DATE OF DECISION 2-11-1993.

General Workmen's Union, Petitioners

Mr. Y.V. Shah, Advocate for the Petitioner(s)

Versus

Union of India & Ors. Respondent s

Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. R.C.Bhatt, Judicial Member.

The Hon'ble Mr. M.R.Kolhatkar, Admn. Member.

1. Whether Reporters of local papers may be allowed to see the Judgement ? ✓
2. To be referred to the Reporter or not ? ✗
3. Whether their Lordships wish to see the fair copy of the Judgement ? ✗
4. Whether it needs to be circulated to other Benches of the Tribunal ? ✗

General Workmen's Union,  
a registered Trade Union  
by its Hon: Secretary  
J.K. Ved, of Godhra.

..... Applicant.

(Advocate:Mr. Y.V. Shah)

Versus.

1. Union of India - through its  
Chief Secretary to Govt. of India,  
Central Secretariat,  
New Delhi.

2. The Registrar,  
Central Administrative Tribunal,  
Gujarat Bench, Ahmedabad. ....

Respondents.

J U D G M E N T

O.A.No. 488 OF 1993

Date: 2-11-1993.

Per: Hon'ble Mr. R.C.Bhatt, Judicial Member.

Heard Mr. Y.V.Shah, learned advocate for the  
applicants.

2. The applicant has filed this application styling  
it as Special Civil Application seeking the reliefs  
as under:

"6. The petitioner therefore, prays that:

(a) That a writ of mandamus or a writ in the nature  
of mandamus, or directions be issued to the  
respondents restraining them fees in the  
nature of India Postal order and or Bank  
draft on petitions filed before this Hon'ble  
Tribunal under Art.226/227 of the Constitution  
or any other petitions in the nature of  
writ petitions.

(b) A similar writ as claimed above or directions  
be issued against respondents restraining  
them from insistence of payment of Rs.4/- as

court fee on Vakalatnama/Mukhtyarnama etc. filed by advocates/agents before this Hon'ble Tribunal in all matters for adjudication by the Tribunal,

(c) Writ of mandamus or in the nature of mandamus or any other appropriate writ be issued against respondent No.2 restraining him from insisting that petitions/applications under Art. 226/227 of the Constitution of India or any petition in the nature of such writ, be drafted and filed in the format under Rule 4 of the CAT Rules, and they be further directed to take on record and place such petitions before the Hon'ble Members of the Tribunal for disposal according to law.

(d) That an appropriate writ or directions be issued to both respondents or respondent No.2 to refund to this petitioner all payments of cash fees in the nature of IPOs of Rs.50/- paid on all earlier matters to be listed hereafter submitted in Misc. Application by this petitioner - and in the same manner order refund of Court Fee Stamp of Rs.4/- on Vakalatnames filed in these matters - a list whereof will be submitted later.

(e) Grant any other consequential and just relief or reliefs as the Hon'ble Tribunal deems proper."

The Union of India through its Chief Secretary to Government of India and the Registrar, Central Administrative Tribunal, Gujarat Bench, Ahmedabad are joined as respondent No. 1 & 2 respectively. The applicant is a Trade Union under the Indian Trade Unions Act, 1926. The grievance of the applicant is that the respondent No.2 is insisting on charging cash fee of Rs. 50/- on the petition filed under Article 226 & 227 of the Constitution of India. It is alleged that the

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provisions of Bombay Court Fees Act do not apply to any judicial matter filed before this Tribunal and though a Court Fee of Rs.50/- is prescribed for writ petitions filed before the High Court and a Court Fee Rs. 4/- for Vakalatnama is prescribed under Article 12 of the said Act, none of these provisions apply to matter filed before this Tribunal. It is alleged that though this Tribunal is vested with powers under Article 226 and 227 of the Constitution, it is not lawfully designated as High Court for purpose of court fee or any allied objectives. We have heard learned advocate Mr. Y.V.Shah on this point. It is important to note that Section 19(2) of the Administrative Tribunals Act, 1985 says that every application under sub-section (1) of Section 19 shall be in such form and be accompanied by such documents or other evidence and by such fee (if any, not exceeding one hundred rupees) in respect of the filing of such application and by such other fees for the service or execution of processes, as may be prescribed by the Central Govt. In exercise of the powers conferred by Clause (d), (e) & (f) of sub-section 2 of Section 35 and Clause 'c' of Section 36 of the Administrative Tribunals Act, 1985, the Central Government has framed the rules which are known as Central Administrative Tribunal (Procedure) Rules

1987. Rule 7 of these rules says that every application filed with the Registrar shall be accompanied by a fee of Rs. 50/- to be remitted either in the form of crossed demand draft on a nationalised bank in favour of the Registrar of the concerned Bench and payable at the main branch of that bank etc.etc. Thus it is clear that the amount of Rs. 50/- is charged under these rules by way of fees and it is not the Court fee stamp of Rs. 50/- charged under the court fees Act. Therefore, there is no substance in the ground urged by the applicant that the respondent No.2 can not insist for the fees of Rs. 50/- on the petition filed before this Tribunal. The respondent No.2 is legally entitled <sup>to</sup> to insist on charging this fee under Rule 7.

3. The learned advocate Mr. Y.V.Shah submitted that the respondent No.2 insists on levy of Court fee of Rs. 4/- on Vakalatnama filed before this Tribunal, which <sup>he</sup> is not entitled to because according to him, the provisions of the Court fees Act are not applicable to this Tribunal. The Bombay Court Fees Act, 1959, Article 12 as applicable to the State of Gujarat shows that the Court fees stamp of Rs. 4/- is to be fixed on Vakalatnama presented to the High Court. The powers which were exercised by the High Court of Gujarat in the service matters of the Central Government employees

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under Article 226 & 227 of the Constitution of India have been given to this Tribunal after coming into force of Administrative Tribunals Act, 1985 and / are being exercised by the Central Administrative Tribunal Ahmedabad Bench under the Administrative Tribunals Act, 1985 and therefore, the Court Fees Stamp which is required to be fixed on Vakalatnama in such a petition before the High Court has to be fixed in the petition before this Tribunal. Mr. Shah also submitted that payment of cash fee through IPOs or Bank draft under the relevant rule is for application under section 19 and there is no distinct provision for such payment in regard to petition under Article 226 or 227 of the Constitution. It is important to note that the petition before this Tribunal can be filed by an aggrieved person relating to service matters of the Central Government servant / any order pertaining to any matter within the jurisdiction of this Tribunal for redressal of his grievance ..... under section 19 of the Administrative Tribunals Act, 1985. There is no other provision which entitles him to file the petition for redressal of his grievance. ..... This is a self-contained <sup>N</sup> code having its own / procedure and rules / of ..... practice and any rules etc. / followed by any forum like High Court for its practice and procedure would not apply to the forum prescribed under the Administrative Tribunals Act, 1985. Therefore,

even if a Central Government employee wants to file a petition regarding his service matter, he has to file it under section 19 of the Act even if it/relief similar to relief under the Writ jurisdiction including Article 226 & 227 of the Constitution of India. We find no substance in the contention that if such application is filed under Article 226 & 227 of the Constitution of India, the aggrieved person has not to pay the fees prescribed under the Rule 7 mentioned above. It is important to note that if a petition under Article 226 or 227 of Constitution of India is filed before the High Court, cash fees court fees are more than/prescribed under Rule 7 of the Administrative Tribunals Rules, but that is a different matter.

4. The learned advocate Mr. Shah submitted that the respondent No. 2 can not compel the applicant to style the application as Original Application because the application under Article 226 or 227 of the Constitution of India can be termed as Special Civil Application and also because it is not mentioned in Section 19 or in the Rules that the petition has to be styled as Original Application. The simple answer to it is that there is no Section or Rule under this Act any petition that gives right to the applicant to describe as Special Civil Application. The Tribunal or the Court

for its convenience gives the nomenclature to the petition as Special Civil Application or Writ Petition or Original Application etc. If Form 3 prescribed under Rule 8(3) of the Administrative Tribunals Rules is examined, it is found that the said form though is of that it Misc. Application shows/may be filed in Original Application or in Transferred Application received by the Tribunal under section 29 of the Act by virtue of the power exercised by this Tribunal on coming into force of the Administrative Tribunals Act. It gives the indication Form I / that the application/filed under section 19 of the Act before this Tribunal is described as Original Application. It is also important to note that Section 33 of the Administrative Tribunals Act shows that the provisions of this Act shall have effect notwithstanding anything / inconsistent with contained in any other law for the time being in force or in any instrument having effect by virtue of any law other than this Act. Section 19(2) of the Act read with Rule 2(d)/shows that Form I in Appendix A is the prescribed Form for application under section 19 of the Act. Therefore, the application under section 19 of the Administrative Tribunals Act should be in such Form as prescribed and the respondent No.2 is entitled to whether scrutinise it / it is according to that form. Rule 5

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authorises Registrar to scrutinise the application presented before it.

5. We have examined the grounds mentioned in para 3, 4 & 5 of the petition and we find no substance in any of the grounds.

6. However, the important question requires to be examined is whether such an application can be moved before this Tribunal by applicant. The moot question for decision in this case is whether such a relief as prayed by applicant comes under the definition of the service matter under section 3(q) of the Administrative Tribunals Act. It is an undisputed position that in order to invoke the jurisdiction of this Tribunal, the dispute must be a service matter, before this Tribunal can assume jurisdiction and on a perusal of Section 3(q) of the Administrative Tribunals Act, 1985, we are of the view that this application does not fall in the definition of service matters under section 3(q) of the Act, read with Section 19 of the Act and we have no jurisdiction therefore to give the relief asked by applicant.

7. Although we are of the view that this Tribunal has no jurisdiction to deal with the application as it does not relate to service matter, we dealt with the

various legal points placed by the applicant at length because the application contains many misleading statements which if allowed to remain unchallenged, are likely to create confusion in the mind of the litigating public regarding the procedure and practice being followed by the Registry in terms of the Administrative Tribunals Act and its Rules.

8. It is of course open to the applicant to challenge the vires of the various legal provisions of the Administrative Tribunals Act and the Central Tribunal Administrative (Procedure) Rules which we referred to in the judgment ~~earlier~~ before proper Forum but this <sup>a</sup> ~~that~~ Tribunal is not that proper Forum. The applicant is at liberty to approach before the appropriate forum. We therefore, dispose of this application by passing the following order.

O R D E R

The application is dismissed as not relating to service matter. The applicant is at liberty to raise the grounds bearing on vires of the Administrative Tribunals Act and Rules before the appropriate Forum if so advised. No order as to costs.

M.R.Kolhatkar  
(M.R. Kolhatkar)  
Member (A)

R.C.Bhatt  
(R.C.Bhatt)  
Member (J)

CENTRAL ADMINISTRATIVE TRIBUNAL

AHMEDABAD BENCH

AHMEDABAD

Application No. 041488/93 of 199

Transfer Application No. \_\_\_\_\_ Old Writ Pet. NO. \_\_\_\_\_

C E R T I F I C A T E

Certified that no further action is required to be taken  
and the case is fit for consignment to the ~~Recd. from~~ (Decided).

Dated : 22/11/93

Counter ~~dated~~ :

27-11-93  
Section Officer/Court Officer

Sign. of the ~~dealing~~ Assistant.  
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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
AT NEW DELHI

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**NAMES OF THE PARTIES.....** MR. J. K. VED

## VERSUS

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## PART A B & C

SERIAL NO.	DESCRIPTION OF DOCUMENTS	PAGE
1.	07	1 to 9
2.	declaration dated 02/11/93	