

CENTRAL ADMINISTRATIVE TRIBUNAL

AHMEDABAD BENCH

AHMEDABAD.

Submitted:

C.A.T./JUDICIAL SECTION.

Original Petition No:

OA/57/93

of

1993

Miscellaneous Petition No:

of

Shri

Rajeev Thapar

Petitioner(s)

Versus.

U.O.I. 2028.

Respondent(s).

This application has been submitted to the Tribunal by

Shri

M.H. Vyas

Under Section 19 of the Administrative Tribunal Act, 1985.
It has been scrutinised with reference to the points mentioned in the check list in the light of the provisions contained in the Administrative Tribunal Act, 1985 and Central Administrative Tribunals (Procedure) Rules, 1985.

The Applications has been found in order and may be given to concerned for fixation of date.

The application has not been found in order for the reasons indicated in the check list. The applicant Advocate may be advised to rectify the same within 14 days/draft letter is placed below for signature.

File size cover not attached with Application.

ASSTT:

O.(J):

P. Christian

(J):

14-7-92
J. J. J.

492.

P 70

Submitted

Kindly see orders overleaf.

Objection does not appear to have
been communicated to the Board by
the petitioners.

The letter is now placed opposite
for signature, if approved

Ans 80 (5) Shafar
1/12 11/2/22

DR (5)

Letter sent on 2/12

Ans
02/12

Submitted

The late objection of non-provision of
envelopes has been communicated to the
Board by the petitioners on 2-12-22 and the
objection has not been complied with.

Since the objection being minor
and if approved, the matter will be
referred over to the official concerned
for fixation of date
for approval.

Ans 80 (5) Shafar
09/12 11/2/23
Ans
11/2/23

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD.

OA/TA/MA/RA/C.A. No.

OA/57/93

Rajeev Thapar

MR. Y. H. Vyas

APPLICANT (S)

COUNSEL

VERSUS

U.O.I & Ors.

RESPONDENT (S)

COUNSEL

Date	Officer Report	Orders
12/3	Pl. issue notice after admission with I.R on respondents.	IR 12/3
	Vide order dtd 9.3.93 IR was granted upto 24.3.93.	
	The orders dtd 24.3.93 does not speak on IR whether to be continued or not.	
	For order pl.	
	Whakar 6.4.93	
	D.R.A.	
4.5.93	RRAR seized for Rv. No 1, 3 & 4	
4.5.93	Reply not filed. The matter is adj. to 12-7-93.	
12-7-93	Reply not filed. Adj. for filing reply on 27-7-93.	15/4/5 Zl C Registrar 13-7-93 ORR

27-7-93

Reply not filed - Adj to 24-8-93

24-8-93

Reply not filed

^{Dr}
DR(1)

The matters to be placed
for appropriate order

^{20/8/93}
Hc Registrar

18/10/93

As per order reply not filed,
therefore, this may be
placed in DCFH

^{Dr}
Hc Registrar

27/10/93

RPAD recd from Respo No 1 + 3

9.11.93

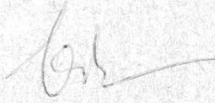
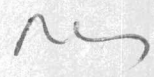
RPAD sent for RU-MO-4

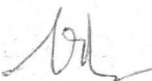

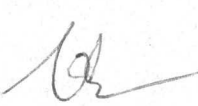
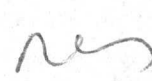
^{Dr}
9.11

9.11.93


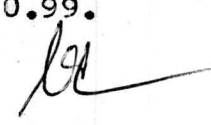


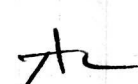


Reply filed by
Alki Kyronis

^{Dr}
9.11

DATE	OFFICE REPORT	ORDERS.
24-3-93	<p><i>Reply not filed Sumit (S.O.S.) 01-10-83</i></p>	<p>Mr.K.K.Shah, learned advocate for the applicant has filed a leave note.</p> <p>Mr.Kureshi, learned advocate for the respondents submits that the interim stay granted earlier be continued xxx in such similar matters. He seeks time for file reply on merits to O.A. which the respondents may do within the time allowed. The applicant at liberty to file rejoinder within 3 weeks thereafter.</p> <p>D.R. then ^{to} fix the matter for final hearing thereafter.</p> <div style="display: flex; justify-content: space-around; align-items: flex-end;"><div style="text-align: center;"> (V.RADHAKRISHNAN) Admn.Member</div><div style="text-align: center;"> (R.C.BHATT) Member (J)</div></div> <p style="text-align: center;">*SS</p>

DATE	OFFICE REPORT	ORDERS
25.2.93		<p>Mr. K.K. Shah learned advocate for the applicant submitted that he would appear in this matter. Call on 9th March, 1993.</p> <p> (V. Radhakrishnan) Member (A)</p> <p> (R.C. Bhatt) Member (J)</p> <p>*K</p> <p>Heard learned advocate Mr.K.K. Shah for the applicant. He submits that identical matters have been admitted by this Tribunal. Relying on the statement of the learned advocate for the applicant, we admit this application. Issue notice to the respondents to file reply within five weeks. The applicant at liberty to file rejoinder within three weeks thereafter. Registry to list the matter for final hearing after completion of pleadings in due course.</p> <p>2. So far the prayer of interim relief is ^{that} any ^{defect the} concerned, we find any delay would cause and therefore, having regard to the facts of the case deem we just and proper to direct the respondents ^{restraining the respondent} from making any recovery till 24th March, 1993. Issue notice to the respondents to file reply to the ex-parte ad interim stay by 24th March, 1993.</p> <p>Call on 24th March, 1993.</p> <p> (V. Radhakrishnan) Member (A)</p> <p> (R.C. Bhatt) Member (J)</p>
	<p>Rel Subj Notice issued on 16.3.93 AHRwd 23/3/93</p>	<p>vtc.</p>

Date	Office Report	Order
4/10/93	<p>Notice filed on- 2/10/93. <i>During</i> <u>50 (J)</u> 07-10-93</p> <p>Note: place from DLFH. Notice issued on 22-6-99. RPTD released from R 2, 3, 4-5 PG 16-7-99</p>	<p>Mr.Variava for Mr.Kureshi seeks time to file reply on merits. Time is granted upto <u>18/10/93</u> to file <u>reply</u> on merits, failing which the matter will be heard on that date <u>exparte</u>. If reply is filed by 18/10/93, the applicant at liberty to file rejoinder by 4/11/93. then the matter to be listed for final hearing in due course. I R to continue till further orders.</p> <p><i>M.R. Kolhatkar</i> (M.R.KOLHATKAR) Member (A)</p> <p><i>he</i> (R.C.BHAIT) Member (J)</p> <p>ssh</p>
19-7-99		<p>in place Mr.Doctor files, appearance Mr. Shah of Mr.Ravani. Mr.Shah has filed a leave note. Adjourned to 01-9-99.</p> <p><i>A</i> (A?S.SENGHAVI) MEMBER (J)</p> <p>SS</p>

<div style="text-align: center;">  भारतीय न्यायिक प्रणाली INDIA </div>	<div style="text-align: center;"> कार्यालय टिप्पणी OFFICE REPORT </div>	<div style="text-align: center;"> आदेश ORDER </div>
<p>1.9.99</p>		<p>Mr.K.K.Shah is not present. Adjourned to 7.10.99.</p> <p style="text-align: right;"> (V.Radhakrishnan) Member(A)</p> <p>nkk</p>
<p>7.10.99</p>		<p>Mr.K.K.Shah is not present. Mr. Mr.Doctor is present. Adjourned to 2.11.99.</p> <p style="text-align: right;"> (A.S.S anghavi) Member (J)</p> <p style="text-align: right;"> (V.Radhakrishnan) Member (A)</p> <p>nkk</p>
<p>2.11.99</p>		<p>Mr.K.K.Shah prays for time. Adjourned to 20.12.99.</p> <p style="text-align: right;"> (A.S.Sanghavi) Member (J)</p> <p>nkk</p>
<p>20.12.99</p>		<p>Mr.K.K.Shah is present. At the Mr.Doctor, adjourned to 22.2.2000.</p> <p style="text-align: right;"> (A.S.Sanghavi) Member (J)</p> <p style="text-align: right;"> (V.Radhakrishnan) Member (A)</p> <p>nkk</p>

**CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH**

OA/57 of 1993

Date of Decision : 22/02/2000

Mr. Rajeev Thapar : Petitioner (s)

Mr. K.K. Shah : Advocate for the petitioner(s)

Versus

Union of India & Ors. : Respondent(s)

Mr. B.N. Doctor : Advocate for the Respondent(s)

CORAM

The Hon'ble Mr. A.S. Sanghavi : Member (J)

JUDGMENT

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

...2...

Shri Rajeev Thapar,
Asstt. Collector of
Customs (Preventive),
Central Excise Building,
Navrangpura,
Ahmedabad-380 009.

: Applicant.

(Advocate : Mr. K.K. Shah)

VERSUS

1. The Union of India,
(Notice to be served through :
The Secretary, Ministry of
Finance, Department of
Revenue, New Delhi)
2. Chief Controller of Accounts,
Central Board of Excise and Customs,
ACCR Building, First Floor,
New Delhi.
3. Chief Accounts Officer,
Central Excise and Customs,
Excise Collectorate, Central Excise,
Building, Navrangpura,
Ahmedabad-380 009.
4. Asstt. Collector,
Central Excise and Customs,
Division-III,
Ahmedabad.

(Advocate : Mr. B.N. Doctor)

Date : 22.2.2000

ORAL ORDER
O.A. NO. 57 OF 1993

PER : HON'BLE MR. A.S. SANGHAVI : MEMBER (J)

Mr. K.K. Shah, for the applicant and Mr. B.N. Doctor, for the respondents.

2. This O.A. is preferred by the applicant against the order of the recovery of Rs. 4271/- passed by the Asstt. Collector of Central Excise and Customs in pursuant to the Audit objection raised against the payment of transfer allowances/packing allowances to the applicant. The applicant who was selected through UPSC in the year 1987 had joined the service of Customs and Exercise department as an Officer, Grade-A. He was initially appointed as a Probationer and was sent for training in the office of Director, Lal Bahadur National Academy of Administration at Musooree and on completion of training, was transferred to the Directorate of training, Customs and Central Excise, New Delhi. After completion of the training at New Delhi, he was posted at Ahmedabad as Sr. Supdt. of Customs and Central Excise in April, 1989. On resuming at Ahmedabd, the applicant had preferred bill for the transfer travelling allowance, TA/DA for his journey from Delhi to Ahmedabad. The bill was sanctioned and he was paid an amount of Rs. 4271/- towards his TTA, TA/DA etc. However, subsequently, during the internal audit, an

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objection was raised by the audit party about the payment of TTA and packing charges etc to the applicant as according to the audit party, the probationer at his first posting was not entitled to draw these allowances as per the rules. The applicant was therefore directed by C.A.O. vide his letter dated 30.3.92, to make payment of Rs. 4271/-. He was subsequently reminded by the Asstt. Collector of Central Exercise and customs, to comply with the demand of the C.A.O. and to make payment of Rs. 4271/-. The applicant has therefore preferred this O.A. praying that the respondents be directed not to effect the recovery as alleged in the communication letter dated 6.4.92, 8.4.92 etc.

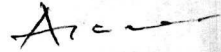
3. The respondents have filed reply and defended the action of the audit party to effect the recovery from the applicant, contending interalia, that the rules do not provide for the grant of transfer TA and packing allowances etc for first posting of the probationary Officers. The bills were passed erroneously and the O.M. dated 19.3.89, relied upon by the applicant was according to the respondents not applicable, as the applicant was governed by the separate set of rules. It is also contended that the applicant was erroneously paid the transfer TA as admissible to

the regular Govt. servant and therefore, the applicant was bound to refund that amount.

4. I have heard learned advocates for both the parties. Mr. Doctor, learned advocate for the respondents has pointed out that the rules for All India services probationary Officers did not permit the grant of transfer TA and packing allowance etc and the applicant was only entitled to TA. He has relied upon O.M. dated 7.3.1968 as well as the O.M. No. GIMF (DR)-F-No.E 27017/18/77 Ad IV dated 21.6.1978 in support of the submission that only TA was permissible for joining the station of the posting after training. Mr. Shah for the applicant has however submitted that O.M. dated 19.3.89 is made applicable to the Probationers also and in several such cases, the transfer TA as well as packing charges are allowed. He has also submitted that considering the lapse of so many years, the recovery may be condoned. So far as the question of condonation of recovery is concerned, this Tribunal can not direct the department to condone the recovery. It is however open to the applicant to make a representation in this respect to the respondent No.1 and the respondent No.1, in the facts and circumstance of the case, if deemed fit, may condone the recovery. So far as this Tribunal is concerned, I do not find any merit in the matter. Since the applicant has

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shown interest to make a representation to the respondent No.1 in this regard, the applicant is at liberty to make a representation to respondent No.1 and the respondent No. 1 shall, in the facts and circumstances of the case, decide the same within two months of the receipt of the representation. With the above directions, O.A. stands disposed of. No order as to costs.


(A.S. Sanghavi)
Member (J)

Pkn

