

**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR**

**Original Application No.290/00325/2015
With
MA No.290/00162/2015**

Jodhpur, this the 12th day of May, 2016

CORAM

Hon'ble Ms. Praveen Mahajan, Administrative Member

1. Income- Tax Contingent Employee's Union, Income-Tax Office, Jodhpur (Association of casual labours of Income Tax, Jodhpur Region).
2. Anil Kumar Solanki S/o Shri Bhanwar Lal, aged about 30 years, R/o H.No.8, Baldev Nagar, Mataji Ka Than Road, Punjla Mandore, Jodhpur.
(A member of the Income Tax Contingent Employee's Union).

.....Applicant

Mr. T.C. Gupta, counsel for applicants.

Versus

1. Union of India through the Secretary, Ministry of Defence, Shastri Bhawan, New Delhi-110 001.
2. Chief Commissioner of Income Tax, Paota, C-Road, Jodhpur 342 006.

.....respondents

Mr. Sunil Bhandari, counsel for respondents.

ORDER (Oral)

The applicants, by way of this OA, seek the following reliefs:-

"A. In view of the facts and grounds enumerated above, it is most respectfully prayed that the respondents may be directed to pay daily wages at enhanced rates with arrears along with interest on market rate of 12% for delay in all due payments as per prayer made by representation dated 21.04.2015 Annexure-A/1."

B. Any other appropriate writ, order or direction, which may be considered just and proper in the facts and circumstances of the case, may be issued in favour of the applicant.

C. Costs may be imposed on the respondents for their arbitrarily action in not paying correct and enhanced wages as per rules."

2. The present OA has been filed under Section 19 of the Administrative Tribunals Act, 1985 being aggrieved against the illegal and malafide action of

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applicants from 01.07.2011 onwards; inspite of the 6th Central Pay Commission recommendations and the directions of this Tribunal and Hon'ble High Court of Rajasthan. The respondents are required to make payment to the daily wagers @ 1/30th of the pay at the minimum of time scale of Group 'D' staff i.e. Rs.4400+1300 (Grade Pay) plus the dearness allowance as applicable from time to time. The respondents have also failed to take any action on the representation dated 21.04.2015 filed by the applicants in the matter.

3. Heard both the parties. Learned counsel for the applicants submits that that this Tribunal in OA No.531/2011 (Abdul Kadir & Ors. V. UOI & Ors), settled a similar controversy vide order dated 14.08.2012, which has also been upheld by the Hon'ble Rajasthan High Court in D.B. Civil Writ Petition No.49/2013 vide judgment dated 22.08.2013. In this regard, counsel for the applicants contended that the applicants are also similarly situated persons and they may be given similar relief. Counsel for the applicants further submits that applicant is also entitled for interest for this delayed payment and in support of his argument he relied upon the judgment of Hon'ble Apex Court in S.K. Dua vs. State of Haryana & Anr. Decided on 09th January, 2008 in which it has been held that **"In the circumstances, prima facie, we are of the view that the grievance voiced by the appellant appears to be well founded that he would be entitled to interest on such benefits. If there are Statutory Rules occupying the field, the appellant could claim payment of interest relying on such Rules. If there are Administrative Instructions, Guidelines or Norms prescribed for the purpose, the appellant may claim benefit of interest on that basis. But even in the absence Statutory Rules,**

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under Part III of the Constitution relying on Articles 14, 19 and 21 of the Constitution.”

4. Per contra, counsel for the respondents raised some technical issues and referred to Rule 7 of Chapter III Preparation and Presentation of Pleadings and other Papers of the Central Administrative Tribunal Rules of Practice, 1993 which is reproduced as under:-

7. *Production of authorization for and on behalf of an Association- where an application/pleading or other proceeding purported to be filed is by an Association, the person or persons who sign(s)/verify(ies) the same shall produce along with such application etc., for verification by the Registry, a true copy of the resolution of the association empowering such person(s) to do so.*

Provided the Registrar may at any time call upon the party to produce such further materials as he deems fit for satisfying himself about due authorization.”

But in the present case, such resolution of so called Contingent Employee's Union is not on record. Counsel for the respondents further contended that the OA is not maintainable being filed in violation of the provisions of Section 20 of the Administrative Tribunals Act, 1985.

Going on merits, he argued that since the controversy has already been settled by this Tribunal and the same was affirmed by the Hon'ble Rajasthan High Court and now the applicants cannot be permitted to raise the issue again.

Therefore, the OA is being barred by the principles of res judicata and in support of his arguments he relied upon the judgment of State of Uttar Pradesh v. Nawab Hussain, AIR 1977 SC 1690.

5. Considered the rival contentions and perused the record. I tend to agree with the contention of the respondents that the stipulations in Rule 7 of the Central Administrative Tribunal Rules of Practice, 1993 have not been adhered

to strictly by the applicants. In this case the Income Tax Officer

claiming to be aggrieved for not receiving correct and enhanced daily wages from the department, the respondent department will not be able to calculate the correct dues (if admissible), since the particulars i.e. date of joining, etc. will vary in each case. I am not inclined to enter into a debate regarding maintainability or otherwise of this OA on this ground alone, since this controversy already stand settled vide this Tribunal order 14.08.2012 in OA No.531/2011, which has been affirmed by the Hon'ble Rajasthan High Court in DB civil Writ Petition No.49/2013 vide judgment dated 22.08.2013.

- 6. I was informed by the learned counsel for the respondents that the department has already commenced making payment to similarly placed persons. It was noticed that similar MAs for payment of correct daily wages to the casual labourers in Income Tax Department, have been listed before me today. Out of which, full payment has already been made in two cases. Thus, I find that this is work in progress, which is likely to take some time because of huge financial implications. The learned counsel for the respondents informed the Tribunal that a grant of Rs.2 crores has been sanctioned by Ministry of Finance for this purpose. Sincere efforts are being made by the department to comply with the directions of the Tribunal/ High Court. In my opinion, this takes care of concerned issue at hand. However, learned counsel for the applicants is directed to supply the names of the effected individuals to the respondent department, to enable them to process their claims and make payments, wherever due.

The OA & MA are accordingly disposed of with no order as to costs.

