

1/2/96

As per the CAT Procedure Rules O.A. 144/96  
an  
has been listed today for admission as urgent matter  
during the vacation of the Court for which Shri R.K. Choubey  
was shown as the counsel for the applicant. Urgent matter  
during the vacation of the Bench is required to be put-up  
and listed by the Registry after the Registrar is satisfied  
with the urgency of the matter which warrants registration  
and posting of the cases as per CAT Rules of Practice,  
1993, Section 48(b).

2. Section 48(b) of CAT Rules of Practice says,  
"When the Tribunal is closed for vacation, the vacation  
Bench shall sit on such days as the Chairman in the case  
of Principal Bench and Vice-Chairman in the case of other  
Benches and in his absence the seniormost Member available,  
may specify." As per this order I communicated to the  
Registry that as seniormost Member of the Bench, I shall  
hold Court on Tuesday, the 12th March, 1996. I was under  
the impression that only such ~~cases~~ cases which are of urgent  
nature and which are duly registered by the Registry under  
the charge of Registrar or Dy. Registrar, will be posted  
for admission or any other judicial proceeding. The O.A.  
listed was brought to my notice on Monday evening wherein  
the case file was also not submitted. On my coming to the  
Bench today, I called for the S.O. (J) concerned who brought  
me the file in which there is a noting submitted to the  
Registrar that this case may be listed before the Hon'ble  
Bench on the question of admission on 12.03.1996. But  
there was no scrutiny report of the matter by the

Registrar that he has satisfied himself about the urgency of the matter before being put-up before the Bench.

3. All the same in the interest of Justice the matter was allowed to be called for hearing on admission in open court. However, before hearing the learned counsel for the applicant I wanted to satisfy myself why the O.A. was put-up for admission in a very irregular and unauthorised manner by the Registry. The official of the Registry who had signed the cause-list was summoned by me in my Chamber and asked to state the reasons why such a cause-list was issued by him and under what authority. The official in a very rude and indisciplined manner informed me that he had done <sup>that</sup> in accordance with the direction given to him by Hon'ble Shri K.D.Saha, M(A), who is also the acting Vice-Chairman. He told me that I will have to get reply in this matter only from Shri K.D.Saha, Hon'ble Member(A). As a result, the matter regarding admission had to be decided in open court where I summoned the Dy. Registrar for explaining the matter before the Court, but I was informed that the Dy. Registrar was on some kind of leave which was not brought in my notice inspite of the fact that I am the seniormost Member of the Bench and also judicial works have to regulated under my instruction and direction. Since, the Dy. Registrar is the only authority under the CAT Procedure Rules to put-up cases for admission, etc. his sudden absence has created a void in the working of the Registry. In his

absence the S.O.(J)-II, Shri B.K.Akhauri, who had signed the cause-list was summoned to the Court for answering to the queries for irregular and unauthorised listing by him. He again reiterated his version that he has acted on the direction of the acting Vice-Chairman, Shri K.D.Saha. On my further questioning whether such an authority has been given to him in writing, Shri Akhauri replied that as the practice was, all such instructions were given to him verbally by ~~Shri~~ Hon'ble Shri K.D.Saha and he was authorised to sign the cause-list on his verbal instructions. On my specific question whether he could act as a Dy. Registrar without any written delegation from any competent authority, Shri Akhauri went on reiterating that as was the practice, he has assumed the powers and authority of the Dy. Registrar in his absence as per the direction of the acting V.C.

4. ( The statements made by the official Shri B.K.Akhauri is totally untenable, ~~and~~ wrong and misleading. A cause-list is a very important legal and judicial document through which court proceedings are regulated. The CAT Procedure Rules, 1987 and CAT Rules of Practice, 1993, have stipulated elaborate provisions regarding filing of application, scrutinising thereof and cause listing the same for admission, etc. The only judicial official designated for this purpose are the Registrar and the Dy. Registrar in his absence who have to function under the directions and control of the V.C. and in his absence the seniormost member available in the Bench. There is no functionary of the Tribunal called

Acting V.C. ~~for that~~ there is a provision for  
an Acting Chairman who has to function in the absence  
of the Chairman. In the cases where the V.C. is not  
available in ~~that case~~ <sup>a</sup> ~~the~~ Bench seniormost Member available  
has been empowered to carry on the business of the  
Tribunal. There could not be any direction to the  
contrary from anybody in this regard much less from  
Hon'ble Member (A), Shri K.D.Saha. The question of my  
being senior to Shri K.D.Saha is not a matter of dispute  
and the Registry has to function under my directions  
without any question.

5. Since, this official has shown the tamidity  
and has un-necessarily dragged the name of Hon'ble Shri  
K.D.Saha in this matter, I take very grave notice of  
such blatant indisciplined behaviour. The Hon'ble Mr.  
Saha, Member (A), could not have given any order in  
contravention of the CAT Procedure Rules and CAT Rules  
of Practice. In any case, if that was so, the Dy. Registrar  
should have brought the matter to my notice before issuing  
the cause-list. In view thereof, I hold Shri B.K.Akhauri ~~is~~  
totally responsible for creating all the confusion and  
obstruction in the judicial processing of matters before  
the Bench. Since, the Dy. Registrar was not available  
and he had not seen the case matter, the onus of the whole  
illegal act ~~on~~ is on the official *Shri Akhauri*

6. In view thereof, it is hereby ordered that  
the administrative side of this Bench shall initiate

disciplinary proceeding against this official and also bring to ~~the~~ <sup>of this Bench</sup> notice the results thereof *within five days.*

7. It is hereby ordered that all judicial work pertaining to the Registry shall function as per my direction in accordance with the CAT Procedure Rule and CAT Rules of Practice, as quoted above.

8. Since, the O.A. has already been listed for admission, the learned counsel for the applicant was allowed to make submissions in this regard and the orders rejecting the application has been issued separately.

SKJ

*N.K. Verma*  
(N.K. Verma)  
Member (A)

12/3/96

2/02.05.96

Shri M.L. Paswan, Dy. Registrar appearing on behalf of the Administrative side of the Bench.


The matter was called today for ascertaining the progress made in the disciplinary proceeding ordered by this Bench on 12.03.1996. The Dy. Registrar, who appeared on behalf of the administrative side of the Bench informed that the matter was referred to the Principal Bench on 19.04.1996 for initiating disciplinary proceeding against the official at the Principal Bench because ~~of~~ the appointing authority for a Section Officer happened to be the Chairman. When an enquiry was made whether it was necessary for the administrative side of this Bench to refer this matter to the Principal Bench for initiating the charge-sheet, the Dy. Registrar sought time to answer this question. It is settled proposition that the officials working in the Benches of the CAT are governed by the

....Contd/-

CCS (CCA) Rules of the Govt. of India. Initiation of Chargesheet against gazetted officers are vested with the Heads of Department who are delegated the ~~powers of~~ financial and administrative powers on behalf of the Chairman. The question of referring this matter to the Principal Bench was not able to be explained by the Dy. Registrar as also the delay in referring the matter to the Principal Bench after more than a month when the order was passed. This lapse on the part of the administrative side of the Bench is taken note of and the Dy. Registrar is directed to ensure that the disciplinary action is completed against this official without any delay within 30 days from now.

2. It also must be ensured that the official shall not be repatriated to his parent cadre unless and until the disciplinary proceeding is finalised and completed.

3. This matter should be placed before this Bench again on 05.06.1996.

  
(N. K. Verma)  
Member (A)

OA - 144/96

3./ 21.5.96.

A message was received from the Principal Bench to the effect that this matter may be transferred to the Hon'ble Chairman for disposal at his level. In view thereof let the file be sent to the Principal Bench as desired.

/CBS/

N.K. Verma  
(N.K. Verma)  
Member (A)

Be placed  
before Sri Haidson  
N.C. (I.J.)  
10/2/96

In view of the request made by  
Hon'ble Member N/C Varma on  
Para 3 of the order dated 12/3/96  
to the effect that Sri B.K. Akhaur  
be heard in an independent and  
free manner, call for his explanation  
on that and put up

Meera  
2/8/96