

1/3/96

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. Choube^y
 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~~ 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 ^{that} 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, scrutinizing 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 ~~the~~ ^a 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 temerity 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~~ ^{Mr} 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 notice of this Bench} the results thereof within ~~four~~ ^{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.

N.K.Verma
(N.K.Verma)
Member(A) 12/3/96

SKJ

2/02.05.96

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

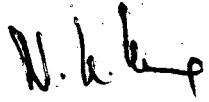
The matter was called today for ascertaining the progress made in the disciplinary proceeding ordered by this Bench on 12.03.1996. The Dy. Registrar, who appeared on behalf of the administrative side of the Bench informed that the matter was referred to the Principal Bench on 19.04.1996 for initiating disciplinary proceeding against the official at the Principal Bench because ~~as~~ 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

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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)

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)

B e placed
before Sir Hudson
V.C. (A.) Prof.
10/5/96

In view of the arrangement made by
Hon'ble Premlal N/C Verma on
Para 3 of the order dated 12/3/1965
to the effect that Sir P. K. Akbar
decreed in an undivided and
sole manner, call for his establishment
on that and peremptory
*Deemed
N.C.S. 2/81*