CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH, LUCKNOW

INDEX SHEET

CAUSE TITLE ....O.A. 125 ..... **OF** ....1987.....

NAME OF THEPARTIES ....Syed Mohd Razi Kazmi (R.A. 8/88 A.W.)....**Applicant**

Versus

.....Union of India.....**Respondent**

Part A.

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4	Judgement dt 26/8/88	A-6 to 12 ✓
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6	Vakalat- Power	A-30 A-30 ✓
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CERTIFICATE

Certified that no further action is required totaken and that the case is fit for consignment to the recoord room (decided)

Amended cert-

Dated ..15/4/2011.....

D/c destroyed on 09-5-12.

Counter Signed.....

Section Officer/In charge

Signature of the Dealing Assistant

29/2/87

CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH,

23-A, Thornhill Road, Allahabad-211001

Registration No. 125 of 1987

APPLICANT (s) Syed Mohd Raza Kazmi

RESPONDENT(s) Central Board of Direct Taxes and Chief Commissioner (Admn) M.P. & C.I.T, Lucknow.

Particulars to be examined	Endorsement as to result of Examination
1. Is the appeal competent ?	Yes
2. (a) Is the application in the prescribed form ?	Yes
(b) Is the application in paper book form ?	Yes
(c) Have six complete sets of the application been filed ?	Yes, 3 Sets filed.
3. (a) Is the appeal in time ?	Yes
(b) If not, by how many days it is beyond time ?	—
(c) Has sufficient case for not making the application in time, been filed ?	—
4. Has the document of authorisation/Vakalat-nama been filed ?	Proper authorisation/vakalat nama has not been filed.
5. Is the application accompanied by B.D./Postal-Order for Rs. 50/-	Yes
6. Has the certified copy/copies of the order (s) against which the application is made been filed ?	Impugned order dated 24-2-86 rejecting appeal of the petitioner has not been filed
7. (a) Have the copies of the documents/relied upon by the applicant and mentioned in the application, been filed ?	No
(b) Have the documents referred to in (a) above duly attested by a Gazetted Officer and numberd accordingly ?	N.A.

Vakalat

Order Sheet

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH ALLAHABAD

OA No. 125 of 1987.

.....VS.....

Date	Note of progress of proceedings and routine orders	Date to which case is adjourned
1	2	3
16.2.87	Hon. G. Ramanujam VC Hon. A. Johri. Admit. Issue notice returnable within 30.3.87. Any promotion to the post of Head Clerk shall be subject to the result of this application. Sd VC	
28.4.87	Hon. D. S. Misra, A.M. Hon. G. S. Sharma, J.M. On the application of the applicant's counsel this case was put up before us today. There is no urgency of passing any order today. Put up on the date fixed. A.M. J.M.	

A2/2

ORDER SHEET

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD

.....NO. OA 125 .....OF 1987

.....VS.....

SL NO of order	Date of order	ORDERS WITH SIGNATURE	Office Notes as to action (if any) taken on order
	6/5/87	Deputy Registrar This case has been received from Court No. II in the office and file has been put up before me today, as per orders of the Bench. None of the parties present today, the bench has observed that Dealing Assistant has not handled the file properly. The Dealing Assistant is directed to submit a detail report and the case be listed before me on 14/5/87. Inform the parties. DR (J)	OR. In compliance of Tribunals order dt. 1-5-87 the case is submitted for order. 4/5/87 OR. As per direction of Court's order dt 1-5-87 The case is listed before D.R. for order. 4/5/87

A2/3

आ० अ० अ-18
I. A. T-18

आदेश पत्रक
ORDER SHEET

अपील / निर्देश आवेदन रजिस्टर में सं० 125/87

No. in Reference Application / Appeal Register

अपील अधिकरण
Appellate Tribunal

अपीलार्थी / आवेदक
Appellant / Applicant

अपीलार्थी / आवेदक द्वारा — बनाम — प्रत्यर्थी
Appellant / Applicant — Vs. — Respondent

प्रत्यर्थी द्वारा
Respondent

आदेश की क्रम संख्या और तारीख Serial number of order and date	संक्षिप्त आदेश, निर्देश देते हुए, यदि आवश्यक हो Brief order, mentioning reference, if necessary	पालन कैसे हुआ और पालन करने की तारीख How complied with and date of compliance
3 7/87	Deputy Registrar None present for the parties. As the cases of Shri N.B. Singh are adjourned, list this case on 28/7/87. Inform the applicant. DR(J) OR In compliance of D.R.(J) order dt. 3.7.87 the applicant has been informed by Regd AD. Submitted 23/7 28.7.87 Hon'ble Mr. D.K. Agrawal J.M. 15.7.87	

(क्०प्र०उ०/P.T.O)

(A2/4)

आ० अ० अ-18
I. A. T-18

आदेश पत्रक
ORDER SHEET

अपील / निर्देश आवेदन रजिस्टर में सं० OA 125/87

No. in Reference Application / Appeal Register

अपील अधिकरण
Appellate Tribunal

अपीलार्थी / आवेदक
Appellant / Applicant

अपीलार्थी / आवेदक द्वारा — बनाम — प्रत्यर्थी

Appellant / Applicant — Vs. — *Respondent*

प्रत्यर्थी द्वारा
Respondent

आदेश की क्रम संख्या और तारीख Serial number of order and date	संक्षिप्त आदेश, निर्देश दते हुए,यदि आवश्यक हो Brief order, mentioning reference, if necessary	पालन कैसे हुआ और पालन करने की तारीख How complied with and date of compliance
4.11.87	Hon. A. Johri, A.M. Hon. G. S. Sharma, J.M. On the request of learned counsel for the parties list this case on 12.1.88. A.M. J.M.	
12-1-88	Hon S. Zaheer Hasan, V.C. Hon. Ajay Johri, A.M. Shri S.M. Razvi for applicant Shri N. B. Singh for respondents. The applicant's counsel wants time. Put up on 29-2-88. A.M. V.C.	

(क्०प्र०उ०/P.T.O)

OA 125/07 (AV/5)

20-4-08 Hon. S. Zaheer Hasan, VC
Hon. Ajay Johri, Am.

The applicant in person
is present.
Shri N.B. Singh for respondents
is at Allahabad. Fix
~~this~~ case on 25/5/08
and inform Shri N.B. Singh
that this case will be
heard at Lucknow.

Am.

VC.

Nbie

28.5.08 Notice issued through
D.R (J) at Allahabad

Jnish

25.5.88 Hon. Ajay Johri, Am.
Hon. G.S. Sharma, JM

The applicant is present in person.
When the case was last taken up on 28.4.88
it was ordered that Sri N.B. Singh should be
informed that this case will be heard at
Lko. Sri N.B. Singh is not present today.
Notice be issued to the respondent under whose
control the applicant is working that this
case will be taken up on 19.7.1988 and
arrangement should be made to prosecute the
defence before us. If no body is present on
next date of hearing, the case will be
heard ex-parte.

Notice issued
25/5

Am

JM

25.5.88

Registered

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL AT ALLAHABAD
CIRCUIT BENCH, GANDHI BHAWAN
LUCKNOW

No. CAT/CB/LKO/ 272 Dated : 13/5/94

OFFICE - MEMO

Registration No. O.A. 125 of 1987
~~T.A.~~

Syed Mohd Raza Kazmi Applicant's

Versus

Central Board of Direct Taxes & Chief Commissioner (Admn.) U.P. & C.I.T. Lucknow Respondent's

A copy of the Tribunal's ~~Order~~/Judgement dated 26/8/94 in the above noted case is forwarded for necessary action.

For DEPUTY REGISTRAR (J)

Encl : Copy of ~~Order~~/Judgement dated 26/8/94

To.

(1) Sri S.Z.M. Kazmi — Applicants Counsel.

For one Need order Copy ile 26/8/88 13/9/88

dinesh/

RESERVED

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD.

CIRCUIT BENCH AT LUCKNOW

****

Registration (O.A.) No. 125 of 1987

Syed Mohd. Raza Kazmi .... Applicant.

Versus

Central Board of Direct Taxes
& Chief Commissioner (Admn.)
U.P. & C.I.T. Lucknow. .... Respondents.

****

Hon'ble Ajay Johri, A.M.
Hon'ble G.S. Sharma, J.M.

(Delivered by Hon. Ajay Johri, A.M.)

This application has been received under Section 19 of the Administrative Tribunals Act XIII of 1985. The applicant, Syed Mohd. Raza Kazmi, who is working as a Tax Assistant in the office of the Chief Commissioner of Income Tax, has challenged the policy regarding his promotion to the post of Head Clerk (HC) in the same office on the grounds that Tax Assistants (TA), who are promoted from the Upper Division Clerks' (UDC) Cadre and have thereafter been confirmed in the higher grade, should be considered senior to UDCs, who have not been so promoted, for purposes of consideration for promotion to the post of HC. According to the applicant his representation was rejected by the Chief Commissioner (CC) on 26.3.1982 (copy annexed as Annexure 'I' to the application). A representation was thereafter made to the Chairman, Central Board of Direct Taxes (CBDT) by a petition dated 23.12.1985 requesting for redressal of the grievance and although the Board accepted the fact that persons working in the higher grades are to be treated as senior to those working in the lower grades for purposes of promotion to the post of Income Tax Inspectors (ITI), yet the same principles has not been accepted for promotion to the post

of HC. The decision of the Board was communicated to the applicant on 3.3.1986. According to the applicant this decision was unjust and unequitable and, therefore, he has sought relief that TAs should be treated senior to UDCs and the seniority of the applicant be fixed accordingly for the purpose of consideration for promotion to the post of HC and he should be promoted with effect from 7.3.1984 and his seniority in HC's cadre should also be revised. He has also claimed arrears on this account.

2. In their reply the respondents while opposed the application on the ground that it is barred by jurisdiction as the applicant has failed to implead the Union of India as a party and he has impleaded the Chief Commissioner only and also on the ground that it suffers from legal infirmities because it is not against any order or final order whatsoever which is a pre-requisite statutory requirement of the Act. They have also said in their reply that the applicant, primafacie, has no case because if the plea of the applicant is accepted then the promotional prospects of UDCs whose strength is twice the strength of TAs will be doomed and perhaps a person who joins as a UDC will retire as a UDC. According to the respondent the promotions to the cadre of TAs are governed by instructions of CBDT contained in their letter of 31.3.1978 and for promotion to the post of HC, TAs are considered at par with UDCs and the seniority in UDCs cadre is taken into consideration. They have further said that the post of TAs have been created to deal with certain aspects of clerical work particularly in the companies and investigations circles and TAs are appointed on the basis of their limited performance in the Inspectors' examination. Thus a promotion to the cadre of TA does not given them any right to seniority. According to the respondent to become a TA, a UDC has to secure 40 per cent

marks in papers of Income Tax Law and Office Procedures. They have ~~rejected pleas taken by the applicant~~ Said that senior UDCs, who do not appear in the examination and wait for promotion on seniority basis to the post of HCs, will be denied promotion, if any weightage is given to the seniority in the cadre of TAs. According to the respondent non-appearance in a departmental examination should not take away the right of otherwise eligible person for promotion as a HC. Moreover, the post of HCs is also supervisory and, therefore, it is distinct from the post of Inspectors which are executive posts. The next promotion from the post of HC is to the cadre of Supervisor Grades II & I and, therefore, if all qualified TAs will get promoted to the cadre of Inspectors then the department may be left with no Supervisors to fill up the post of Supervisors Grades I & II. Thus according to them Keeping these facts into consideration the respondents have framed the rules for promotion to the cadre of HCs and Inspectors.

3. We have heard the learned counsel for the applicant. No-body was present for the respondent. On 25.5.1988 we had ordered for a notice to be issued to the respondent under whose control the applicant was working and that this application will be taken up on 19.7.1988 and arrangement should be made to prosecute the defence before us and if no-body will be present the case will be heard ex parte. We have, therefore, heard the case ex parte. The main contentions raised before us by the learned counsel for the applicant were that since the post of TA has been accepted as a higher grade post to that of UDCs thus those who get promoted as TA must rank senior to UDCs when the question of promotion to the post of HC comes up. In this connection the learned counsel for the applicant has relied on the letter of 31.3.1978 in respect of creation of the cadre of TAs. By this letter a new cadre

of TA was created in the Income Tax Department by up-grading 1/3rd of the cadre strength of UDCs with a view to provide more experienced and competent Ministerial staff to deal with important aspects of clerical work, particularly in the companies and investigation circles. This cadre was kept as an intermediatory cadre between those of UDCs and HCs. The post of TAs were also to carry higher duties and responsibilities as compared to those entrusted to UDCs and these posts were to be filled entirely by promotion from the cadre of UDCs on selection basis on the ~~ex~~ recommendation of a duly constituted Departmental Promotion Committee (DPC). The eligibility condition was ~~for~~ a minimum service of three years in UDC's grade and securing 40 per cent marks in four papers in the ITI's Departmental Examination. On 26.3.1982 another direction was issued by CBDT on the promotion to the post of HC in respect of regulation of seniority of UDCs and TAs for this purpose. This letter said that after reviewing the position it has been decided that status quo will continue to be observed, i.e. promotion to the grade of HC would be made from UDC cadre and TAs should also be considered by virtue of their seniority in that cadre irrespective of the fact that TAs have been confirmed in that grade. CBDT had also clarified in June, 1987 on a representation made by TAs for the application of the principles adopted by them for promotion tothe post of Inspectors, that ~~it~~ these should be made applicable for promotion to the grade of HCs also, rejecting the contentions of the representationists. They had said that the issue was examined by the Board and it was decided that the instructions of 14.8.85 have no application for promotion to the post of HC and the promotion for the post of HCs will be governed by the orders given in their letter of 26.3.1982 which have not been superseded in this regard.

4. In their letter of 1.10.1985 on the subject of introduction of quota system in seniority for the purpose of promoting persons to the post of Inspector of Income Tax, CBDT had decided to fix a quota for the ministerial cadres, i.e. Supervisors Grades I & II, HCs, TAs, UDCs and Stenographers group in the ratio of 3 : 1, i.e. '3' equation is for Ministerial group and '1' for Stenographer's group for filling up the entire promotional quota in a cadre of Inspectors of Income Tax.

5. It is not under dispute that the post of TAs is an intermediatary cadre post in a higher grade and is considered as a promotional post from the grade of UDC. The only reason that has been emphasized in the replies filed by the respondent for not giving any consideration to the fact that it is an intermediatary cadre and higher grade post and a promotional post from the grade of UDC, is that in case this was made a channel of promotion UDCs who do not appear in the departmental examinations for promotion to the post of Inspectors and who wait for promotion to the post of HC will be denied any promotional avenue and will stagnate and retire on the same post, i.e. UDC. To our mind this explanation is not founded on well considered principles and the chances of further promotion for TAs should also have been safe-guarded because once they took a chance to appear in a departmental examination and qualify through a DPC for promotion as TAs which is a higher grade post they cannot be for the purposes of consideration for further promotion to the grade of HC be made to lose their rights accrued to them by virtue of their promotion and by virtue of occupying a post which is without any doubt a higher grade and promotional post. However, At the same time when these posts were created only part of the cadre of UDC, i.e. 1/3rd was upgraded to these posts.

Therefore, majority of UDCs still remain in the parent cadre of UDC. A plain reading of the manner in which the posts of TAs have been created also does not leave any doubt that these posts could very well be treated in the regular avenue of promotions from the post of UDC to that of HC but this would have resulted in a peculiar situation, i.e. all UDCs would have to pass through the post of TAs, who would thereafter have to pass through the post of HC which posts are definitely not in large numbers and thereby there would have been no stability & continuity in the incumbency of the post of HC as he would have thereafter moved for further promotion to the category of Supervisor Grades I & II or Inspector. The respondent's contention raised in their Reply that if TAs were allowed to occupy the post of HC and they already have a chance of promotion as an Inspector, which is a higher grade post than that of HC they would have not been able to find sufficient number of staff to man the post of Supervisor Grade I & II who are in the avenue of promotion of HCs can also not be lost sight of. Considering these aspects in our opinion it would have been more equitable for the respondent to evolve a proper scheme by which the fact of TAs being in a higher grade should have not been ignored, and to overcome this situation there could have been the following alternatives :

1. A quota or roster could have been fixed as in the case of Inspectors for promotion to the post of HCs in the ratio in which the posts have been upgraded, i.e. 1 : 3, or alternatively option should have been invited from such of the TAs, who wanted to opt for the HCs post and thereafter to the supervisory post in Grades I & II foregoing their chances for the Inspector's line of promotion. A third alternative could be that the post of HCs should have been filled not by seniority alone but

by an open competition where all UDCs of certain minimum years of service and TAs would have been allowed to compete.

We find that no such analysis or examination has been made by the respondents and they have rejected the representations made by TAs on the ground that for promotion to the post of HC their orders regarding seniority in the cadre of UDC will continue to apply. This does not appear to be a satisfactory position.

6. In view of above we dispose of this application only by a direction to the respondent to evolve a scheme considering the suggestions given in our observations along with any other scheme that they may be able to evolve to remove the anomalous situation whereby the incumbents of promotional post which are in intermediatary cadre are clubbed for their seniority with persons in a lower grade for consideration for promotion to the post of HC. Thereafter the applicants case be considered in the normal light. Parties will bear their own costs.

MEMBER (J).

MEMBER (A).

Dated: August 26th, 1988.

PG.

(1)

AY 13

C.A.T. (PROCEDURE) RULE 1985

FORM - 1

(See Rule 4)

APPLICATION UNDER SECTION 19 OF THE ADMINISTRATIVE TRIBUNAL ACT - 1985

FOR USE IN TRIBUNAL'S OFFICE.

Date of filing
or
Date of Receipt by post

Reg. No. 125 of 1987
Central Administrative Tribunal
Additional Bench
ALLAHABAD/PATNA/JABALPUR
Date of Filing... 10.2.87
Date of Receipt by Post
For Deputy Registrar.

Registration no.

Signature
Registrar

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW-DELHI

ADMINISTRATIVE BENCH.

BETWEEN

Syed Mohd.Raza Kazmi
S/o Late S.Hafiz Husain
Tax Assistant
... Applicant

AND

CENTRAL BORAD OF DIRECT-TAXES
AND CHIEF COMMISSIONER (ADMN.)
U.P. & C.I.T. LUCKNOW. ... Respondent

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* Delete whichever is not applicable.

Systems - Central Administrative Tribunal

: DETAILS OF APPLICATION :

1. Particulars of the application of applicant.

i) Name of the applicant - Syed Mohd.Raza Kazmi

ii) Name of the father - Late S.Hafiz Husain

iii) Designation & Office in which employed. - Tax Assistant, Office of the Chief Commissioner of Income-tax(Admn.)U.P. & C.I.T.Lucknow.

iv) Office address -do-

v) Address for service of the notices. -do-

Central Administrative Tribunal
Bench A. Allahabad
10.2.87
For Registrar.

To be listed on 19th Feb 87

(Contd..2)

Syed Mohd. Raza Kazmi
(Syed Mohammad Raza Kazmi)

(14)

2. Particulars of the respondent.

i)	Name & designation of the Respondent.	Chairman C.B.D.T. & Chief Commissioner of I.Tax(Admn.)U.P. & C.I.T.Lucknow.
ii)	Office address of the respondent.	-do-
iii)	Adress of service of all notices.	-do-

3. Particulars of the order against which application is made.

The application is against the following order.

i)	Order No.	F.No.46(Sa)Pado/37
ii)	Date.	7-3-1984 & 24-2/3-3-86.
iii)	Passed by.	I.T.O.(HQ) for C.C.(Admn.) U.P.& C.I.T.Lucknow.
iv)	Subject in brief.	Promotion to the post of Head clerk

4.	Jurisdiction of the Tribunal.	The applicant declares that the subject matter of the order against which he wants redress is within the jurisdiction of the Tribunal.
5.	Limitation on	The Applicant further declares that the application is within the time limit prescrived in Sec. 21 of the Administrative Tribunals Act., 1985.
6.	Facts of the case:	The facts of the case are given below (give here a consise statement of facts in a chronological order, each paragraph containing as nearly as possible a seprate issue facts or other wise)

Smt.Chhama Jaiswal, a junior Tax Assistant has been promoted as Head Clerk vide order F.No.46(Sa) Pado/37 dated 7.3.1984 having considered her seniority in Upper Division Clerk's cadre. Representation was made on the ground that the Tax Assistants who are promoted from Upper Division Clerk's cadre and have been confirmed as Tax Asstt.

(Contd....3)

Syed Mohd. Raza Kazmi

Syed Mohammad Raza Kazmi

in higher grade than that of upper Division Clerk's, should be considered Senior to those of Upper Division Clerks' for purpose of promotion to Head Clerk's cadre. Representation was rejected by Chief Commissioner (Admn.)U.P. & Commissioner of Income-tax, Lucknow, referring Board's letter No.32011/3/82 dated 26.3.82 (copy enclosed as Annex. I). This letter being anomolous, against the principles of natural justice and Seniority rules Chairman Cenrral Board of Direct Taxes vide petition dated 23.12.85 was requested to over rule the decision contained in Board's letter enclosed as Annex. I of this petition. Although the Board itself accepted in its letter F.No.A.32011/8/84-Ad.VII dated 12.7.85 (copy enclosed as Annex.II) that the persons working in the higher grades are to be treated as senior to those working in the lower grade for purpose of promotion of Income Tax Inspectors, yet the principle has not been accepted in the same department for promotion of Head Clerk's which is against natural justice and the Chairman, C.B.D.T. rejected my petition vide its letter No.A-32011/8/85-Prashasan 7, dated 24.2.86. The decision of the Board was communicated to me vide letter Asthapana P Number 47-1508 dated 3.3.86 (copy enclosed as Annex.III). Moreover Board vide its letter F.No.12017/2/84-Ad.VII dated 1.10.85 (copy enclosed as Annex.IV) specifically directed that the Tax Assistant should be considered Senior to those of U.D.C's for the purpose of promotion as Income Tax Inspectors. Therefore it would be quite just and equilable to consider Tax Assistants senior to those of Upper Division Clerk's for purpose of promotion to the Head Clerk's cadre also.

7. Relief Sought:- In view of the facts mentioned in Para 6, above the applicant prays for the following relief (specify below the reliefs) sought explaining the ground for the relief(s) and the legal provisions (if any) relief upon)

(i) Tax Assistants should be treated senior to those of U.D.C. at least, since the date of their confirmation and the petitioner's seniority should be fixed accordingly for the purpose of promotion of Head Clerk's.

Contd.....4/-

Syed Mohd. Raza kazmi

(Syed Mohammad Raza Kazmi)

(ii) Petitioner should be promoted as Head Clerk with effect from 7.3.84 and his seniority in Head Clerk's cadre should be fixed where it would be as requested in para (1) above.

(iii) He should be allowed arrears as due to him had he been promoted as H.C. w.e.f. 7.3.84 and the Costs payment of any Adjournment sought by the Respondent will be equal.

8. Interim order, if prayed for:- Pending final decision of the application, the official seeks issue of the following in-terim order.
(Give here the nature of the interim order prayed for reasons)

He should be promoted as Head Clerk with immediate effect so that he may appear in I.T.O's examination group 'B' June,1987 because he was passed Departmental Examination for Income Tax Inspectors in 1977 and he may not be allowed to appear in I.T.O's group 'B' examination 1987 unless promoted as Head Clerk.

9. Details of the remedies exhausted:- The applicant declares that he has avaided of all the remedies available to him under the relevant service rules (Give here chronologically the details of representations)

(i) Represented to C.C.(Admn) U.P. & C.I.T. Lucknow on 1.6.84 and was rejected.

(ii) Represented to Chairman, Central Board of Direct Taxes on 23.12.85 and this representation was rejected on 24.2.86 and communicated on 3.3.86.

10. Matter not pending with any other court:- The applicant declares that the matter regarding which this petition has been filed is not pending in any other court.

11. Particulars of Bank Draft/Postal order in respect of the Application Fee.

Contd....5/-

Syed Mohd. Rai

(6)

(Application U/s '5' of limitation Act,1963)

To

The Chairman & Member of the
Administrative Central Tribunal
Allahabad bench (U.P.),
ALLAHABAD.

Sir,

I beg to submit humbly that the delay if any in filing the enclosed petition may kindly be condoned on the following grounds:-

(1) That the applicant could not know the actual date of functioning of the Administrative central Tribunal at Allahabad.

(2) Thereafter I remained oftenly busy in connection with pre-delivery troubles of my wife for about three months upto 24.8.1986.

(3) On 24.10.1986 I moved an application to the Chief Commissioner (Admn) U.P. and Commissioner of Income-tax, Lucknow seeking permission of the head of the department to file a petition before the Administrative Central Tribunal, Allahabad bench but I did not receive any reply from him. However, I was informed orally late in January, 1987 that there is no need to obtain permission of Head of the office to file the petition before the bench.

Under the above mentioned facts I hope that you will be kind enough to condone the delay if any.

Yours faithfully,

Syed Mohd. Raza Kazmi

(SYED MOHD. RAZA KAZMI)
TAX ASSISTANT
O/o the Commissioner of Income-Tax,
Lucknow.

(i) Name of the Bank on which drawn State Bank of India Allahabad
(ii) Demand Draft No. 07/CC960429 dated 16/2/09
(iii) Number of Indian Postal Order(s)
(iv) Name of the issuing post office
(v) Date of issue of postal order(s)
(vi) Post office at which payable.

12. Details of index - To be annexed in duplicate containing the details of the documents to be relied upon is to be enclosed.

13. List of enclosures.

In verification-

I Syed Mohd. Raja Kazmi S/o Late Shri Hafiz-Hussain age about 37 years working as Tax Assistant resident of Lucknow do hereby verified that the contents from 1 to 13 are true to my personal knowledge and belief and that I have not suppressed any (matter) material facts.

Place: Lucknow
Date:

Syed Mohammad Raza Kazmi
Signature of the applicant

(6)

(Application U/s '5' of limitation Act,1963)

(18)

To

The Chairman & Member of the
Administrative Central Tribunal
Allahabad bench (U.P.),
ALLAHABAD.

Sir,

I beg to submit humbly that the delay if any in filing the enclosed petition may kindly be condoned on the following grounds:-

(1) That the applicant could not know the actual date of functioning of the Administrative central Tribunal at Allahabad.

(2) Thereafter I remained oftenly busy in connection with pre-delivery troubles of my wife for about three months upto 24.8.1986.

(3) On 24.10.1986 I moved an application to the Chief Commissioner (Admn) U.P. and Commissioner of Income-tax, Lucknow seeking permission of the head of the department to file a petition before the Administrative Central Tribunal, Allahabad bench but I did not receive any reply from him. However, I was informed orally late in January, 1987 that there is no need to obtain permission of Head of the office to file the petition before the bench.

Under the above mentioned facts I hope that you will be kind enough to condone the delay if any.

Yours faithfully,

Syed Mohd. Raza Kazmi

(SYED MOHD. RAZA KAZMI)
TAX ASSISTANT
O/o the Commissioner of Income-Tax,
Lucknow.

(7)

(19)

भारत सरकार
कार्यालय आयकर आयुक्त
लखनऊ ।

आदेश
दिनांक 7 -3-84

स्थापना- केन्द्रीय सेवायें- अराजपत्रित कर्मचारी पदोन्नति, स्थानान्तरण एवं तैनाती आदि :-

संख्या 258 इस कार्यालय के आदेश संख्या 216 दिनांक 4-1-84 जो कि पृष्ठांकन एफ॰संख्या 46 (सामान्य)/पदोन्नत/30/83 दिनांक 5-1-83 के द्वारा जारी किया गया जहाँ तक इसका सम्बन्ध श्री हीरामन राम (अनु0जाति), प्रवर श्रेणी लिपिक इलाहाबाद-प्रभार की पदोन्नति से है एतद्द्वारा उनका पदोन्नत आदेश निरस्त किया जाता है क्योंकि वह इस विभाग की नौकरी छोडकर चले गये हैं ।

संख्या 259 इस कार्यालय के आदेश संख्या 195 दिनांक 23-12-83 जो कि पृष्ठांकन एफ॰संख्या 46(सामान्य)/पदोन्नत/26/83 दिनांक 24-12-83 के द्वारा जारी किया गया जहाँ तक इसका सम्बन्ध श्री घासी राम, अवर श्रेणी लिपिक, की पदोन्नति अवर श्रेणी लिपिक से है एतद्द्वारा उनका पदोन्नत आदेश निरस्त किया जाता है क्योंकि उन्होंने लिपिकीय विभागीय परीक्षा उत्तीर्ण नहीं की है ।

संख्या 260 निम्नलिखित कर्मचारियों को पर्यवेक्षक ग्रेड-I के पद पर स्थानापन्न एवं तदर्थ रूप से 700-900 के वेतनमान में उनके कार्यभार ग्रहण करने की तारीख से अगला आदेश जारी होने तक नीचे दिये गये नोट को ध्यान में रखते हुए पदोन्नत किया जाता है । वे दो वर्षों की अवधि तक परिवीक्षा पर रहेंगे ।

सर्वश्री-

1. बिशन राम आर्या (अ0जाति), पर्यवेक्षक ग्रेड-I।
आयकर कार्यालय, नैनीताल ।
2. मिश्री लाल कुरील (अ0जाति), पर्यवेक्षक ग्रेड-I।
आयकर कार्यालय, काशीपुर ।

संख्या 261 निम्नलिखित कर्मचारियों को पर्यवेक्षक ग्रेड-II के पद पर स्थानापन्न एवं तदर्थ रूप से रु0 550-750 के वेतनमान में कार्यभार ग्रहण करने की तारीख से व अगला आदेश जारी होने तक नीचे दिये गये नोट को ध्यान में रखते हुए पदोन्नत किया जाता है । वे दो वर्षों की अवधि तक परिवीक्षा पर रहेंगे ।

सर्वश्री-

1. ओम प्रकाश शुक्ला, प्रधान लिपिक,
कार्यालय आयकर आयुक्त (अपील), लखनऊ ।
2. हबीब-उर-रहमान, प्रधान लिपिक,
इलाहाबाद-प्रभार ।
3. नवल किशोर श्रीवास्तव, प्रधान लिपिक,
आयकर कार्यालय, रायबरेली ।

.....2/-

1.	2.	3.
	सर्वश्री-	
3.	ओमप्रकाश शुक्ला, पदोन्नत, पर्यवेक्षक ग्रेड-II, कार्यालय आयकर आयुक्त, (अपील), लखनऊ ।	-उसी स्थान पर-
4.	हबीब-उर-रहमान, पदोन्नत, पर्यवेक्षक ग्रेड-II, इलाहाबाद प्रभार ।	सेवायें आयकर आयुक्त, इलाहाबाद के अधीन की गई ।
5.	नवल किशोर श्रीवास्तव, पदोन्नत, पर्यवेक्षक ग्रेड-II, आयकर कार्यालय रायबरेली ।	आयकर कार्यालय केन्द्रीय वृत्त, लखनऊ ।
6.	श्रीमती क्षमा जयसवाल, पदोन्नत, प्रधान लिपिक, लखनऊ वृत्त, लखनऊ ।	कार्यालय सहायक नियंत्रक सम्पदा शुल्क, लखनऊ ।
7.	गोपाल चन्द गुप्ता, पदोन्नत, प्रधान लिपिक, आयकर कार्यालय लखनऊ वृत्त, लखनऊ ।	आयकर कार्यालय रायबरेली ।
8.	कामता प्रसाद यादव, पदोन्नत, प्रधान लिपिक, इलाहाबाद-प्रभार ।	सेवायें आयकर आयुक्त, इलाहाबाद के अधीन की गई ।
9.	विक्रमादित्य सिंह, पदोन्नत, प्रधान लिपिक, इलाहाबाद-प्रभार ।	-तदैव-
10.	रामकेर राम, पदोन्नत, कर-सहायक, इलाहाबाद-प्रभार ।	सेवायें आयकर आयुक्त, इलाहाबाद के अधीन की गई ।
11.	ओमप्रकाश वैश्य, पदोन्नत, प्रथम श्रेणी लिपिक, आयकर कार्यालय, बिजनौर ।	सेवायें निरीक्षी सहायक आयकर आयुक्त, मुरादाबाद के अधीन की गई ।

नोट: क्रमसंख्या 258 से 264 तक के पदोन्नति के आदेश पदोन्नत किए गये कर्मचारियों को इन पदों पर बने रहने का अधिकार नहीं प्रदान करेंगे व रिट पिटीशन संख्या 2504/1982 "श्री बद्रीनाथ गुप्ता व अन्य बनाम भारत संघ व अन्य" में जो भी माननीय इलाहाबाद उच्च न्यायालय की लखनऊ पीठ का निर्णय होगा के अनुसार इन आदेशों में यदि आवश्यक हुआ तो संशोधन किया जा सकेगा तथा उन्हें किसी समय भी बिना पूर्व सूचना के पदावनत भी किया जा सकेगा ।

ह० —

(धरनी धर)
आयकर आयुक्त, लखनऊ ।

...../-

IN THE CENTERAL ADMINISTRATIVE TRIBUNAL, PRINCIPLE BENCH - NEW DELHI / ADMINISTRATIVE BRANCH, ALLAHABAD

CERTIFICATION OF AUTHORISATION, REPRESENTATIVE / PAIROKAR

(21)

SYED MOHAMMED RAZA KAZMI (TAX-ASSTT)
31/365, HATA SITARA BEGUM, HARDOI MARG
LUCKNOW — — APPLICANT

BETWEEN CENTRAL BOARD OF DIRECT TAXES AND
CHIEF COMMISSIONER (Admn) U.P.-I
C.I.T. ASHOK MARG, LUCKNOW

VERSUS

APPLICATION No:- of 1987

IN MATTER PROMATIONS DEPRIVATION

I, Petitioner Applicant Syed Mohd Raza Kazmi S/o late Sri Syed Hafeez Husain (Tax Asstt) A.D.I. Section, C.I.T. office, Lucknow R/o 31/365, Hata Sitara Begum Hardoi Marg, P.O. Lucknow, do hereby authorise Sri Syed Zafar Mahdi Kazmi & Sri Wasi ullah, Advocate High Court, Allahabad 33, Kampus Road, Allahabad to represent the Applicant in this Tribunal in this Case on his behalf

I further authorise them, to file Plaints, Papers, documents, and receive papers / documents / written Statements from opposite Party Concern, Cost, or withdraw Case or Compromise in this Case on Applicant behalf.

Accepted

Signature

Name WASI ULLAH
Address Advocate High Court
33 Kampus Road
ALLAHABAD

Syed Mohd Raza Kazmi
Signature of applicant

Name: (Syed Mohd Raza Kazmi)
Designation: Tax Asstt ADI Section, (I.T. Deptt/Govt)
31/365, Hata Sitara Begum, Hardoi Marg
Lucknow

Signature:
(Syed Zafar Mahdi Kazmi)
31/365, Hata Sitara Begum
Hardoi Marg, Lucknow

सत्यापित

10-2-1987

सहायक निदेशक (मुख्यालय)
निरीक्षण शाखा, [illegible]
[illegible]

(12)

IN THE COURT OF CENTRAL ADMINISTRATIVE TRIBUNAL PRINCIPL...
NEW DELHI. ADMINISTRATIVE TRIBUNAL BENCH-ALLAHABAD-UTTAR PRADES...

(22)

I N D E X

Name & Address of Applicant	In between parties	Name & Address of respondent.
Syed Mohd. Raza Kazmi 31/365 Hata Sitara Begum Hardoi Marg, Lucknow-226003.	Vs.	Central Board of Direct Taxes and Chief Commissioner (Admn) U.P. & Commissioner of Income-tax, Lucknow.226001. Respondent.

Plants Serial Number	Serial No.	Particulars of plants containing page wize.	Remark	Page No.
1.	2.	3.	4.	5.

Envelop worth Rs. Registered despatch plants.

Rule's '4' procedure of 1985 on form's plants.

Office uses particulars with signature of Registers

Address and Name of tribunal in which plants file.

Applicants parties name and address for services of notices.

Respondents particulars designation and notices services address.

Orders particulars against which application is filed in Tribunal.

Order No. date by whom passed ,its subject, Tribunal jurisdiction limitation, facts of the case, name of promotee and order No. with date.

Discreption of promotion for the which cause of action arose, moved representation with date mentioning, rejection's date.

Relief sought in plants

(i) claims on which cause of action arose and plants lies

(ii) To whom promote w.e.f. 7.3.84 (iii) claims of monetrys benefits due in this case.

Interim orders prayer details of remedies exhorted

Represented to the authorities under reference Declarations for non pendency of the matter in any law court.

Particular of Postal order for prescribed fee in it

Banks name on which drawn Demand Draft No.

No. of P & S Issuring P.O's name

Date of issue of POS P.O's name at which payable

Enclosures order's concern, Representations copies Rejection orders verifications and petitioners signature.

Section '5' limitations Act, 1963's petitions application.

Draft No: OT/CC/A/6829 of State Bank, High Court Allahabad dated 10/2(87) (S/Bl)

PLACE Allahabad

DATE OF MAKING APPLICATION 10/2/87

SIGNATURE OF PETITIONER
Syed Mohd. Raza Kazmi

(SYED MOHD. RAZA KAZMI)

Before the Court No: 1, Central Administrative Tribunal,
Administrative Branch, Allahabad

PM/22
24

To,

The Deputy Registrar
Central Administrative Tribunal
Administrative Branch, Allahabad

Ref: Registration No/25 of case No: 108
Sub:- Presentation of case file's today's Request

Sir: It is submitted for kind consideration on:-

That according to the Court No:- I on 15-2-87 the next hearing date was fixed for 3-3-87, but under some unknown reason the aforesaid case was not listed on 3-3-87

That on enquiry it was known the aforesaid case is fixed for 1.5.87 instead of 3-3-87 as per last prior instructions

That the I.T.O. Group B. Examination is accepted to be held in June, 1987, for which interim orders applicant I would like to put before Court for orders.

Further I would pray either fix any date till before 28-4-87 or in some other date in June.

In view of the above I hope that you will be good enough to order office to pull up case file today so that Court may pass some order on presented application.

Yours faithfully

(24/4/87)

(Syed Zafar Abbas Kazmi)
Advocate

Syed Abbas Raza Kazmi ... App
V/S
Central Board of Direct Taxes ... Op
Chief Commissioner (Admn)
Income Tax, Ashok Marg Lucknow

25

IN THE COURT OF CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD.

Before the Hon'ble Members - Case No. 1 - Central Administrative Tribunal, Allahabad -

Respected Sirs,

Sub: In respect of petition Registered 12/87 on 10.2.1987 of Shri S.M.R.Kazmi, Tax Assistant in O/o the Commissioner of Income-tax, Lucknow -

---

The counsel for the petitioner begs to state as under:-

मोहर कार्यालय मुख्य आयुक्त प्रशा० एवं आयकर आयुक्त, लखनऊ -3. APR. 1989 Sd/ 3-4-87

(1) That the above writ petition was admitted on 19.2.87 and the respondents were issued notice returnable ~~xxxxxxxxxxxxxxxx~~ by 30.3.1987.

(2) That the counsel attended the court on the fixed date i.e. 30.3.87 on behalf of the petitioner Shri S.M.R.KAZMI, but found that the case was not enliste-d on 30.3.87 for whatsoever reasons known better to the Hon'ble court.

(3) That having not found the case enlisted on the fixed date the counsel saw the Deputy Registrar who made him to believe that the case was fixed for 23.3.87 and the next date fixed is 1.5.1987.

(4) That on any return to lucknow the petitioner supplied the counsel with the uncertified the copy of the order (copy enclosed) dated 19.2.87 passed by Hon'ble Justice G.Ramanujam V.C. and Hon'ble Ajai Johri A.M. (because certified true copy was neither sent to him by court nor supplied to him on several request made by massangers ~~xxxxx~~ sent by him) which proved that the case was fixed for 30.3.1987.

(5) That any change in hearing without prior intimation to the petitioner, caused him a monetary loss of Rs.500/- which may be awarded to him as cost.

(6) That the main issue involved that the T.As (Tax Assistants) should be considered senior to those of U.D.Cs (Upper Division Clerks) in the Income Tax Deptt.

Syed Mohd Reza Kazmi ----- Applicant
Versus
Central Board of Direct Taxes
Chief Commissioner (Admn) Income Tax ---- Opposite Party
Lucknow

.....2/-

has already been accepted by the Central Board of Direct Taxes vide para '2' of its letter F.No.A-32011/8/84-Ad.VII dated 12.7.85 (copy enclosed) which is also binding upon Chief Commissioner(Admn)U.P. & Commissioner of Income-tax, Lucknow because T.As has been given a higher scale than those of U.D.Cs (old scale - T.As - ₨.380-640; UDCs- ₨.330-560) (New scale - T.As - ₨.1350-2200; UDCs - ₨.1240-2000).

Moreover this has further been clarified by giving order of seniority in Board's letter F.No.B-12017/2/84-Ad.VII dated 1.10.1985 (copy enclosed).

(7) That therefore the norm fixed for H.C's (Head Clerk's) promotion that the seniority list is prepared of both the cadres viz that of T.A's and U.D.C's, together having taken their length of service in U.D.Cs cadre is anomalons, unjust and inequitable and should be decided immediately on facts of the case without giving further opportunity to the department.

(8) That it is further submitted that the UDCs are also promoted as T.A. first, if they are so qualified (that they have secured at least 40% marks in three papers of Income Tax Inspector's examination out of six papers) and then they are promoted as H.C. but if they could not attain prescribed qualification for promotion to T.A's post, they are promoted direct as H.C. by virtue of their length of service in U.D.C's cadre.

(9) That late decision will adversely, affect my client because he can not be permitted to appear in I.T.O's (Income Tax Officer's) Group 'B' Examination 1987 to be held in June, 1987.

(10) That my client has passed Departmental Examination for Income Tax Inspector's long back in 1977 and could not be allowed to appear in I.T.O's Group 'B' examination so far only because he had not been promoted as H.C. till this date due to anonolons rule of promotion for H.C's cadre.

.....3/-

(27) RY 15

(11) That in this way my client is being subjected to monetary loss also which he would have gained for passing departmental examination of ITO's Group 'B' and for promotion in H.C's cadre.

(12) That in view of the above mentioned facts it is submitted that my client may be allowed to appear in departmental examination for ITO's group 'B' examination is passing of departmental examination for Income-tax Inspector's which my client has passed in 1977.

(13) That the next date of hearing fixed i.e. 1.5.87 by the Hon'ble Court is inconvenient to the petitioner because his counsel will have to face a lot of trouble due to his pre-engagements and also for RAMZANUL MUBARAK. Therefore the next date may kindly be given either sometime before 28.4.87 or in the month of June.

Yours faithfully

Dated:

Counsel for the petitioner

Syed. Zafar Mehdi Kazmi
M.A.LL.B (Advocate)

Copy to:-

1. Deputy Registrar, Central Administrative Tribunal, Allahabad.
2. The Chief Commissioner(Admn) U.P. & Commissioner of Income-tax, Lucknow.

Counsel for the petitioner

Syed. Zafar Mehdi Kazmi
M.A.LL.B (Advocate)

Encl I

IN THE COURT OF CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH ALLAHABAD

Registration No. 125 of 1987

Syed Mohd. Raza Kazmi - Applicant

versus

Central Board of Direct Taxes and Chief Commissioner (admn) U.P. & CIT Lucknow - Respondent

Present:

Hon. Justice G. Ramanujam V.C
Hon. Ajay Johri A.M.

ORDER

Applicant is present in person. Though the application appears to be barred by time under section 21 of the Administrative Tribunal Act the applicant had given reasons for the delay. According to him he had applied for the permission to the Commissioner Income Tax for filing application before this Tribunal as contained in the conduct Rules. His application was rejected only in January 1987. Though no such application is necessary since the applicant has taken bonafide steps before the commissioner seeking

Encl 3

IN THE COURT NO. 1 CENTRAL ADMINISTRATIVE TRIBUNAL
BANCH. 23A THORNHILL ROAD ALLAHABAD
Registration No. 125 Case No. 105/87

Syed Zafar Rizvi Kazmi ... Petitioner VERSUS

Union of India & Others ... Respondents

ADMINISTRATIVE

Annexure No. 1

Central Board of Direct Taxes
Chief Commissioner of Income Tax (Admn.) Income Tax Office
Aayakar Bhawan, Rafi Marg, New Delhi

Copy of letter No. A-32015/18/84-Ad VII dated the 12th July, 1985 received from Regional Director of Income Tax (Inspection) Central Board of Direct Taxes, Kanpur.

Subject: Departmental candidates for the post of Inspector of Income Tax - Revised instructions regarding consideration thereof.

Sir,

I am directed to refer to the Board's letter F.No. 69/5-9/73-Ad. VII(A) dated the 19th November, 1973 regarding preparation of the list for consideration by the D.P.C. for promotion to the grade of Inspector of Income Tax. The instructions contained in para 3 of the aforesaid letter provide that the qualified persons are arranged in order of seniority based on length of service in the grade of UDC or Stenographer and only the persons confirmed in the higher grades are placed above those in the lower grades. Within each of the categories, persons officiating in the higher grades have been placed above those officiating in the lower grades.

2. The existing practice for preparing the list for consideration of promotion has been made in the context of General Principles of Seniority laid down by Ministry of Home Affairs in their O.M. No. 9/11/55-RPS dated the 22nd Dec. 1959. It has been pointed out that existing practice is among other things, likely to lead to supersession of persons who were confirmed in the lower grades earlier than their colleagues who were confirmed in the higher grades later. The instructions contained in Board's letter No. 69/59/73-Ad VII dated 19th Dec. 1973 have been issued to bring the practice in regard to General Principles of Seniority in conformity with the General Principles of Seniority. According to these instructions, persons officiating in the higher grades are to be treated as senior to those who are officiating in the lower grades.

The revised instructions will be applicable only with effect from the date of issue of this letter. Past cases need not be reviewed. Consequential action in view of the revised instructions on all earlier orders/instructions in the matter may be taken by the Chief Commissioners of Income Tax.

Please acknowledge receipt of this letter.

Yours faithfully,

Sd/- Rural Singh
(Rural Singh)
Under Secretary
Central Board of Direct Taxes

True Copy

Advocate

Syed Zafar Mehdi Kazmi
M.A., L.L.B (Advocate)

(30)

Central Administrative Tribunal Administrative Branch
23, Thornhill Road, ALLAHABAD

ब अदालत श्रीमान ____ महोदय

Syed Mohd Raza Kazmi V/S C.T.D. Board, Chief Commissioner
[वादी] अपीलान्ट (Admn) Income Tax office Ashok Marg Lucknow

श्री ____ का

प्रतिवादी [रेस्पान्डेन्ट]

वकालतनामा

Central Board of Direct Taxes, Chief Commissioner (Admn), Income Tax, Ashok Marg, Lucknow

Syed Mohammad Raza Kazmi

COURT FEE 5 Rs. भारत INDIA Zafar Mehdi Kazmi FIVE RUPEES

Syed

वादी (अपीलान्ट)

Syed Mohammad Raza Kazmi
Tax Assistant A.D.I. Section
Income Tax office Ashok Marg Lucknow

बनाम प्रतिवादी (रेस्पान्डेन्ट)

मुकदमा नं० 108 सन् 1987 पेशी की ता० March 30 १९८७ ई०

ऊपर लिखे मुकद्दमा में अपनी ओर से श्री Syed Zafar Mehdi Kazmi

Syed Zafar Mehdi Kazmi
M.A.LL.B (Advocate)

31/365, Hata Silera Begum Allahabad

वकील महोदय एडवोकेट

Central Administrative Tribunal Allahabad
नाम अदालत
मुकद्दमा नं० नाम 108/87 C.T.D.B. Syed Mohd. Kazmi
फरीकैन Income Tax Lucknow बनाम

को अपना वकील नियुक्त करके प्रतिज्ञा (इकरार) करता हूँ और लिखे देता हूँ कि इस मुकद्दमा में वकील महोदय स्वयं अथवा अन्य वकील द्वारा जो कुछ पैरवी व जबाबदेही व प्रश्नोत्तर करें या कोई कागज़ दाखिल करें या लौटावें या हमारी ओर से डिगरी जारी करावें और रुपया वसूल करें या सुलहनामा व इकबाल दावा तथा अपील निगरानी हमारी ओर से हमारे या अपने हस्ताक्षर से दाखिल करें और तसदीक करें या मुकद्दमा उठावें या कोई रुपया जमा करें या हमारी या विपक्षी (फरीकासनी) का दाखिल किया हुआ रुपया अपने या हमारे हस्ताक्षर युक्त (दस्तखती) रसीद लेवें या पंच नियुक्त करें—वकील महोदय द्वारा की गई वह सब कायंवाही हमको सर्वथा स्वीकार है और होगी मै यह भी स्वीकार करता हूँ कि हर पेशी पर स्वयं या किसी अपने पैरोकार को भेजता रहूँगा अगर मुकद्दमा अदम पैरवी में एक तरफ मेरे खिलाफ फैसला हो जाता है उसकी जिम्मेदारी मेरे वकील पर नहीं होगी इसलिए यह वकालतनामा लिख दिया प्रमाण रहे और समय पर काम आवे।

Accepted

Syed. Zafar Mehdi Kazmi
M.A.LL.B (Advocate)

Syed Mohd. Raza Kazmi
हस्ताक्षर

साक्षी (गवाह) ____ साक्षी (गवाह) S.M. Mehdi

दिनांक 30 महीना 3 सन् १९८७ ई०

Presentation through Deputy Registrar Central Tribunal Allahabad

(51)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL ADMINISTRATIVE BENCH ALLAHABAD

Case Registration No:- 125 of 1987

Fixed for May, 1, 1987

SYED MOHD RAZA KAZMI (TAX ASSTT) IN BETWEEN CENTRAL BOARD OF DIRECT TAXES

A.D.I. SECTION, INCOME TAX, LUCKNOW VERSUS CHIEF COMMISSIONER (ADMN) INCOME TAX-DEPARTMENT, LUCKNOW.. O.P

51/365 HATA SITARA BEGUM, HARDOI MARG, LKO APPLICANT

REF:- Application 4/3/87, request for any Positive Order for June, 1987 Exam's appearing for "IN COME TAX OFFICER, GROUP-B's 1987 Exam

---

That it is submitted for Court's order for above as:-

1) That the Prescribed for appearing in Income tax Officer, Group 'B' Examination is only Qualified personal of departmental Inspectors, not those of unqualified Inspector's Examination but over the Head Clerk's promotee.

2) That since the Petitioner above had already Qualified departmental Examination year, 1987, Since then not permitted for appearing in Qualifying departmental Income Tax Officer Group 'B' Examination because lacking Shortage of Income tax Inspectors vacancy and hence being promoted in superior Post and higher Scale & they than U.D.C's could be promoted as Head Clerk while certain Non Qualified even in three papers of Inspectors Examination out of six Qualifying Inspectors Exam before. Promotees personal. Whereas applicant not promoted He is not allowed to appear in last Income tax officer's Exam i.e. of 1986

3) That this bar for prohibiting to appear in Qualifying Income tax officer Group 'B' Examination is not just defective and bad in law. Contrary to the justice said circumstance for lacking efficiency of work.

Therefore it is prayed that this Hon'ble Tribunal pass some positive order on this application directing Chief Commissioner, (Admn) Income tax Lucknow to allow to appear in Comming June, 1987, INCOME TAX OFFICER'S GROUP-B. Examination of 1987.

Allahabad Dated 28-4-1987

N.B:- O.P. Additional Copy is also with this application.

Counsel for Petitioner

(Syed Zafar Mehdi Kazmi)
Advocate, Lucknow.

Presented on the day of Deputy Registrar Central Tribunal Allahabad

(32)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD

Case Registration No. 125 of 1987 Fixed for March 1, 1988

IN BETWEEN

SYED MOHD RIZA RAZVI (TAX ASSTT) CENTRAL BOARD OF DIRECT TAXES

A.D.I. SECTION, INCOME TAX LUCKNOW VERSUS CHIEF COMMISSIONER (ADMN) INCOME TAX DEPARTMENT LUCKNOW U.P

31/365 HATHI JITAKA Be GULHINDAMARG, UNO. RESPONDENT

REF:- Application 13-6-87 regarding for any positive decision for June 1987 Exam appearing for INCOME TAX OFFICER GROUP B 1987 Exam

---

That the petitioner for consideration that

1) That the Prescribed for appearing Income Tax Officer Group B Examination is only qualified personal of departmental Inspectors while the qualified Inspectors Examination have the Head Clerks promoted.

That Since the Petitioner above had already qualified departmental Exam in the year 1987, Since then no [illegible] for appearing in qualifying appear [illegible] Income Tax Officer Group B Examination because lacking Shortage of Income Tax Inspectors vacancy and hence being promoted in Superior Post and higher Scale Staff than U.D.C's could be promoted as Head Clerk while certain Non qualified even in the papers of Inspectors Examination out of service qualifying Inspectors Examination Principles personal Since applicant not promoted he is not allowed appear in last Income Tax Officer Exam '87 of 1986.

That there bar for not allowing to appear in qualifying Income Tax Officer Group B. Examination is not just effective and beneficiary to the Petitioner and circumstance for lacking efficiency of duties.

Therefore it is prayed that the Hon'ble Tribunal pass some positive orders on the application directing the Chief Commissioner, (Admn) Income Tax Lucknow to allow the applicant in forthcoming June 1987's INCOME TAX OFFICERS GROUP B Examination of 1987.

Allahabad Dt. 23-6-1987

NB. U.P. Application copy is also with the application.

Counsel for Petitioner

(Syed Zafar Hafeez Kazmi)

Advocate

AB/1 (33)

COMMISSIONER FOR OATHS 1987 CIVIL AFFIDAVIT 56 HIGH COURT ALLAHABAD

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL.

ADDITIONAL BENCH: ALLAHABAD

C O U N T E R A F F I D A V I T

I N

REGISTRATION NO. 125 OF 1987.

Syed Mohd. Raza Kazmi.

------ Applicant.

Versus

Central Board of Direct-Taxes,
and Chief Commissioner(Admn.),
U.PP & C.I.T. Lucknow

----- Respondent.

COMMISSIONER FOR OATHS Civil Allahabad

Affidavit of H. D Singh

aged about 46 Years, son of

Late S. Nand Singh

at present posted as Income-tax Officer (HQs)(Admn), Lucknow.

(Deponent)

I, the abovenamed deponent do hereby solemnly affirm and state on oath as Under :-

Received copy of Counter through Mr R. P. Singh Advocate Junior to Sri A. K. Singh S.S. Standing Counsel in Tribunal 29/4/87

1. That the deponent is at present posted as Income Tax Officer (Hqrs)(Admn.) and has been authorised to file this counter affidavit on behalf of the respondent and as such he is well acquainted with the facts of the case deposed to below.

2. That the deponent has read the contents of the application filed by Syed Mohd. Raza Kazmi and its annexures and has under-stood the contents of the same.

3. That before giving parawise reply to the application, it is necessary to give some brief facts for just decision of the case, which is as follows :-

(a) That it may respectfully be submitted that the application filed by the applicant is barred by jurisdiction as the applicant has failed to implead Union of India as a party. Instead of Union of India he has impleaded the Chief Commissioner (Administration) & Commissioner of Income-Tax, ~~Delhi-I, New Delhi~~ directly, who in fact, has no legal duty of his own and cannot be

moved under the Administrative Tribunal Act directly. As such the aforesaid application is liable to be dismissed in limine itself .

3(b) That the aforesaid application suffers from lots of legal infirmities. Besides it is barred by jurisdiction as already submitted above. It is untenable in law as the application is not against any order/ final order whatsoever, which is ~~xxxxxxxxxxxxx~~ a pre-requisite statutory requirement of the Act. Instead of applicant has ~~e~~mentioned Non-Gazetted Ministerial Posts Recruitment Rules 196 . As such the said application merits dismiss forthwith without any further consideration .

3(c) That the application under reply is bad in law being not in accordance with the provisions of the administrative Tribunal Act, as the applicant has come to this Hon'ble Tribunal without exhausting departmental remedies available to him and duly admitted by him in paragraph '9' of the application. In fact the applicant should have approached or represented to the Central Board of Direct Taxes, which is the rule framing body for this purpose and only after exhausting this channel he should have approached this Hon'ble Tribunal. It is paramount pre-requisits and statutory condition of the ~~xxxxxxxxx~~ Administrative Tribunal Act. The

applicant should first ~~xxxx~~ exhaust all the remedies available to him and only then apprach this judicial forum. From this it is clear that the aforesaid application is frivolous and as such merits to be rejected forthwith without any further consideration so ~~as to~~ act as a deterrent to the ~~xxxxxx~~ vexatious litigation.

3(~~c~~) That the applicant has no prima facie case as is apparent from the contentions raised by him in his application and if the plea of the applicant accepted then the promotion prospects of the entire cadre of Upper Division Clerks whose strength is twice the number of Tax Assistans will be deemed for even and a person who joins as an Upper Division Clerk will retire as Upper Division Clerk even after rendering long service of 30 to 35 years in the department. As such the said application merits dismissal in limine itself without any further consideration.

4. That the contents of paragraphs 1, 2 and 3 of the application are matters of record and wants no reply from the deponent.

5. That in reply to the contents of paragraph 4 of the application it is stated that the answering respondent has already submitted by way of preliminary objections that the aforesaid application filed by the applicant is abrred by jurisdiction being premature as the applicant has approached this Hon'ble Tribunal without exhausting the departmental channels by way of remedies as prescribed in the Act. Secondly, it is barred by jurisdiction, because the Chief Commissioner (Administration) has no legal santity of his own and can not be moved directly except through the Union of India, which the applicant has to make/implead as a party. As such the ~~xxxx~~ aforesaid application filed by the applicant is liable to be dismissed forthwith.

6. That the contents of paragraph 5 of the application are not admitted. It is submitted that since the aforesaid application is premature and untenable in law and already submitted by way of preliminary objections it merits dismiss also as stated in the foregoing paragraphs of this affidavit.

7. That the contents of paragraph 6(i) of the application being matter of record hence need no reply by the deponent.

8. That the contents of paragraph 6(ii) of the application are matters of records need no reply. However, it is submitted for the sake of clarification that the promotions to the cadre of Tax Assistants are governed by instructions of Central Board of Direct Taxes contained in their letter No. 11013/29/75-Admn-VII dated 31.3.1978. A true copy of the aforesaid letter of Central Board of Direct Taxes dated 31.3.1978 is being filed herewith and marked as ANNEXURE NO. C.A. I to this counter affidavit.

9. That the contents of paragraph 6(iii) of the application are matters of record and the instructions of the Central Board of Direct Taxes regarding Employment of Tax Assi tants are contained in letter dated 31.3.78 has already been filed as annexure-CA-I to this counter affidavit.

10. That in reply to the contents of paragraph 6(iv) of the application it is stated that for promotion to the Cadre of Head Clerk the Tax Assistant

at par with the Upper Division Clerks. In this connection instructions of the Central Board of Direct Taxes contained in their letter No. A-32011/3/82/Ad.VII dated 26.3.82 are being followed. A true copy of the aforesaid letter/Instructions dated 26.3.1982 issued by the Central Board of Direct Taxes are being filed herewith and marked as ANNEXURE NO. C. A. II to this counter affidavit.

11. That the contents of paragraph 6(v) of the application are not addmitted. However, it is submitted that if this plea of the applicant is accepted then the promotion prospects of the entire cadre of Upper Division Clerks whose strength is twice the number of Tax Assistants will be doomed for ever and a person who has joined as Upper Division Clerk will retire as Upper Division Clerk even after rendering 30 to 35 years of service in the department. It is further submitted that the posts of Tax Assitants have been created to deal with certain aspects of clerical work, particularly in the companies and investigation circles. Further, Tax Assistants are appointed on the basis of their limited performance in Inspector Examination. Thus promotion to the cadre of Tax Assistants does not give them any right to seniority. To become Tax Assistant an Upper Division Clerk has to secure 40% marks in I.T. Law I & II, other taxes and

Office Procedures. He did not obtain any minimum marks in Book-Keeping. It is for this purpose only he is treated as Senior to Upper Division Clerk in promotion to the cadre of Inspectors. If the plea of the applicant is accepted an an Upper Division lerlk, who secures 40% m marks in these papers will become senior whereas an Upper Division Clerk who does not appear in the examination and waits for promotion on seniority basis will never get promotion on seniority basis. Non-appearence in department -al examination should not take away the right of an other -wise capable and efficient Upper Division Clerk for promotion. Whereas the Inspectors posts are executive one, the post of a Head Clerk is Supervisory. It is only because of this distinction, that a Tax Assistant is considered senior for promotion to the dadre of Inspector and seniority in the cadre of Upper Division Clerk is followed for promotion to the cadre of Head Clerk. Further promotions to the cadre of Supervisor Grade-II and Grade-I are m make from the cadre of Head Clerks and if all qualified Tax Assistants are promoted to the cadre of Inspectors, then the Department may be left with no supervisor, as the post of Grade-I Supervisor carries higher scale than Inspectors and no Inspector can be promoted to Supervisor Grade-I as the post of an Inspector is an Executive post. Keeping these facts into consieration, the rules have been framed separately for promotion to the cadre of Head Clerk and Inspector.

12. That in view of the factual and legal submissions made by the applicant in paragraph 7 of the application no relief whatsoever is prayed for by the applicant is admissible to him. Rather the application itself merits dismissal forthwith without any further consideration. As already submitted in the foregoing paragraphs above no provisions of Article 14 and 16 of the Constitution of India have been violated. Rather the contention raised by the applicant is unfounded, untenable and uncalled for and if this plea of the applicant is accepted then promotion prospects of the entire cadre of ~~xxxxxxxx~~ Upper Division Clerks whose strength as already submitted above, is twice the number of Tax Assistants will be doomed for ever and an Upper Division Clerk even after rendering 30 to 35 years of service will retire ~~xx~~ as Upper Division Clerk itself.

13. That in view of the factual and legal submissions made above no interim relief whatsoever as prayed for by the applicant in paragraph 8 of the application be granted to him rather the application itself merits dismissal forthwith being frivolous and ve~~x~~atious.

14. That the contents of paragraph 9 of the application are not admitted. It is stated that as already submitted by way of preliminary objections and duly admittedby the applicant in para under reply, the applicant has not exhausted the departmental remedies and as such the aforesaid application is bad in law and merits dismissal being premature, hence not maintainable.

15. That the contents of paragraphs 10,11 and 12 of the application are matters of record hence needs no reply by the deponent.

16. That in view of the factual and legal submissions made above, it is prayed, that the aforesaid application be dismissed with costs in favour of the answering respondent so as to act as a deterrent to frivilous and vexatious litigation.

That the contents of paragraphs 1, 2, 3, of this affidavit are true to my personal knowledge; and those of paragraphs 3A, B, C, 4 to 10 of this affidavit are based on records; and those of paragraphs 11 to 16 of this affidavit are based on legal advice; which all I believe to be true that no part of it is false and nothing material has been concealed.

SO HELP ME GOD.

DEPONENT.

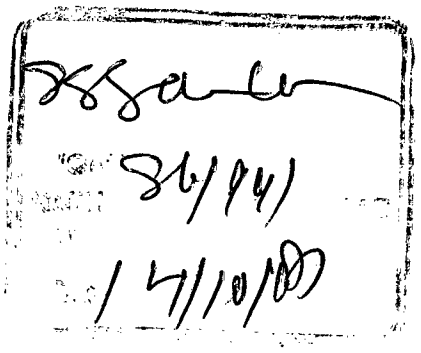
I, V.P.Tripathi, Clerk to Sri N.B. Singh, Senior Standing Counsel, High Court, Allahabad do hereby declare that the person making this affidavit and alleging himself to be the same person is knonw to me through the papers produced by him in this case.

V.P. Tripathy
CLERK.

Solemnly affirmed before me on this 14th, day of October, 1987, at 9:45 A.M. ~~P.M.~~ by the deponent, who has been identified by the aforesaid person.

I have satisfied myself by examining the deponent, who has been identified by the aforesaid person.

OATH COMMISSIONER



AF/12 (44)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL?.

ADDITTONAL BENCH ALIAHABAD

ANNEXURE NO (I)

IN

COUNTER AFFIDAVIT

IN

REGISTRATION NO 125 OF 1987.

Syed Mohd. Raza Kazmi.....Applicant .

Versus

Central Board of Direct -Taxes
amd Chief Commissioner (Admn)
U.P.& C.I.T. Lucknow

.....Respondent.

F No A 11013/29/75-Ad Vii
Government of India
Mimistry of Finance
(Department of Revenue)

New Delhi the 31 at March 1978

To,

A;ll Commessioners of Income-ta x

Sub: Creation of the cadra of Tax Assistants in the Incoms Tax Department .

Sir,

I am directed to say that the Direct Taxcs enquiry committon had recommended in para 6.45 of their report that a now cadre of Tax Assistants should be created in the Income tax Depart ment by Upgrading 1/3rd of the cadre atrength of Upper Division Clerks with a view to provide more experienced and compatent Ministerial staff to deal with important appects pf clercak work particularly in the companies and investigation circlon . The staff side had also raised this matter in the Departmental Council of the Ministry of Finance. After careful consideration it has now been decided to create 4 .148 posts of tax Assistants in lieu of cqual nmmber of posts of upper Division Clerks which would stand abalished 88 and when the posts of Tax Assistants are filled up in the respectied Charges.

2. The cadre of Taxx Assistants will be an intormediary cadre between those of UDCs and Head Clerks. The post of Tax Assistants would carry higher duties and responsibilities as compared to those entrased to UDCs. There may be no objection to the work of Tax Assistants being supervised by Head Clerks Wherever necessary. The scale of pay of the post of Tax Assistant will be Rs 380 -12-440 -EB-15-560-EB -20-6440- and will be ~~Assistantxxxxx~~ classified as Group 'C' (ministerial) . The posts shall be filled entirely by promotion from the cadre of Upper Division Clerks. on selection basis on the recommendations of duly constituted DPC. Only those UDCs who have rendered a minimum service of 3 years in that grade in the Department and who have secured at least 40%-marks

in the following subjects in the Income-Tax Inspectors Departmental Examination will be cliqible for consideration for promotion to the post of Tax Assistants.

1. Income-Tax Law-I
2. Income-tax Law-II
3. Other Direct Taxes
4. Office Procedure-

For Purpose of reckoning 40% marks, the marks obtained in income-taz Law-I and it is not necessary to have secured 40% in each ~~xxxx

for consideration for promotion by xthe = standard mentioned above, on the basis of the records available with them and put it up on the notice b oard (s) for general information of all concerned well before the DPC meeting . Candi ates who consider in the list of eliqible officials should submit their claimd for consideration alongwith documentary proof in support of their claim to the kixx commissioners of Income tax within 15 days fro m the date the list of eliqible candidates has been displayed on the notic Board - The Commissioner of xkx income-tax shall consider such representations expeditioneral in consultation with the Director of Inspection (II6A) New Delhi if necessary before drawing up the final list of eliqible candidates to be placed before the DPC.

3. The insention behind the creation of the new cadre of Tax Assistants, as already indicated in para 1 above is to provide more experienced and more commxetent Pinisterial Staff to deal with the important aspects of clerical work in the Income -tax Department .

The question of the actual deployment Tax Assistants has been considered and it has been decided that as far as possible they should be posted not only in the commanies and investigation Circles but also in other Income tax circles such as Central Special State Duty Chief Auditor Intelligence Units Internal Audit parties Special Audit Parties Judicial Branches and other Important revenue circles. The remaining areas of work would continu to be manned by the cadres of Upper Division Clerks.

4. The sapction of the President is accordinqly conveyed:

i. to the creation of 4,148 posts of Tax Assistants in the allowances in the Charges mentioned in the Annexure to this letter with effect from the date(s) those posts are failled and upto the 28th February 1979 in the first instances and

(ii) to the abolition of 4, 148 posts of Upper Division Clerks mentioned in the Annexure from the date (s) the posts of Tax Assistants are filled.

5. The additional expenditure involved should be not from the sanctioned budget grant of the respected charges for the finanecial year 1978.79 and the grants to be sanctioned for the subsequent years.

6. This issues with the conqurrcnce of the Intograted finance vide their UO F . No. 303 /FA/78 / dated 17.3.78 and the Department of Personnel and A.R. vide their UO. No 1292/78 Estt (B) dated 23-3-1978.

7. Please knowledge recd pt of this letter. Hindi Version will follow.

Yours faithfully .

sd/-

(T.JACAB)

D eputy Secretary to the Govt. of India.

AS 20 (52)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL .

ADDITIONAL BENCH ALLAHABAD.

ANNEXURE NO (II)

IN

COUNTER AFFIDAVIT

IN

REGISTRATION NO 1250F 1987.

Syed Mohd. Raza Kazmi .....Applicant.

Versus

Central Board of Direct .-taxes
and Chief Commissioner (Admn)
U.P.&C.I.T. Lucknow

.....Respondent.

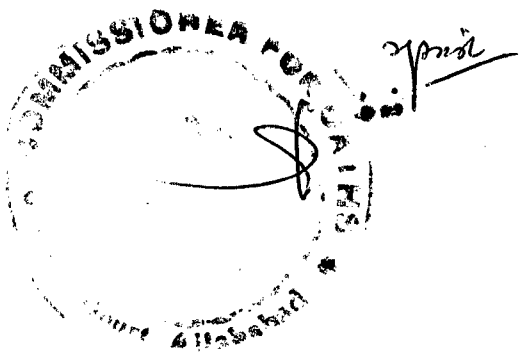
F.No A- 32011 /3/82/Ad. VII
Government of India

Central Board of Direct Taxes

New Delhi, the 26th March 82

To,

All Commissioners of Income tax.



Sub: Promotion Promotion to the post of Head Clerks-Regulation of seniority of UDC Tax Assistans for the purpose of Clarification regarding.

Sir,

I am directed to refer to Bo ard's letter No A-32/11/31/78/Ad.II dated 27.9;1978 on the above subject and to saybthat as stated there in, the position has been reviewed and it has been decided that the statusque will contunue to be observed i.e. promotion to the grade of Head Clerk should be made from UDC cadre and the Tax Assistantss should also he considered by virtue of their seniority in that cadre irrespective of the fact that the Tax Assistant are have been confirmed in that grade.

yours faithfully.

sd /-

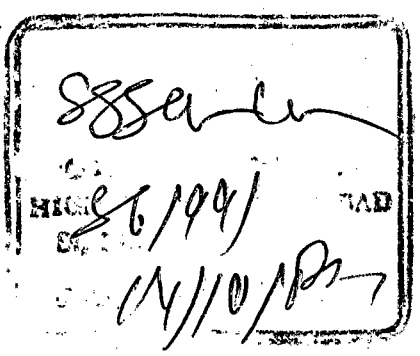
(RISAL SINGH)
UNDER SECRETARY.

Central Board of Direct Taxes.

Copy for information to :-

The General Secretary Income-tax
employees Federation.

Sd/-
(RISAL SINGH) UNDER SECRETARY?
C.B.D.T.



Before the Central Administrative Tribunal
Allahabad.

Registration no. 125 of 1987.

Fixed for 20-10-1987.

Syed Mohd. Raza Kazmi .... Plaintiff.

Versus

Central Board of Direct Taxes
and Chief Commissioner(Admn.)
U.P. & C.I.T., Lucknow. .... Respondents.

It is submitted on behalf of the Counsel for the petitioner as under :-

That this hon'ble court has assured that the decision will be pronounced by the Hon'ble court as soon as the Counter Affidavit is filed by the respondents. Therefore, it is submitted that the Counter Affidavit has since been filed by the respondents and the replification Counter Affidavit is being enclosed and also the same has been served to the Chief Commissioner(Admn), U.P. & Commissioner of Income Tax, Lucknow, the decision may very kindly be favoured before 26.10.87, the date of ensuing DPC for promotion of Head Clerks' failing which the plaintiff will suffer irrepareable loss by missing chance of appearing in I.T.O.'s group 'B' exam. of 1988.

Dated: 16/10/87

Syed Jafar Mehdi Kazmi,
M.A.,LL.B (Advocate)
Counsel for the petitioner

Received copy
R.P. Singh Advo.
for Sri N.B. Singh
S.S.C
20/10/87

A/7
56

RA

Before the Central Administrative Tribunal
Allahabad.

Affidavit under counter replification on behalf of plaintiff.

In

Registration no. 125 of 1987.

Fixed for 20-10-1987.

Syed Mohd.Raza Kazmi ... Plaintiff.

Versus.

Central Board of Direct Taxes
and Chief Commissioner (Admn.)
U.P.& C.I.T.Lucknow. ... Respondents.

Affidavit of Shri Syed Mohd.Raza Kazmi aged about 38 years S/o Late Syed Hafiz Husain R/o Hata Sitara Begum Hardoi Road,Lucknow employed as Tax Assistant in the Income-tax Department in Lucknow's Commissioner Charge.

Deponent.

I Syed Mohd.Raza Kazmi the deponent do hereby solemnly affirm and state as follows :-

1. That the deponent is at present posted as Tax-Assistant in Income-tax Department in Commissioner's Charge Lucknow and is filing this counter replification affidavit in the status of plaintiff and as such is well acquainted with the facts of the case deposed below.

2. That the deponent has read the contents of the counter-affidavit and annexures filed by Shri H.P.Singh I.T.O.(HQ) Admn. Office of the Chief Commissioner (Admn.) U.P. and C.I.T.Lucknow on behalf of the respondents and has understood the contents given therein.

3. That the contents of para-3(a) and 3(b) of the counter affidavit are denied(See additional pleas). That the contents that the application is barred by jurisdiction because the applicant has impleaded Chief Commissioner(Admn.) & Commissioner of Income-tax Lucknow directly instead of impleading Union of India

Syed Mohd. Raza Kazmi

(Contd.....2)

as a party and also because the application is not against any order/final order,are misconceiving and liable to be rejected because the application has been filed against a final order F.No.46(Sa) Pado/37 dated 7-3-84 promoting Smt.Chhama Jaiswal a Junior Tax Assistant,as Head Clerk and the order was passed on behalf of C.C.(Admn.) U.P.& C.I.T. Lucknow and it had mentioned nowhere the Union of India. However, whenever any authority of Union of India is referred it is implied that the Union of India is being referred unless the authority is being accused for its personal action and because the action for which C.C.(Admn) U.P. & C.I.T.Lucknow,Chairman C.B.D.T.New-Delhi has been impleaded are the action done on behalf of Union of India, it is understood that neither the C.C.(Admn.) U.P. & C.I.T.Lucknow nor the Chairman CBDT New Delhi in person has been impleaded but the Union of India through them. Moreover once this Hon'ble Court has been pleased to register the application of the plaintiff after going through the merits of the case in the open court on 19-2-87 and the respondents did not raise any objection in the knowledge of the plaintiff before filing this counter affidavit(which has been served upon the plaintiff~~petition~~ on 15-10-87) during a period of about eight months does not deserve to be maintained at this stage and is liable to be rejected forthwith.

4. That the contents of para 3(c) of counter-affidavit have no merits and are liable to be rejected emphatically because the established principles cannot be changed for the mass. Moreover the career of U.D.Cs will not be blocked if the right principle that the persons holding senior post i.e.of T.A.will be promoted as Head-Clerk because they will have a chance of promotion as T,A.and so on in their hand and the practice so exists if the U.D.Cs attain minimum qualification prescribed for T.A. they are promoted as T.A.within a period of about ten years and the question of their being retired as U.D.C.does not arise.

Syed Mohd. Razakazmi

5. That the contents of paragraph '4' of the counter affidavit needs no reply.

6. That the contents of paragraph '5' of the counter affidavit are based on falsehood because no objection whatsoever was ever brought to the knowledge of the plaintiff before this counter-affidavit which has been served upon him as late as on 15-10-87 at about 4.30 P.M. in the office of the C.C.(Admn.) U.P. & C.I.T.Lucknow. However demerits of the contents of this paragraph have been discussed at length in paragraph '3' of this replification counter affidavit.

7. That the contents of paragraph '6' of the counter affidavit are denied and need no reply because it has been covered in the preceding paragraphs of this replification counter affidavit.

8. That the contents paragraph '7',' 8' and '9' of counter-affidavit needs no reply.

9. That the contents of paragraph 10 of counter-affidavit are denied to this extent that there is no paragraph 6(iv) in the application. However this is the primary objection that the T.As are taken at par with the U.D.Cs when the post of T.A.has been considered an upgraded post than the post of U.D.C.vide letter F.No.A-11013/29/75-Ad.VII dated 31.3.78 and therefore it is humbly requested that the directions contained in letter No.A-32011/3/82/Ad.VII dated 26.3.82 which denies justice to the T.As should be quashed forthwith. It may be further submitted that not a single promotion in the Income-Tax Department is given from a lower cadre to a higher cadre leaving a intermediatry cadre except from U.D.C.to H.C. leaving intermediatry cadre of T.A.

10. That the contents of paragraph '11' of the counter affidavit are misconceiving and have no merit in as much as that the U.D.Cs get promotion as T.A. in about ten years if they so qualify and the question of their retirement to the same post does not arise.

Syed Mohd. Raza Kazmi

(Contd...4)

How funny it is that a department where there are examples that the L.D.Cs who do not pass departmental examination retire as L.D.C. and Inspectors who do not pass I.T.O's Examination(next higher cadre) retire as Inspector, is watching only the fortune of particular cadre of U.D.Cs which will make the fact crystal clear that it is nothing but to resist upon the deliberate wrong doing. After going through the facts narrated in the paragraph '11' of the counter-affidavit it will become clear that the respondents are accepting that the T.As are better qualified even than those of H.Cs what so say of U.D.Cs therefore justice demanded that their cadre should either be treated superior than those of H.Cs or at par at least to those of H.Cs. Instead they are not being given advantage of promotion over U.D.Cs of longer length of Service. The respondents have tried to win in favour of the Hon'ble Court by stating that non-appearance in departmental examination should not take away the right of an otherwise capable and efficient U.D.C. for promotion It may be submitted here that what other yeardstick is there with the department where qualifying examinations are existing to judge the capability and efficiency of the U.D.Cs and if the department is sympathised enough and can judge the capability and efficiency of the employees without holding an examination then what for these examinations are existing and why a peon does not get promotion of L.D.C. U.D.C, T.A., H.C. and Inspector and I.T.Os by virtue of his length of service. It may be further submitted that the authorities above (Board) does not cry when the Class II ITOs having served for years to the Department and after showing their maximum utility for the Department by passing Departmental Examination of highest order i.e. of I.T.Os Group 'B' are not promoted as Asstt.Commissioners and newly recruited Class I, I.T.Os who learn even the A B C of the Department from the officials of Ministerial cadres and sometimes happen to be like the children of class II I.T.Os are promoted as Asstt.Commissioners only because the intermediatry cadre for promotion of Asstt.Commissioners is the post of class I, I.T.O. It is again a lame excuse and misleading that the Tax Assistants if promoted as H.C. will get their next promotion as Inspector and the post of Supervisor Grade II and Grade I will become extinct. It may be submitted here that only those Tax Assistant promoted as Head Clerk who qualify in all the six papers of Departmental Examination of Inspectors by scoring a

OATH COMMISSIONER 1987 L.P. Chaurasia Date 2 Civil Court Lucknow 16/X/87

Syed Mohd. Raza Kazmi

(Contd...5)

mininum marks of 50% are promoted as Inspector and the T.As who only qualify for T.A's post if promoted as H.C. and do not qualify Deptt.Examination for Inspectors can only be promoted as Supervisor grade II and grade I. Moreover an U.D.C. who has been promoted as H.C.by virtue of his length of service (as the practice exists) if become conscious in his departmental life and passes deptt.examination for Inspectors is promoted as Inspector and not as Supervisor grade II or grade I. The existing practice is bringing lithargicness in U.D.Cs and disheartening departmentally qualified persons - T.As, who have qualified Inspectors examination like the plaintiff, because they are not suitably rewarded.

11. That the contents of paragraph 12,13 and 14 of the counter affidavit have no merit and are not maintainble on the grounds of fore-going paragraphs of this replification counter affidavit.

12. That the contents of paragraph 15 need no reply.

13. That in view of the facts and legal submissions made in the foregoing paragraphs the application is maintainable and the plaintiff deserve cost from the respondent.

14. That the D.P.C.for promotion to the post of H.Cs is going to be held on 26.10.87 it is therefore,humbly requested that the Hon'ble court may prounce judgment in favournof the plaintiff and also order for the arrears with interest before 26.10.87 on the basis of submissions made above.

That the contents of paragraph 1 to 14 of this replification affidavit are tmue to the best of my personal knowledge and nothing material has been concealed.

SO HELP ME GOD.

Syed Mohd. Raza Kazmi

Deponent.

Syed. Zafar Mehdi Kazmi
M.A.LL.B (Advocate)

I Advocate of High Court of Judicature at Allahabad,Lucknow Bench, Lucknow do hereby declare that the person making and swearing this affidavit and alleging himself to be Syed Mohd.Raza Kazmi

(Contd..6)

is that person and the deponent has put his signatures before me.

Syed Zafar Mehdi Kazmi
M.A.LL.B (Advocate)

Solemnly affired before me on this 16 day of October, 1987 at 11 A.M./P.M. by the deponent who has been identified by the aforesaid Advocate.

Syed Mohd. Raza Kazmi

I have satisfied myself by examining the deponent that he understands the contents of this affidavit.

OATH COMMISSIONER
1987
L.P. Chaurasia
Date
Civil Court, Lucknow
16/X/87

Lalla ji
Oath Commissioner
16.X.87

C.N.10

Solemnly affirmed before me in office to-day at 11 A.M. by S.M.R. Kazmi
who is identified by Shri S.Z.M. Kazmi Adv.
I Shri ... have satisfied myself by examining the deponent that he understands the contents of the affidavit which has been read out and explained by me. Fee Charged Rs 11/150

Lalla ji
(L.P. Chaurasia)
Oath Commissioner
Civil Court Lucknow
16/X/87

To

The Income Tax Officer,
(Headquarter)
Office of the Chief Commissioner(Admn)U.P.
& Commissioner of Income Tax,
Lucknow.

Sir,

Enclosed please find herewith replification counter affidavit against counter affidavit served on 15.10.87 in case no. 125 of 1987 before the Central Administrative Tribunal of Allahabad for favour of information.

Yours faithfully,

(SYED MOHD. RAZA KAZMI)
TAX ASSISTANT
OFFICE OF THE DY. DIRECTOR OF INSPECTION(INV
LUCKNOW.

Dated: 16.10.87

OATH COMMISSIONER
1987
Civil Court
16/X/87

(2) Registered

A2/1

C3

IN THE HON'BLE CENTRAL ADMINISTRATIVE TRUBUNAL ADDITIONAL BENCH OF ALLAHABAD

***

Civil Misc. Application No. 15 of 1988

FIXED FOR 29.2.88

IN

REGISTRATION NO. 125 OF 1987

....

S.M.R. Kazmi ... Applicant

Vs.

Chief Commissioner (Adm.) U.P. &
Commissioner of Income Tax, Lucknow

Central Board of Direct Taxes,
New Delhi &
Union of India ... Respondents

To

The Hon'ble Vice Chairman (By name)
of the Central Administrative Tribunal
Additional Bench at ALLAHABAD

D R(J)

S.O (SP) for order DR(J) 11-2-88

That the applicant is submitting few points for your kind perusal for not making Smt. Chama Jaiswal, a party and also for fixation of the case between 15.2.1988 to 20.2.1988:

1. That the poor applicant begs to submit that it was his misfortune that his case could not be taken up for final decision till this date although it was assured by the Hon'ble Judges of the C.A.T. on 20.10.1987 (when the counter Affidavit of both the parties have been filed) that no further

Contd.. 2...

A2/2 (69)

adjournment would be granted to the opposite party and the case would be taken up finally on 4.11.1987.

2. Perhaps the delay is happening because the C.A.T. has let loose the rein of the respondents' counsel Shri N.B. Singh and allowing him adjournments on his sweet will. It would not be wrong to say that Shri N.B. Singh is interested least in getting the case decided because every adjournment proves a boon to him by way of additional fee.

3. Further more, the poor applicant is helpless to understand and is disheartened as to why the Hon'ble Judges did not hear the case ex parte on applicant's request too when on 4.11.1987 Shri N.B. Singh attended two other cases in C.A.T. in the first half and left the tribunal without attending the case of the plaintiff and without seeking any adjournment. Was this not a gross injustice and surprising when the counter affidavit of boththe parties had already been filed? The applicant would swear the facts on oath if urgencies so arised.

4. It is sad to point out that a seasoned advocate like Shri N.B. Singh could not make up his mind within a period of a year as to what reply has to file in his defence and is adding something or the other every time. Your lordship will appreciate that the objection of the counsel for the respondents' Shri Singh is frivolous and is not entertainable when he is himself filing reply before the C.A.T. treating Union of India, a party (Annexure I), on one hand and on the other objecting that the Union of India was not impleaded . However to avoid

Contd.. 3...

A7/3 GS

uncalled for difference of opinion if Central Board of Direct Taxes and Chief Commissioner(Admn.) U. P.& Commissioner of Income Tax, Lucknow may be made party on behalf of Union of India or not, the applicant was agreed to make Union of India a party separately by presenting an application to this effect on 4.11.1987 and again on 12.1.1988.

5. On 12.1.1988 Hon'ble Judges accepted unwise objection of respondents' counsel that Smt. Chhama Jaiswal should also be made party and the judges directed that a fresh application making Union of India and Smt. Chhama Jaiswal, party should be filed on 29.2.1987. Honouring, direction of the Judges it was argued then that there is no necessity of making Smt. Chhama Jaiswal, a party, because she is in no way concerned with the case. She is ~~in~~ only an agency of carrying order of authorities above It may be submitted further that there are about forty persons or more, since the date of creation/confirmation of post of Tax Assistants, who have either been promoted or going to be promoted having taken their seniority in the cadre of Upper Division Clerks and if all of them be made party ~~xxxxx~~ it would take at least forty years, undoubtedly, to them to file a counter affidavit and God may know when a decision will come out. Perhaps Shri Singh has raised this point just to make the case a mockery.

6. Beside, ~~this,~~ Shri Singh had filed a written application before the Tibunal that certain writs four in

Contd.. 4...

numbers should also be treated as part of counter affidavit but the copies of writswere not supplied to the applicant so that he would have appreciated if the writs were relevant to the case or not.

7. However, an application requesting that Union of India be made party is enclosed herewith (Annexure II) but it is submitted that the making of party to Union of India will not necessiate any fresh opportunity or fresh counter affidavit because in all the cases, whether the party is made Union of India, C.B.D.T. or the C.C.(Admn.) U.P. & C.I.T., Lucknow, counter affidavit would have been filed by the I.T.O. (HQ).

8. The applicant is also unable to understand as to why the judges did not pass any interim order in favour of the applicant that he should be allowed to appear in I.T.O's group 'B' Examination of 1987 when the Section 24(b) of Tribunal Act which reads as under :

> "Make an interim order as an exceptional measure if it is satisfied, for reasons to be recorded in writing, that it is necessary so to do for preventing any loss being caused to the applicant which cannot be adequately compensated in money"

provided for such an order because your lordship will agree that the loss of an opportunity cannot be compensated in money.

9. Lastly it is submitted that the case of the applicant may be fixed earlier in between 15.2.88 to 20.2.1988 because the D.P.C. for promotion of Head Clerks and Inspectors is going to be held in between

Contd.. 5...

15.2.1988 to 20.2.1988 and the applicant's name would not be considered in the pannel for promotion of Head Clerk if the case is not decided bythat time. It is also submitted that the applic ant will also not be able to attend his case on the fixed date 29.2.1988 because the marriage of the real neice is fixed on 27.2.1988 and marriage of his real sister in law is on 28.2.1988 (Marriage Card is enclosed as Annexure III) therefore the case may be decided on merits on 29.2.1988 if the date between 15.2.1988 to 20.2.1988 is not possible on the basis of Counter affidavit filed by the applicant on 20.10.1987 and also on the written arguments given below :

BRIEF OF THE CASE

Smt. Chhama Jaiswal, a Junior Tax Assistant has been promoted as Head Clerk vide orderF.No. 46(Sa) Padon/37 dated 7.3.1984 having considered her seniority in Upper Division Clerk's Cadre. Representation was made to C.C.(Admn.) U.P. & C.I.T., Lucknow and finally to Chairman, C.B.D.T., New Delhi on the ground that the Tax Assistans, who are promoted from U.D.Cs cadre, should be considered senior to those of U.D.Cs for promotion of Head Clerks. Representation was rejected by Asthapana P.No. 47-1508 dated 3.3.1986 and thus the case came to this Hon'ble Tribunal.

I. Application once accepted in the open court should not be rejected merely on technical ground, if any, where established principle is involved.

Contd.. 6...

Moreover Chairman, C.B.D.T./ C.C.(Admn.) & C.I.T., Lucknow has been sued for the action done for Union of India, therefore, it is clear that the Union of India has been made party through them. Further more Section 19 (b) page 22 of Tribunal Act provides that the officer of Government passing prejudicial order can be impleaded

II. Petition is against the final order of promotion F.No. 46 (Sa)Padon/37 dated 7.3.1984 promoting Smt. Chhma Jaiswal as Head Clerk.

III. By promoting Tax Assistant, first as Head Clerk promotion Channals of U.D.C. does not block, moreover, no promotion in Income Tax Deptt. is made without passing departmental examination of higher order. If deptt. examination of higher order is not passed by L.D.C. retires as L.D.C. / Inspector, retire as Inspector.

IV. Even today U.D.C. is promoted first as T.A. (within 10 years) and thereafteras Head Clerk and if the T.A.'s are given seniority then also U.D.C. will be promoted as T.A. and Head Clerk with a slight change that they would have to qualify examination for T.A. purpose.

V. T.A. if promoted as Head Clerk will not get promotion as Inspector unless passed Inspectors' examination therefore posts of Supervisor Grade II and I will not become extinct.

VI. No promotion is made leaving intermediatry cadre for example I.T.O Class II is not promoted as Asstt. Commissioner

Contd.. 7...

leaving intermediatry cadre of I.T.O. Class I. Similarly U.D.Cs should not promoted as Head Clerk leaving intermediatry cadre of Tax Asstt. which has been accepted by the opposite party in his counter affidavit (enclosing Board's annexure).

RELIEF

T.As should be considered senior to thoseof U.D.C. for promotion of Head Clerk also from the date of creation of post of T.A. in Lucknow/Allahabad Commissioners Charge i.e. w.e.f. 31.5.1978.

(S.Z.M. KAZMI)
M.A., L.LB., Advocate
31/365, Hata Sitara Begum
Hardoi Road, Lucknow

Dt. 8.2.1988.

Annexure - I

IN THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH AT ALLAHABAD.

CIVIL MISC. APPLICATION NO. OF 1988

In

REGISTRATION NO. 125 of 1987

S.M.R.Kazmi. .... Applicant.

VERSUS

Union of India(Income-Tax) ... Respondent.

To

The Hon'ble Vice Chairman and his
Companion members of the aforesaid Tribunal.

1. That the respondents is filing certain papers mentioned below which may be taken on record.

PRAYER

It is, therefore, prayed that these documents may kindly be accepted and kept on record treating the part of the Counter Affidavit.

1. Writ No. A 330 dt. 11.8.84-AD.VII dt.12.7.85
2. Writ No. 320 dt. 11.8.84 VII dt. 12.7.85.
3. Writ No. 320 dt. 11.8.84 VII dt. 12.7.85
4. -do- -do- -do

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(N.B.SINGH)
SENIOR STANDING COUNSEL.

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Dated: Alld: the
4.11.87/12.1.88/
and 9-2-88.

(Syed Zafe...
Counsel
for the xxxx petitioner.

Annexure -II

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD

Amendment Application

in

Registration no. 125 of 1987

Fixed for 29-2-88

Syed Mohd.Raza Kazmi - - - Plaintiff

Versus

Central Board of Direct-Taxes & Chief Commissioner(Admn.) U.P. & C.I.T.Lucknow. - - - Respondents.

The counsel for the petitioner begs to submit as under :-

(1) That the objection of the opposite party after eight months of the admission of the case that the Union of India has not been impleaded is not maintainable because the application was admitted in the open court after judging the merits of the case.

(2) That the Chairman Central Board of Direct Taxes/Chief Commissioner(Admn.) U.P. & Commissioner of Income-tax Lucknow has been sued for the action done for union of India and not for their personal action therefore it is clear that the Union of India has been made party through them. Besides this Tribunal act provided (Sec. 19(b) that an officer of the Government which aggrieves a person can be sued and the order in question no where mentioned that Shri Dharni Dhar the then C.I.T.Lucknow has passed the order on behalf of Government of India but the authority passing order simply mentioned (Dharni Dhar) C.I.T.Lucknow.

(3) That this Hon'ble Court may please to allow the petitioner to make party union of India also, through this amendment application if it is so expedient.

PRAYER

Wherefore it is prayed that the amendment may be allowed and the case may be decided on merits because the facts of the case remain unchanged.

Dated: Alld: the 4.11.87/12.1.88/ and 9-2-88.

(Syed Zafar Mehdi Kazmi)
Counsel
for the ~~xxxx~~ petitioner.

A3/B 73

Copy of letter F.No.A-11013/29/75-Ad.VII dated 31.3.1978 from the Deptt. of Rev. to all Commissioners of Income-tax.

...

Sub: Creation of the posts of Tax Asstts. in the Income-tax Deptt. -

...

I am directed to say that the Direct Taxes Enquiry Committee had recommended in para 6.45 of their report that a new cadre of Tax Assistants should be created in the Income-tax Deptt. by upgrading 1/3rd of the cadre of strength of Upper Div.Clerks with a view to provide more experienced and competent ministerial staff to deal with important aspects of clerical work, particularly in the companies and investigation circles. The staff side had also raised this matter in the Departmental Council of the Ministry of Finance. After careful consideration, it has now been decided to create 4,148 posts of Tax Asstts. in lieu of equal number of posts of Upper Div.Clerks which would stand abolished as and when the posts of Tax Asstts. are filled up in the respective charges.

2. The cadre of Tax Asstts.will be an intermediary cadre between those of UDCs. and Head Clerks. The posts of Tax Asstts. would carry higher duties and responsibilities as compared to those entrusted to UDCs. There may be no objection to the work of Tax Asstts. being supervised by Head Clerks wherever necessary. The scale of pay of the post of Tax Asstt. will be Rs 380-12-440-EB-15-560-EB-20-640 and will be classified as Group 'C'(Ministerial). The posts shall be filled entirely by promotion from the cadre of UDCs. on 'Selection'basis,on the recommendations of a duly constituted D.P.C. Only those UDCs.who have rendered a minimum service of 3 years in that grade in the Deptt. and who have secured atleast 40% marks in the following subjects in the Income-tax Inspectors' Deptl.Exam. will be eligible for consideration for promotion to the post of Tax Asstt s:-

1. Income-tax Law-I
2. Income-tax Law-II.
3. Other Direct Taxes.
4. Office Procedure.

For purpose of reckoning 40% marks, the marks obtained in Income-tax Law.I and Income-tax Law-II in the same examination will be taken together and it is not necessary to have secured 40% in each of the two papers. Candidates who have secured atleast 80 marks (out of 200) in both the papers taken together in the same examination shall be eligible for consideration for promotion to the grade of Tax Asstts.

The Commissioners of Income-tax shall prepare a list of UDCs. eligible for consideration for promotion by the standard mentioned above, on the basis of the records available with them and put it up on the notice board(s) for general information of all concerned well before the DPC meeting. Candidates who consider themselves eligible but whose names may not have been included in the list of eligible officials should submit their claims for consideration, along with documentary proof in support of their claim, to the Commissioners of Income-tax within 15 days from the date the list of eligible candidates has been displaced on the notice board. The Commissioners of Income-tax shall consider such representations expeditiously, in consultation with the Director of Inspection(IT &A),New Delhi, if necessary, before drawing up the final list of eligible candidates to be placed before the DPC.

Contd.on page...2.

3. The intention behind the creation of the new cadre of Tax Asstts, as already indicated in para 1 above, is to provide more experienced and more competent ministerial staff to deal with important aspects of clerical work in the Income-tax Department. The question of the actual deployment of Tax Assistants has been considered and it has been decided that, as far as possible, they should be posted not only in the companies and investigation circles, but also in other Income-tax circles such as Central, Special, Estate Duty, Chief Auditor, Intelligence Units, Internal Audit Parties, Special Audit Parties, Judicial Branches and other important revenue circles. The remaining areas of work would continue to be manned by the cadre of Upper Div.Clerks.

4. The sanction of the President is, accordingly, conveyed-

(i) to the creation of 4,148 posts of Tax Asstts. in the scale of pay of Rs 380-640 plus allowances in the charges mentioned in the annexure to this letter with effect from the date(s) these posts are filled and upto the 28th February,1979 in the first instance; and

(ii) to the abolition of 4,148 posts of UDCs. mentioned in the annexure from the date(s) the posts of Tax Asstts. are filled.

5. The addl.expenditure involved should be met from the sanctioned budget grant of the respective charges for the financial year 1978-79 and the grants to be sanctioned for the subsequent years.

6. This issues with the concurrence of the Integrated Finance vide their u.o.No.363/FA/78 dated 17.3.1978 and the Deptt.of Personnel & A.R.vide their U.O.No.1292/78-Estt.(B) dated 23.3.1978.

7. Please acknowledge receipt of this letter.Hindi version will follow.

Annexure to the Min.of Fin.(Deptt.of Rev.)letter F.No.A-11013/29/75-Ad.VII dated 31.3.1978.

S.No.	Name of Charge	No.of posts of Tax Asstts.created	No.of posts of UDCs. abolished.
xxx		xxx	xxx
11.	Lucknow/Allahabad	131	131

Note: The posts of UDCs. sanctioned vide Deptt.of Rev. and Banking letter F.No.A-11013/17/77-Ad.VII dated 23.3.1977 for departmentalisation of accounts of receipts/refunds have not been taken into account while creating the posts of Tax Assistants.

.....

Attested

Syed. Zafar Mehdi Kazmi
M.A.LL.B (Advocate)

REGISTERED

To Hon'ble Mr Jagdish Chandra
The Deputy Registrar (Judicial)
Central Administrative Tribunal Administrative Branch
23, Thornhill Road Allahabad

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/65

From
Syed. Zafar Mehdi Kazmi
31/365 M.A.LL.B (Advocate)
HATA SITARA BEG O/H, HARDIMARG
P.O.: CHOWK, LUCKNOW-226003.

Syed. Zafar Mehdi

To,

The Deputy Registrar
Central Administrative Tribunal
Administrative Branch, Allahabad

(BP/12/75)

Sub:- Registration case no:- 125 of 1987 untraceable since April, 29, 1987 now the listed for 1-5-87 as per court No: 1's direction on 28/4/87 for 1-5-87

Sir,

It is to be surprising to see that on the application dated 21-4-87 only date of 28-4-87 fixed but even the orders copy of 28-4-87 even on 28-4-87 & 29-4-87 not supplied so far. In this connection I would request you to send to me orders copy that were passed on 1-5-87 to my address below till in this

That further it is prayed may kindly next date on June, 10, 1987 in the case No:- 125/87 as well as in case No:- 198/87 of same department as I am the Counsel in both the cases.

That since the opposite party concerned not filed his written statement even till date despite lenient taken 30/3/87 adjournment for 1-5-87. Thus in such circumstances either may be decided ex-parte in the case considering the O.P. has nothing to say in defence or compensated heavy cost for 30/3/87, 21-4-87 & 28-4-87 till 1-5-87, in the interest of justice with the request for appropriate to take under Sec. or his address be

Thanking in anticipation.

Allahabad
Dt 1/5/87

Counsel for Petitioner

1/5/87

(Syed Zafar Abbas Rizvi)
Advocate
31/365, Hata Sikandar Bagh
Harder Marg, Lucknow-226

S.O.S
Ample
1/5/87

Dated Lucknow 7-X-87

(47)

Vice Chairman

Before Hon'ble Central Administrative Tribunal Allahabad

Case No. 125 (Fixed for 20.10.87)

Syed Mohd. Raza Kazmi

Versus

Chief Commissioner of Income Tax Lucknow & Others

I beg to state that your goodself had assured me on 15.9.87 that Hon'ble copy of counter affidavit in the above stated case will be supplied to me by the opposite party latest by 29.9.87 but same has not been supplied upto this date.

S.O (J) Hon'ble Vice Chairman Kindly see & attend

Therefore humbly pray that the opposite party may be directed to made the copy of counter affidavit available to ~~the opposite party~~ me through registered post immediately on the given address.

Yours faithfully

7.X.87

Syed. Zafar Mehdi Kazmi,
M.A.LL.B (Advocate)
3:1/365, Hali Sitara [illegible]
Hardoi Road, Lu[illegible]

DR (J)

Original Application No. 125 of 1987

OFFICE REPORT

As per direction of Deputy Registrar (Judicial) the fact in connecten with the case No. 125 of 1987 is as under:-

1. That this case has been listedbefore Court on 19.2.87 and the court has admitted thecase and directed that the notice may be santto the Oppositeparties. In this connection notices has been issued to the respondents fixing 30.3.87

2. That unforfunately the case could not be listed on 30.3.87

3. That on 21.4.87 Counsel for the applicant has moved an application praying that his case may be listed before court for order. On the Application Deputy REgistrar has ordered to list the case before court on 28.4.87.

4. That the case had been listed before court on 28.4.87 and court has been order on 28.4.87 that the case should be put up on thedate fixed No specific date has been mentioned in the order.Hence thecould not be listed before court.

5. That on 1.5.87 The Counsel for the applicant moved and application before the Deputy Registrar . And on the application Deputy registrar has been ordered to put this application before the court and thus thi s app ication alongwith the case no. 125 of 1987 had been sent to court unlisted on 1.5.87

6. That on 1.5.87 The Court has passed an order as shown in the order sheet.

Submitted.

Dated . 11.5.87

(A.A. Siddiqui) 11/5/87

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL ADMINISTRATIVE BRANCH
AT LUCKNOW

(78)

(1) REGISTRATION CASE NO: 125 of 1987 — FIXED FOR HEARING: 21-4-1988

Syed Mehdi Razza Kazmi — IN BETWEEN — UNION OF INDIA & OTHERS C.B.D.T CHIEF COMMISSIONER (ADMN) AND COMMISSIONER INCOME TAX, ASHOK MARG, LUCKNOW — RESPONDENTS

— — — — — — PETITIONER VERSUS

(2) REGISTRATION CASE NO:- 198 of 1987 — FIXED FOR JUDGEMENT ON: 21-4-1988

Mahavir. Ex Daily Paid Worker — IN BETWEEN — Sri Saran Bahadur & Others Public Relation Officer of Commissioner Income Tax Ashok Marg, Lucknow -- Respondents

Income Tax Department Lucknow

— — — — PETITIONER VERSUS

To, The Hon'ble Chairman / Vice-Chairman
Central Administrative Tribunal, Lucknow

Request of Transfer from Central Administrative Tribunal Administrative Branch, 23, A Thornhil Road, Allahabad to Lucknow Bench Lucknow for hearing fixed for 21-4-1988.

Hon'ble Sir May Counsel of above Petitioner hope that you will be kind enough to transfer the above Registration Cases No: (1) 125 of 1987 and 198 of 1987 from Administrative, Bench, 23, Thornhil Road Allahabad to Lucknow Bench, Lucknow, on or before its fixed hearing date of April, 21, 1988, in the above mentioned Cases keeping parties above and Counsel's Convience at Lucknow.

I hope that you will be kind enough to order for the Same under intimation to the undersigned.

With due regards,

Counsel for above Petitions

21.3.88

Syed Zafar Mehdi Kazmi
M.A.LL.B (Advocate)
31/365 Halat Ishra Begum Hardoi Marg
Lucknow

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

ADDITIONAL BENCH,

23-A Thornhill Road, Allahabad-211001

No. *CAT / ALLD/* Dated : 18.3.87

In re

Registration No. 125 of 1987 of 198

Syed Mohd Raza Kazmi

APPLICANT

Versus

~~Central Administrative Tribunal~~

RESPONDENTS

Central Board of Direct Taxes and Chief Commissioner (Admn) U.P.

To,

Syed Zafar Mehdi Kazmi, 31/365 Nata Sitara Begum, Hardei Marg Lucknow.

Please take notice that the applicant abovenamed has presented an application, ~~a copy whereof is enclosed herewith,~~ which has been registered in this Tribunal, and the Tribunal has fixed 28.5.87 day of ..... 198.... for the hearing of the said application.

If no appearance is made on your behalf by yourself, your pleader or by someone duly authorised to act and plead on your behalf in the said application, it will be heard and decided in your absence.

Given under my hand and the seal of the Tribunal this 18.5.87 day of ..... 198...

DEPUTY REGISTRAR

36/1,2

B2/2/80

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

ADDITIONAL BENCH,

23-A Thornhill Road, Allahabad-211001

Regd.

No. *CAT / ALLD/* Dated : 8-7-87

In re

Registration No. 125 of 1987

Syed Mehdi Raza Qazmi APPLICANT

Versus

Central Board of Direct-Taxes. RESPONDENTS

To, (1) Syed Zafer Mehdi Qazmi. Adv.
31/365 Hata Lala Begum.
Hanploi Marge, Lucknow
(2) Chairman Central Board of Direct Taxes & Chief Commissioner of I. Tax (Admn) U.P. & C.T. I. Lucknow

Please take notice that the applicant abovenamed has presented an application, ~~a copy whereof is enclosed herewith~~, which has been registered in this Tribunal, and the Tribunal has fixed 14th day of May 1987 for the hearing of the said application.

If no appearance is made on your behalf by yourself, your pleader or by someone duly authorised to act and plead on your behalf in the said application, it will be heard and decided in your absence.

Given under my hand and the seal of the Tribunal this 8th day of May 1987.

DEPUTY REGISTRAR

8/5

B&B (31) O/C

REGISTERED

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
Circuit ~~ALLAHABAD~~ BENCH
~~23-A, Thornhill Road, Allahabad- 211 001~~
Gandhi Bhawan, Lucknow

No. CAT/ALLD/JUD/ Dated/-

In re

Registration No. OA 125 of 1987

Syed Mohd Raza Kazmi APPLICANT(S).

Versus

Central Board of Direct Taxes RESPONDENT(S).
& Chief Commissioners (Admn.) U.P
& C I T Lko

To

Union of India through Chief Commissioner
of Income Tax (Admn) U P
C I T. Lucknow

Please take notice that the applicant above named has presented an application, a copy whereof is enclosed herewith which has been registered in this Tribunal, and the Tribunal has fixed 19.7.88 day of 7 1988 for final hearing

1 July

If no appearance is made on your behalf, you pleader or by some one duly authorised to act and plead on your behalf in the said application, it will be heard and decided in your absence.

Given under ~~myx~~ hand and the seal of the Tribunal this 6 day of 1988.

7/7/88

for REGISTRAR (DEPUTY REGISTRAR)

as

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
Circuit + ~~ALLAHABAD~~ BENCH
~~23-A, Thornhill Road, Allahabad-211 001.~~
Gandhi Bhawan, Lucknow.

****

No. CAT/~~Alld~~/ LKO 00 28/88(L) Dated the 14/5 1988
O.A. 115/87

Syed Mohd Raza Kazmi APPLICANT(s)

Versus

Central Board of Direct Taxes & RESPONDENT(s)
Chief Commissioner (Admn) U.P.
& C.I.T., Lucknow

To

Sri N.B. Singh
C.A.T.
Allahabad

Please take notice that the applicant above ~~named has presented an application, a copy whereof is enclosed herewith which has been registered in this Tribunal,~~ and the Tribunal has fixed 25 day of 5 1988.

If no, appearance is made on your behalf, ~~your pleader or by some one duly authorised to act and plead on your in the said application,~~ it will be heard and decided in your absence.

Given under my hand and the seal of the Tribunal this 11 day of 5 1988.

11/5

For DEPUTY REGISTRAR (Jud)

dk/

Central Administrative Tribunal
Lucknow Bench,
Lucknow

Send to Sh. Deo
D.R.(J)
CAT, Alld

Central Administrative Tribunal

Allahabad - Bench,

23-A, Thornhill Road, Allahabad-211001

Regd

Dated Allahabad, the .....

OFFICE MEMO

Registration No. 125 of 198 7

.....Syed Mohd Raza Qazmi..... APPLICANT

VERSUS

Central Board of Direct Taxes and Chief Commissioner (Admn UP) & C.I.T. Lucknow RESPONDENTS.

A Copy of the Tribunal's Order dated ...19.2.87...in the abovenoted case is forwarded for necessary action.

Deputy Registrar

Enclosure 1) Copy of order dated 19-2-87
2) Copy of petition

To,

1. Chairman Central Board of Direct Taxes
C.I.T. Lucknow
and
2. Chief Commissioner of Income Tax (Admn) U.P.
C.I.T. Lucknow

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THE CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD

ALLAHABAD BENCH,

23-A Thornhill Road, Allahabad-211001

REGISTERED A.D.

No. [illegible]

Dated:

In re

Registration No. 125 of 1987 of 198

Syed Mohd Raza Kazmi

APPLICANT

VERSUS

Central Board of Direct Taxes and others.

RESPONDENTS

To,

1. Syed Modh Raza Qazmi son of Late S.Hafiz Hussain Tax Assistant office of Chief Commissioner of Income Tax (Admn)U.P. and C.I.T.Lucknow.

.....

.....

Please take notice that the applicant abovenamed has presented an application, a ~~copy whereof is enclosed herewith,~~ which has been registered in this Tribunal, and the Tribunal has fixed 28.7.87 day of .....198..... for the hearing of the said application.

If no appearance is made on your behalf by yourself, your pleader or by someone duly authorised to act and plead on your behalf in the said application, it will be heard and decided in your absence.

Given under my hand and the seal of the Tribunal this 6,7,87 day of .....198 .

Court's order is on the back of this notice.

DEPUTY REGISTRAR

CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH, LUCKNOW

INDEX SHEET

CAUSE TITLE ..R.A.8.....OF ..1988.....
with OA 125/87
NAME OF THEPARTIES .....S.M.R.Kazmi.....Applicant

Versus

.....Union of India.....Respondent

Part A.

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5	& 26/8/88 D.No. 48/ Date 30th Jan. ~~1989~~	
6	1990	
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CERTIFICATE
Certified that no further action is required totaken and that the case is fit for consignment to the recoord room (decided)

Dated ...15/4/2011

Counter Signed.....

Signature of the Dealing Assistant

Section Officer/In charge

A2

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH AT LUCKNO.

****

Review Apptn. no. 8 /88 (L)
O.A./~~T.A.~~ No. 125 1988

S. M. R. Kazmi
Applicant(s)

Versus

C. B. of Direct Taxes & Ors
Respondent(s)

Sr.No.	Date	Orders
	27.10.88	Hon. D.S. Misra, AM Hon. A.S. Sharma, JM Issue notice to the opposite Parties to file their reply, if any, within a month. Put up for orders/hearing 22.12.1988 JM AM 27.10.88
	18/11/88	OR Notice issued to respondent through Regd. Post. Put up 22.12.88 for orders/hearing Issued 18/11/88
	22/12/88	No Sitting, Adjourned to 23-1-89 for order/hearing. Rsm 22/12
	16/1/89	OR In compliance of Hon'ble Tribunal order dt. 27.10.88, no reply filed so far. Submitted. h 16/1

A4

Review
in
OA 1258/17

14.3.18

This case have been received from circuit bench Lucknow (Camp) Put up before concerned bench through P.S

DR

4.5.18 order dictated.

AS

A5

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD.
CIRCUIT BENCH AT LUCKNOW.

Review Application No. 8 of 1988

IN

Registration (O.A.) No. 125 of 1987

Syed Mohd. Raza Kazmi .... Applicant.

Versus

Central Board of Direct Taxes & another ... Respondents.

Hon'ble Ajay Johri, A.M.
Hon'ble G.S. Sharma, J.M.

By this application, filed under Section 22(3)(f) of the Administrative Tribunals Act,1985, a review is sought of the judgment given on 26.8.1988 in OA No. 125 of 1987, Syed Mohd. Raza Kazmi v. Central Board of Direct Taxes, by this Bench.

2. The grounds for seeking review are that the judgment is not well founded, lacks justice and is based on wrong conclusions and it has been delivered without considering para 10 of the rejoinder affidavit in which true state of affairs have been described.

3. Later in this application, elaborate arguments have been advanced to support the pleas taken above in the grounds on which review has been sought and an attempt has been made to show that the conclusions arrived at by us are erroneous and that we have been misled by the respondents in arriving at those conclusions.

4. In the end a prayer has been made that specific orders for immediate implementation be passed that the Tax Assistants be given priority over UDCs' for promotion as HCs with effect from 31.5.1978. It has also been prayed that seniority of the applicants be fixed accordingly with immediate effect and he be paid arrears with interest.

5. We are dealing with this application in terms of Rule 17 of the Central Administrative Tribunal (Procedure) Rules, 1987 as amended from time to time.

6. We find that the above prayers are more in the nature of a request for modifying the orders given by us on 26.8.1988. In the judgment and orders given by us we had given certain directions after considering the matter and hearing the learned counsel for the applicant ex parte.

7. A review cannot seek modification of decision already given. It is only when there is an error apparent on the face of record, or when some new facts come to the notice which were not in the knowledge when the case was heard, or for any other sufficient reason to justify the review. The forum for seeking modification of a judgment even though it may have been due to an erroneous view taken is not a review application.

8. We thus do not find any reason to modify/our judgment and review and order passed on 26.8.1988 in OA No. 125 of 1987 and accordingly we reject this review application.

MEMBER (J). MEMBER (A).

Dated: April 28th, 1989.

PG.

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(163)

16/2/90

(6)

D.NO. 48/90/XI
SUPREME COURT OF INDIA
DATED: 30th January, 1990
12th February

FROM:

THE REGISTRAR,
SUPREME COURT OF INDIA,
NEW DELHI.

TO

~~THE REGISTRAR,~~
~~HIGH COURT OF JUDICATURE,~~
~~ALLAHABAD~~

THE REGISTRAR,
CENTRAL ADMINISTRATIVE TRIBUNAL
~~ALLAHABAD, CIRCUIT~~ BENCH AT LUCKNOW.
Lucknow

PETITION FOR SPECIAL LEAVE TO APPEAL (CIVIL) NO. S.15864-65 OF 1989
(Petition) under Article 136 of the Constitution of India for Special Leave to Appeal to the Supreme Court from the Judgment and Order dated 28.4.89/26.8.89 of the ~~High Court~~ Registration (A) Central Admn. Tribunal, Allahabad in R.A.No.8/88 and ~~appln~~ no.125/87)

Syed Mohd. Raza Kazmi ... Petitioner(s)

versus

Chairman Central Board of Direct Taxes ... Respondent(s)

(Sud/Sopathy) 16/2

Sir,

I am to inform you that the Petition above mentioned for Special Leave to Appeal to this Court ~~was~~ were filed on behalf of the Petitioner(s) above named from the Judgment and Order of the Central Admn. Tribunal ~~High Court~~ noted above and that the same ~~was~~ were dismissed by this Court on the 24th day of January, 1990.

A certified copy of this Court's Order/~~Judgment~~/Proceedings dated the 24.1.1990 is enclosed herewith for your information and necessary action.

Yours faithfully,

for REGISTRAR 12/2

kc/XI

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Item No. 4 Court No. 3 231249 Section XI

SUPREME COURT OF INDIA
RECORD OF PROCEEDINGS

Petition (s) For Special Leave To Appeal (Civil/~~Criminal~~.) No. (s) 15864-65 of 1989

(From the Judgment and order dated 28.4.89/ 26.8.89 of the ~~High Court of~~ C.A.T. at Allahabad in R.A.No.8/88 and in Appl.No.125/87)

Syed Mohammed Raza Kazmi

...PETITIONER(S)

VERSUS

Chariman, ~~&Ors~~. Central Board of Direct Taxes, New Delhi

...RESPONDENT(S)

(With appln. for ex-parte stay)

Date : 24.1.90 : This/These petition (s) was/were called on for hearing today

CORAM :

Hon'ble Mr. Justice K.N. SINGH
Hon'ble Mr. Justice N.M.KASLIWAL
Hon'ble Mr. Justice

Certified to be true copy
~~Assistant Registrar~~ (Judl.)
12/2/1990
Supreme Court of India

For the Petitioners : Mr. Harguru Charan, Sr.Adv.
Mrs. Sarla Chandra, Miss Dr. Laxmi, Advs.

For the Respondents :

UPON hearing counsel the Court made the following
ORDER

The Tribunal has formulated the scheme which we hope will be implemented by the Department within reasonable time. The Special Leave Petitions are dismissed.

(J.L. JAIN)
COURT MASTER

24/1/90

Court's Copy

A10

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL AT ALLAHABAD
CIRCUIT BENCH, GANDHI BHAWAN, LUCKNOW.

Review Application

against Tribunal's judgement dated 26.8.1988 in the Case Registration No. O.A. 125 of 1987 -

Syed Mohd. Raza Kazmi,
S/o late S. Hafiz Husain,
Tax Assistant ..... Applicant

V/S

Union of India,
Central Board of Direct Taxes and
Chief Commissioner(Admn) U.P. &
C.I.T., Lucknow ..... Respondents

.....

Giving respect to the Hon'ble members, it is submitted that the judgement under reference is not well founded, lacking justice and based on wrong conclusions derived as a result of misconceiving statements given in the counter-affidavit of the respondents. This has also been delivered without considering para 10th of the rejoinder specially, in which true state of affairs has been described removing doubts created due to misconceiving statements given in the counter-affidavit of the respondents.

The facts stated in the foregoing paragraph may be appreciated from the following narrations:-

Learned members in para 5 of their order under reference have observed, " To our mind, this explanation is not founded on well considered principles

Contd.....2/-

the chances of further promotion from T.A. should have also been safeguarded because once they took a chance to appear in a departmental exam. and qualify through a D.P.C. for promotion as T.As. which is a higher grade post, they can not be for the purposes of consideration for further promotion to the grade of H.CS. be made to lose their rights accrued to them by virtue of their promotion and by virtue of occupying a post which is without any doubt a higher grade and promotional post," but have denied to provide any definite relief, instead has suggested for alternative schemes which seems to have been suggested without knowing the real position.

Let us take the first suggestion that a quota or roster be fixed in the ratio of 1 : 3 but it is not clear if one post from the top or the bottom and from which date, should go the T.As. Perhaps, the learned members desired that in the ratio of 1 : 3, one post from the top should go to the T.As. and remaining 3 posts should be shared among the T.As. and U.D.Cs. on the basis of length of service in U.D.Cs. cadre from the date of creation of post of T.As. i.e. 31.5.1978. In existing practice, all the posts are shared between T.As. and U.D.Cs. taking seniority from the U.D.C. cadre. Actually, the ratio of T.As. and U.D.Cs. in the department is of 1 : 2 and not of 1 : 3. It has been accepted in the counter-affidavit of the respondents and was in the knowledge of the learned members also which appears from the order dated 26.8.87. Therefore, if a roster would be maintained, it should be in the ratio of 1 : 2 and not in the ratio of 1 : 3 as has been inadvertantly suggested in the order in question.

In case, a quota scheme or a roster is implemented, it would also not be fair and justified when it has been

Contd....3/-

accepted that the post of T.A. is an intermediatry cadre in a higher grade and is considered as a promotional post from the grade of U.D.C. (opening sentence of para '5' of the judgement).

It may be submitted here that there are only two cadres, one in ministerial and the other in officers cadre, where next promotion is made without passing any additional departmental examination in lower cadre, and they are from U.D.C. to Supervisor grade-II and from I.T.O. Class-II to A.Cs.(Now from I.T.O. to D.C. after renaming the designations). An U.D.C. who(Direct recruits after passing Ministerial Examinatiom) has completed three years' service may be promoted to H.C.'s cadre and from H.Cs' cadre to Supervisor grade-II. Similarly, an I.T.O. may be promoted as A.C. and then as D.C.(after renaming the designations). In these two cases, we see that the intermediatry cadres are the cadres of H.Cs' and A.Cs' respectively but nok promotion to the post of Supervisor grade-II either, or the D.C. is made leaving the intermediatry cadre of H.C. or A.C. Then, how it would be justified that the promotion, in whatsoever manner, to the post of H.C. be made leaving the intermediatry cadre of T.As. which is without any dispute, is the post of departmentally better qualified persons. It may be made clear here that the T.As. are really better hands in the departmental field than those of H.Cs' also because they pass a departmental exam. of certain standard and the department could hardly name a few U.D.Cs. whether promoted to H.Cs' cadre or not, who had not attempted, for the departmental exam. (i.e. Inspectors Exam.), which later made a deciding factor for promotion to T.As'. cadre. Unfortunately, the

Contd....4/-

AH3

dispute arose because the Direct Taxes Enquiry Committee while recommending the upgradation of the post of U.D.C. as T.A, maintaining certain standard of departmental knowledge were partial to the extent that it did not consider it at par with those of H.Cs. Had it been like this, there would have been no dispute as in the case of D.C. & D.C. (assessment) who deal with with the administrative and assessment work respectively.

Now, we come to the second suggested alternative(which is in no case applicable) that option should have been invited from such of the T.As. who wanted to opt for the H.Cs. post and thereafter to the supervisory post in grade I & II foregoing their chances for the Inspector's line of promotion. Here again, our Hon'ble members were mistaken. This suggestion would have been adviseable only when all the T.As. would have been entitled to promotion to the post of Inspectors, but it may be pointed out that only those T.As. who passed complete departmental examination for Inspectors, like the applicant, scoring minimum of 50% marks in each of six papers, are eligible for promotion to Inspector's cadre, therefore, question of opting line of promotion to H.Cs' cadre or Inspector from T.As. can not be open to every T.A. At the same time, it may also be made clear here that the promotion to the post of H.C. and Inspector from T.A. is not two separate lines of promotion but one and the same, because a H.C. who became concious enough and passed departmental exam. for Inspectors', is promoted as Inspector and not as Supervisory grade II or I, and

Contd..... 5/-

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the department can not put any example where a qualified H.C. would have opted for promotion as Supervisory grade-II or I and not for Inpsector.

In fact, the respondents tried their best to misconceive the Central Administrative Tribunal and were successful to the extent that the learned members observed in para '5' page '6' of their judgement; "but this would have resulted in a peculiary situation i.e. all U.D.Cs. would have to pass throughthe post of T.As., who would thereafter gave to pass through the post of H.C. which posts are definitely not in large numbers and thereby, there would have been no stability and continuity in the incumbancy of the post of H.C. as he would have thereafter moved for further promotion to the category of supervisory grade I & II. The respondents' raised a contention in their reply that if T.As. were allowed to occupy the post of H.C. and they already have a chance for promotion as an Inspector which is a higher grade post than that of H.C., they would have not been able to find sufficient number of staff to man tbe post of supervisor grade I & II who are in the avenue of promotion of H.C., can also not be lost sight of." It may be submitted here that there would have been no peculiarity arisen if the U.D.Cs. would have to pass through the post of T.A. who would thereafter have to pass through the post of H.C. as it happens in all other cadres like U.D.C. to Sup. gr. II and I.T.Os. to D.Cs. Again, let us suppose that all the H.Cs. would have passed departmental examination for Inspectors and would have promoted as Inspector, then, how the department would have managed for the post of

Contd.. ..6/-

Supervisor grade I or II. Actually, our learned members found peculiarity only because they have made up their mind in that manner. Although, the respondents may know better, yet to my mind, it appears that the posts of Supervisor grade I or II would have been created with the conception that the U.D.Cs. or H.Cs. and now the T.As. also, who could not pass the departmental examination for Inspectors', upto the age of 48, after which they lost the chance of appearing in the departmental examination, could be promoted to the posts of Supervisor grade II or I. This is also important to mention here that, no matter even the Supervisor grade I is promoted to the post of Inspector in the Income Tax Department e.g. Shri R.S. Pratihar.

Lastly comes the third alternative which provides that the post of H.Cs. should have been filled not by seniority alone but by an open competition where all U.D.Cs. of certain minimum years of service and T.As. would have been allowed to compete. This scheme also does not appear to be appreciable in as much as there are more than the no. of posts of H.Cs., U.D.Cs. and T.As. (like the applicant) available in the department who have already passed departmental examination for I.T. Inspectors' and no departmental examination of a higher order than that of Inspectors' can be expected for a post of lower rank like that of H.C. In case, such a scheme is implemented, though existing on the theory of 'survival of the fittest' and beneficial to the applicant, will put the future prospects of the U.D.Cs. who could not pass the departmental ~~examination~~ examination of even the

Contd....7/-

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to
's rank, down.

Going through the facts narrated above, it would be quite clear that the judgement dt. 26.8.88 delivered by the Hon'ble members of the Central Administrative Tribunal, needs review and only one and one wise and just relief can be provided that the T.As. are given priority over U.D.Cs. for promotion of H.Cs. also and in case if there arises sometimes a stage when the posts of H.Cs. remain vacant which seems a stage daylight dream in the department, after promoting all the T.As., the U.D.Cs. may also be considered for promotion to H.Cs. cadre by virtue of their seniority.

PRAYER

Wherefore, it is humbly prayed that the judgement dt. 26.8.88 delivered in the abovestated case be reviewed and an Specific Order for immediate implementation be passed that the T.As. be given priority over U.D.Cs. for promotion to the H.Cs.' cadre also with effect from the date of creation of post of T.As. i.e. 31.5.1978. If this is not done, it would take years in implementation and your lordship would appreciate that the justice delayed is justice denied. In addition to this, seniority of the applicant be fixed accordingly with immediate effect and he should be paid arrears with interest, due to him.

(SYED ZARAR MEHNDI KAZMI)
M.A.,L.L.B.
Advocate
31/365,Hata Sitara Begum,
Hardoi Road, Lucknow.

Dated: 21-9-88

A7

To

The Union of India,
Through the Chief Commissioner of
Incometax(Admn),U.P.,
LUCKNOW.

Sub: Tribunal Judgement dt. 26.8.88 in case Registration No. O.A.125 of 1987 - Syed Mohd. Raza Kazmi, Tax Assistant V/s Union of India,, Central Board of Direct Taxes and Chief Commissioner(Admn),U.P. and C.I.T., Lucknow -

I am requested by the Deputy Registrar, Central Administrative Tribunal, Allahabad, Circuit Bench, Gandhi Bhawan, Lucknow, to inform the respondents mentioned above that the review application in the said case has been fixed for hearing on 27.10.1988 and the respondents if so desire, may arrange to prosecute the case at ~~Central~~ Administrative Tribunal, Circuit Bench, Gandhi Bhawan, Lucknow, on that date. Copy of review application has already been served to you on 21/9/88.

sd/

Dated: 23-9-88

(In triplicate)

O/C (SYED ZAFAR MEHNDI KAZMI)
M.A.,L.L.B.,Advocate
31/365, Hata Sitara Begum,
Hardoi Road, Lucknow.

23 SEP 1988

Recd this after Lunch
by Hon'ble Bench
on 27-X-88

23/9/88

To The Central Tribunal Circuit Bench at Lucknow

Regd Cases: 125 of 1987 & Review Application No: 87 of 1988

Syed Mohd Raza Kazmi V/S UNION OF INDIA & OTHER INCOMETAX DEPARTMENT LUCKNOW .. Respondents

---- Applicant- C25

To, The Hon'ble Mr Ajay Johari
The Hon'ble Administrative Member

Hon'ble Sir

It is to inform you as under:-

That in the above mentioned case, your lordship had delivered judgement on 25/8/88 in a division bench comprising Hon'ble Mr. D.S. Sharma - J.M and Hon'ble Mr. Ajay Johari A.M. without consideration of the gravity of the case.

That in Sept 2, 1988, filed an review application, but since your bench could not be fixed together, and your lordship had told me to bring file at Lucknow in April, 1989. but to orders has yet not passed.

In the circumstance it is requested may kindly viewed sympathetically and passed final orders in this case at earliest date

Submitted
Counsel for Petitioner

(Syed Zafar Mehdi Kazmi)
Advocate

Please send it to Allahabad Bench through Registry immediately as directed by the Hon'ble Member So that the Review Application may be put up at Allahabad on 14/4 for admission

C 26 (19)

Copy of letter F.No.A-32011/8/84-Ad.VII dated the 12th July, 1985 received from Government of India, Ministry of Finance (Deptt. of Revenue) Central Board of Direct Taxes, New Delhi.

Sub:- D.P.C. - Promotion to the post of Inspector of Income-tax - Revised instructions with regard to consideration Lists.

-x-

Sir,

I am directed to refer to the Board's letter F.No.69/59/73-Ad.VII dated the 9th November, 1973 regarding preparation of the lists for consideration by the D.P.C. for promotion to the grade of Inspector. In accordance with the instructions contained in para 3 of the aforesaid letter, names of all the qualified persons are arranged in order of seniority based on the length of service in the grade of U.D.C. or stenographer and only those who are confirmed in higher grades are placed above those in the lower grades. No weightage is given to un-confirmed persons in the higher grade. Such un-confirmed persons in the higher grade have to take their place alongwith other persons in the lower grades of U.D.C. and stenographer.

2. The existing practice for prparing the list for consideration of the D.P.C. has been reveiwed in the context of General Principles of seniority laid down by Ministry of Home Affairs in their O.M.No.9/11/55-RPS, dated the 22nd Dec. 1959. It has been found that the existing practice is anomalous situation, it has now been decided to supersede the instructions contained in Board's letter No.69/59/73-Ad.VII dated the 9th November, 1973 referred to above and to follow the General Principles of Seniority. According to the General Principles of Seniority persons working in the higher grades are to be treated as senior to those working in the lower grdes.

3. The revised instructions will be applicable with effect from the date of issue of this letter. Past cases need not be reviewed.

4. Consequent upon issue of the revised instructions, all the earlier orders/instructions in this regard stand modified to the extent of this letter.

Please acknowledge receipt of this letter.

Yours faithfully,
Sd/-
(Risal Singh)
Under Secretary
Central Board of Direct Taxes

(20)

To

The Vice Chairman,
Central Administrative Tribunal,
ALLAHABAD

Sir,

Sub: Review application dated 29.9.1988 against Tribunal order dt. 26.8.1988 in the case Registration No. O.A.125 of 1987 of Syed Mohd. Raza Kazmi V/s Union of India, Chairman, C.B.D.T., & C.C.I.T., Lucknow -

****

I beg to state that Tribunal order dated 26.8.1988 passed by Hon'ble Members Ajay Jauhari and S. Sharma, in the above noted case, needed review, therefore a review application dated 29.9.1988 was filed. Since then combined bench of the above two learned Members could not sit. However, on personal meeting in the month of Feb. 1989, at Lucknow, ld. Member Ajay Jauhari assured me that he was carrying the file with him at Allahabad and will pass an order very soon with the joint sitting with Mr. S. Sharma because the respondents were not availing the opportunity of being heard.

2. Unfortunately a considerable time has passed since then but no order has come into light. This is causing great loss to the applicant both financial and service carrier career. It is therefore humbly requested that the application be got decided immediately and oblige.

Hoping for no further reminder.

Yours faithfully,

(S.Z.M. KAZMI)
ADVOCATE
31/365, Hata Sitara Begum,
Hardoi Road, LUCKNOW

Dt. 12/1/89

Syed Z. M. Mehdi Kazmi
Advocate High Court, Lucknow
Bungalow Sitara Begum, Main Khan Bahadur Crossing Lucknow

C 28
(21)

To

The Vice Chairman
Central Administrative Tribunal
Allahabad U.P. (Circuit Bench Lucknow)

Sir,

Sub: Supply of copy of order on Review application dated 29.9.88 against T.O. dated 26.8.88 in the case Registration No. O.A. 125 of 1987 [T-87] 87-88 - Syed Mohd. Raza kazmi V/s Chief commissioner of Income Tax and Others

— x —

I beg to state that I have been made known that the order has been passed on said review application but the copy of order has neither been supplied to me nor my counsel. It is therefore humbly requested that the copy of order be supplied at the earliest so that the applicant may seek shelter of supreme court.

Thanking you in anticipation

Yours faithfully

Dated: 26.9.89

Since the applicant's learned counsel undertakes that he has not received the copy of the order of Review application, a fresh copy may be issued to him at the earliest possible.

20/9/89
P.S. to VC

Recd order of dismissal copy dated 28/9/89 today at 16 hours on 12.10.89

12/10/89

(Ex. 07. K05 nic)
Adv

(22) C29

To

Hon'ble justice Kamleshwar Nath
Vice Chairman
Central Administrative Tribunal
Allahabad (circuit bench Lucknow)

Sir,

Sub: Review application dated 29.9.88 against T.O. dated 26.8.88 in the case Registration No. O.A. 125 of 1987 [T-87] 30f88- Syed Mohd. Raza Kazmi v/s Union of India, chairman C.B.D.T. & C.C.I.T, Lucknow

— x —

I beg to state that on approach to circuit bench Lucknow for early decision of the said review application it has come to my notice that the application has been rejected without giving proper opportunity of being heard to the applicant/counsel. No copy of order rejecting review has also been sent to the applicant/counsel. It is therefore requested that the second review of the order dated 26.8.88 be done on the points stated in the first review application by constituting fresh bench since Ld. Member A. Johri has been transferred.

Thanking you in anticipation.

Yours faithfully

27/6/89

Zafar Mehdi Kazmi
M.A.LL.B. Advocate High Court, Allahabad
Qtr. Sitara Begum, Mali Khan Saral Colonia

Put up before the Hon'ble Court on 4/7/89

Please 29/6 P.S.

OR

OA No. 125 of 87 - S.M.R. Kazmi vs U.O.I. & others was decided by the Bench consisting of Hon'ble Ajay Johri, AM and Hon'ble G.S. Sharma, J.M. on 26.8.88.

Review application filed in the case was registered in the office as Review Application no 9/1989 and the same has also been decided by the same Bench on 28.4.89 for circulation & orders of perusal of Hon'ble V.C.

31/7/89

1- Encl 12/5/89 Application Dated: 27-6-89

Inform the applicant, no further hearing of review can be made.

31/7/89 4/7/89

~~C30~~

Registered

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL AT ALLAHABAD
CIRCUIT BENCH, GANDHI BHAWAN
LUCKNOW
***

No. CAT/CB/LKO/ 406 Dated : 17/11/88
Review Application No. 8 of 88(L)
Registration No. 125 of 1988(L)

S.M.R. Qazmi
Applicant

Versus

C.B. of Direct Taxes & Chief Commr (A) U.P.C.I.T. Lko.
Respondent's

To

Chairman C.B.D.T.
& Chief Commissioner of I. Tax (Admn.)
U.P. & C.I.T. Lucknow.

Please take notice that the applicant above named has presented an application a copy whereof is enclosed herewith which has been registered in this Tribunal and the Tribunal has fixed 22 day of 12 1988 for orders to file reply, if any, within a month.

If no, appearence is made on your behalf, your pleader or by some one duly authorised to Act and plead on your in the said application, it will be heard and decided in your absence.

Given under my hand and the seal of the Tribunal this 17 day of 11 1988.

For DEPUTY REGISTRAR

dinesh/

Encl. Copy of Petition with Judgement.