

**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR**

RESERVED ON: 09.08.2018

**Jodhpur, this the 24th August, 2018
CORAM
Hon'ble Smt Hina P. Shah, Administrative Member**

Original Application No.290/00047/2017

- 1. Income-tax Contingent Employee's Union, Income-tax Office, Jodhpur.
(Association of casual labours of Income-tax, Rajasthan Region).**
- 2. Mahendra Singh S/o Shri Amar Singh Tak, aged 41 years r/o 95A, Abhay Nagar, Magra Punjla, Jodhpur.
(A member of the Income-tax Contingent Employee's Union)**

.....Applicants

**By Advocate : Mr T.C. Gupta.
Versus**

- 1. Union of India through the Finance Secretary, Ministry of Finance, Department of Revenue, Government of India, New Delhi-110001.**
- 2. Pr. Chief Commissioner of Income Tax, NCR Building, Statue Circle, Jaipur-302005.**
- 3. Chief Commissioner of Income Tax, Paota C Road, Jodhpur – 342001.**

.....Respondents

**By Advocate : Mr Sunil Bhandari.
Original Application No.290/00048/2017
With MA No. 290/00048/2017**

- 1. Income-tax Contingent Employee's Union, Income-tax Office, Jodhpur.
(Association of casual labours of Income-tax, Rajasthan Region).**
- 2. Mahendra Singh S/o Shri Amar Singh Tak, aged 41 years r/o 95A, Abhay Nagar, Magra Punjla, Jodhpur.
(A member of the Income-tax Contingent Employee's Union)**

.....Applicants

By Advocate : Mr T.C. Gupta.

Versus

- 1. Union of India through the Finance Secretary, Ministry of Finance, Department of Revenue, Government of India, New Delhi-110001.**
- 2. Pr. Chief Commissioner of Income Tax, NCR Building, Statue Circle, Jaipur-302005.**
- 3. Chief Commissioner of Income Tax, Paota C Road, Jodhpur – 342001.**

.....Respondents

By Advocate : Mr Sunil Bhandari.

ORDER

The present judgment shall dispose of two OAs since common question of facts and law are involved, as well as the facts giving rise to the preliminary objection raised by the respondents regarding maintainability of OA No. 290/00047/17 & OA No. 290/00048/17 as are similar and the parties are also identical in these Original Applications.

2. Both OAs have been filed under Section 19 of the Administrative Tribunals Act, 1985. In OA No. 290/00047/17, the applicants are seeking direction to the respondents to pay the applicants wages/salary @ Rs 18,000/- per month with applicable DA from 01.01.2016 alongwith interest at 12% for the period of delay and OA No. 290/00048/17 has been filed by applicants seeking direction to the respondents to pay correct and enhanced daily wages from 01.01.2006 as per 6th CPC recommendations, alongwith interest at 12% for the period of delay. Both these Original Applications have been filed by an Association namely Income-tax Contingent Employee's Union through Jagdish Solanki its President alongwith one affected person Mr Mahendra Singh as applicant No. 2.

3. The facts giving rise to the present controversy are that the learned counsel for the respondents during course of hearing on 08.01.2018 in both OAs submitted before the Division Bench of this Tribunal that same grievance has been raised by the Association as well as the Members of the alleged association in individual capacity. After hearing the parties, this Tribunal passed the following zimni order on 08.01.2018:

“Heard.

Counsel for the respondents raises issues regarding maintainability of the OA. He produces a list of 09 OAs filed by the individual members of the Association involving nearly 100 applicants and submits that the same grievance cannot be agitated through the Association separately

in another OA.

List the matter on 01.02.2018 for hearing on maintainability along with other connected matters.”

4. The respondents while filing reply to the OA on 06.10.2017 and 03.05.2017 respectively challenged the maintainability of the OA before this Tribunal. They have inter-alia submitted that the members of the alleged Union are neither identifiable nor the list of casual labour who are alleged to be the members of the so called Union have been given. Neither any memorandum or article of association of the so called Union has been filed before this Tribunal nor the applicants have ever submitted the same to the respondent-department as there is no such memorandum or article of association of the alleged Union. The applicant Union has not filed its registration certificate nor has filed any resolution of the Union on record empowering the filing of original application in terms of Rule 7 of the CAT Rules of Practice, 1993 on behalf of its members.

5. In rejoinder, applicants rebutted the issue of maintainability raised by the respondents stating that the association is very well registered on 20.01.2012 at No. RTU-2/2012 with the Registrar of Trade Union & Additional Labour Commissioner, Rajasthan, Jaipur. All the casual labours of Rajasthan are its members by virtue of being casual labours. Under any CAT rule, filing of name or list of the members or copy of memorandum or articles of the association is not required.

6. Heard Mr T.C. Gupta, learned counsel for the applicant and Mr Sunil Bhandari, learned counsel for the respondents.

7. Learned counsel for the respondents inter-alia argued that similar grievances have been raised by the alleged members of the applicant No. 1 in individual capacity by filing separate OAs involving 100 incumbents, which are pending consideration before this Tribunal. Thus, the same grievance cannot be agitated through alleged Association, as well as in individual capacity. He further contended that the applicant Union has not filed its registration certificate nor has filed any resolution on record empowering filing of original application on behalf of its members and hence, OA is not maintainable as its several alleged members have filed separate OAs for same cause of action. He thus prayed to dismiss the OA being not maintainable.

8. Learned counsel for the applicants submitted that under any CAT rule, filing of name or list of the members or copy of memorandum or articles of the association is not required and an Association alongwith one affected person can agitate the grievance before the Tribunal. Once the Registry cleared the file as per CAT (Procedure) Rules, 1987, this court cannot open the issue. He thus argued that OA is maintainable and may be heard on merits.

9. I have considered the rival contentions and perused the record. During course of arguments, learned counsel for the

respondents argued that by zimni order on 06.03.2018, these OAs were ordered to be listed alongwith OA No. 290/00329/2015 wherein these matters are to be heard on the principles of res judicata, on the issue of certain contemptuous references made by the applicants and on the conduct of the learned counsel for the applicant as he himself verified the written statement on behalf of the applicant No. 1.

Although learned counsel for the respondents argued at length in this regard but I deem it appropriate that he may raise such issues before Division Bench in OA No. 290/00329/15 wherein some detailed zimni orders have already been passed by the Division Bench. Since both the OAs are subject matter of the Single Bench, I confine myself to examining the question of maintainability of these OAs on the issue of filing the same by an "Association" under relevant law as per order dated 08.01.2018 passed by my predecessor.

10. In this regard, it would be appropriate to refer Section 19(1) of the 'The Administrative Tribunals Act, 1985' hereinafter referred to as Act, which reads as under :

"19. Application to Tribunal.-(1) Subject to the other provisions of this Act, a person aggrieved by any order pertaining to any matter within the jurisdiction of a Tribunal may make any application to the Tribunal for the redressal of his grievance."

A bare reading of Section 19(1) of the Act makes it clear that only "a person aggrieved by an order" pertaining to any matter within the jurisdiction of a Tribunal may make an application to the Tribunal for "redressal of his grievance". The words "a person aggrieved" and "his grievance" are of utmost importance, which show that no unspecified person can approach the Tribunal in respect to any service matter relating to the Government of India, if he himself is not aggrieved and has no grievance of his own. The Tribunal being a creation of the statute has limited jurisdiction to exercise its power strictly within the four corners of the statute whereunder it has been created. It cannot exercise inherent jurisdiction which is outside the purview of the Act. It is true that Section 14 of the Act lays down jurisdiction, powers and authorities of the Tribunal, but who can file application before the Tribunal is provided under Section 19 of the Act. Application filed by a stranger/unknown person cannot be entertained. The applicants admit in the Original Applications and I have noted that they are not aggrieved by any particular order but are challenging the action of the respondents, which is within the jurisdiction of the Tribunal but their case is that they are filing the original application on behalf of certain members of an association through applicant no. 1 Association verified by its President Mr Jagdish Solanki and applicant No. 2 Mr Mahendra Singh as a Member of applicant No. 1 Association, as well as he being an aggrieved person. For larger benefit of low paid persons, they are filing these original applications. Virtually, the original application filed by the applicants resembles to the public interest

litigation. If an application under Section 19 is not filed in the manner provided therein, the Tribunal has no authority to entertain such an application outside the purview of the said provision. It is true that sometimes there may be a service matter, which may be raised by a set of persons who are aggrieved and if their number is large and they have formed an association, they may approach the Tribunal through their Association for redressal of their grievance in common. The Rule framing authority has anticipated such contingency itself and provided in Rule 4(5) of 'The Central Administrative Tribunal (Procedure) Rules, 1987', hereinafter referred to as Rules, permitting more than one person to join together and file a single application or to association to file an application before the Tribunal provided it discloses the class/grade/category of the persons on whose behalf, it has been filed and at least one affected person joins such an application. Rule 4(5) reads as under :

"(5) (a) Notwithstanding anything contained in sub-rules (1) to (3) the Tribunal may permit more than one person to join together and file a single application if it is satisfied, having regard to the cause and the nature of relief prayed for that they have a common interest in the matter.

(b) Such permission may also be granted to an Association representing the persons desirous of joining in a single application provided, however, that the application shall disclose the class/grade/categories or persons on whose behalf it has been filed provided that at least one affected person joins such an application."

Further, rule 7 of 'The Central Administrative Tribunal Rules of Practice, 1993' (hereinafter referred to Rules of Practice) provides that :

Production of authorisation for and on behalf of an Association.—Where an application/pleading or other proceeding purported to be filed is by an Association, the person or persons who sign(s)/verify(ies) the same shall produce along with such application, etc., for verification by the Registry, a true copy of the resolution of the Association empowering such person(s) to do so: Provided the Registrar may at any time call upon the party to produce such further materials as he deems fit for satisfying himself about due authorisation.

11. It is noted that a large number of individual members of the applicant No. 1 Association have filed separate OAs for the same cause of action. During course of arguments, learned counsel for the applicants stressed the point that rule 4 (5) (b) of the Rules permits application filed by the Association and there is no bar for filing the Original Application by Association when individual members have also filed separate OAs for same cause of action. Further, when Registrar of the Tribunal verified the proceeding filed by the Applicant No. 1

Association, this Tribunal cannot intervene in the matter at this stage and consider the issue of maintainability. In view of the argument advanced by learned counsel for the applicants, it is important to take a holistic view of the Act, Procedure rules and the Rules of Practice. Section 19 (1) of the Act permits an aggrieved person to approach the Tribunal but clause (a) of rule 4 (5) of the Rules of 1987 provides that the Tribunal may permit more than one person to join together and file a single application and clause (b) of the said rule provides that such permission may also be granted to an Association representing the persons desirous of joining in a single application provided, however that the application shall disclose the class/grade/categories of persons on whose behalf it has been filed provided that at least one affected person joins such an application. Meaning thereby, that applications filed under rule 4 (5) of the Rules of 1987 on behalf of a group of persons joining together or by an Association is subject to leave of the Tribunal and cannot be treated as deemed permission as it must be examined as per law. The rule 7 of the Rules of Practice, 1993 abide the Association to produce a true copy of resolution of the Association empowering its President to verify the application/pleadings. Further, Registrar of the Bench may at any time call upon the party to produce such further materials as he deems fit for satisfying himself about due authorization. In the present case, the Registry failed to scrutinize the application properly in terms of Rules of Practice, 1993 and after appearance of the respondents and after filing of their reply, a preliminary objection pertaining to maintainability of the OA in the name of 'Association' has been raised by the respondents as large number of applications have been filed in individual capacity by the alleged members of applicant No. 1 Association. In such circumstance, this Tribunal deemed it proper to go into the issue and have ordered in OA No. 290/00329/15 to bring on record the resolution and list of Members of applicant No. 1 'Association' and some other documents in terms of rule 7 of Rules of Practice, 1993, which is pending consideration before the Division Bench.

12. I am not impressed by the argument advanced by the learned counsel for the applicants that once the Registry did not object to filing of the OA by applicant No. 1, this court cannot examine the issue now. Rule 4 (5) of the procedure rules is very clear that only the Tribunal can permit applications filed jointly by affected persons or by Association and the role of Registry is only restricted to assist the Tribunal in judicial administration and is not an authority to adjudicate the matter involving legal points. Notwithstanding the fact that production of authorization for and on behalf of Association in terms of rule 7 of Rules of Practice before the Registry had been done or not, it is the duty of the applicants to follow the procedure as laid down in Rule 4(5) of 'The Central Administrative Tribunal (Procedure) Rules,

1987'.

13. In the instant cases, many alleged members of the applicant No. 1 Association filed separate Original Applications for the same cause of action. It is worthwhile to mention here that on 10.01.2018, the Registry of this Bench received a letter from 14 persons denying that they have never been Members of applicant No. 1 Association and they have never authorized learned counsel for the applicant Mr T.C. Gupta to file any OA on their behalf before any Hon'ble Tribunal/High Court of Rajasthan. The said letter is in the record of OA No. 290/00329/15 wherein the applicant No. 1 Association has also furnished the list of their members. In such circumstance, the question of allowing the respondent No. 1 to file Original Application under rule 5 (b) of the Rules of 1987 must be examined as per law in the light of preliminary objection raised by the respondents.

14. As in the preceding paragraph No. 11, I have already concluded that filing of joint application by individuals or by Association under rule 4(5) of the Procedure Rules is subject to leave of this Tribunal. It is worth to note in the instant cases the applicants have neither made any prayer in their pleadings nor the learned counsel for the applicant sought leave of this Tribunal orally during course of arguments for filing these OAs by 'Association' under rule 4 (5) of the Procedure Rules, which is necessary. He rather vehemently reiterated his stand that once the Registry did not raise any objection under rule 7 of Rules of Practice, this Tribunal at this stage cannot reopen the verification process. In my considered view, in absence of any prayer for joining together in Single Application by Association under rule 4(5)(b) of the 'The Central Administrative Tribunal (Procedure) Rules, 1987', the present application is not maintainable for want of specific prayer.

15. Furthermore, filing of present application by the applicant No. 1 'Association', delayed and some-what prejudiced the cause of the Members who never authorized the applicant No. 1 to file the Original Application on their behalf. Though the applicant No. 1 Association vaguely mentioned in para 7 of the OA that some of the Members have filed separate applications but it did not produce list of the same. It is noted that some of the Members had to deny specifically that they have not joined together in the matter pursued by the applicant No. 1 in this Tribunal by sending a letter, which is part of record of OA No. 290/00329/15. It appears that the applicant Association filed instant OAs without consenting its members and President of the applicant No. 1 Association suo motu signed authorization on their behalf. As such, the President of the Association created a lot of unnecessary controversy. In these circumstances, after giving my thoughtful consideration to the conduct of the applicant No. 1 that he inter-alia tried to misuse the provisions of the Act & Rules made for larger benefits of the aggrieved persons and

consequently, prejudiced the cause of other bonafide persons. Therefore, I deem it appropriate to impose a cost of Rs 50,000/- on Mr Jagdish Solanki, President, Income-tax Contingent Employee's Union, Jodhpur who signed the authorization on behalf of applicant No. 1 Association for filing the OA in names of persons who have not consented to be party in the present OA.

15. In view of the discussions hearinabove made, these Original Applications are not maintainable and the same are dismissed. However, looking to the entire facts and circumstances of these case, the following directions are given :

(i) This order shall not prejudice the right of the person(s) who wish to file application under Section 19 of the Administrative Tribunals Act, 1985 in individual capacity or joins together in Single Application as per rule 4(5)(a) of The Central Administrative Tribunal (Procedure) Rules, 1987.

(ii) Heareinafter, Registry shall carefully scrutinize the applications filed under rule 4(5)(b) of 'The Central Administrative Tribunal (Procedure) Rules, 1987' readwith rule 7 of 'The Central Administrative Tribunal Rules of Practice, 1993'. A separate application seeking leave of the Tribunal for joining together to pursue the matters as per rule 4(5)(b) of 'The Central Administrative Tribunal (Procedure) Rules, 1987' shall be preferred alongwith OA for consideration of the Court. Registry shall issue order in this regard.

(iii) The cost of Rs 50,000/- imposed upon Mr Jagdish Solanki, President, Income-tax Contingent Employee's Union, Jodhpur shall be deposited by him in Rajasthan State Legal Services Authority within a period of 03 months from the date of receipt of a copy of this order. It is made clear that after producing receipt of aforesaid cost, he can approach this Tribunal.

(iv) Certified copy of this order be placed in all connected matters.

[Hina P. Shah]
Judicial Member

Ss/-