

**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR**

O.A. No.290/00329/15 & MA No. 290/00259/17

Reserved on : 07.03.2019

Jodhpur, this the 29th March, 2019

CORAM

Hon'ble Smt Hina P. Shah, Judicial Member

Hon'ble Ms Archana Nigam, Administrative Member

- (1) Income-tax Contingent Employee's Union, Income-tax Office, Jodhpur. (Association of casual labours of Income-tax, Rajasthan Region)
- (2) Kamal Pal S/o Shri Babu Lal, aged about 43 years, R/o Plot No. 147, Hudco Quareters, Kirti Nagar, Jodhpur-342001. (A member of the Income-tax Contingent Employee's Union)

.....Applicants

By Advocate : Mr T.C. Gupta.

Versus

- (1) Union of India, through the Secretary, Ministry of Finance, Department of Revenue, Government of India, New Delhi-110001.
- (2) Chief commissioner of Income Tax, New C.R. Building, Jaipur – 302005..

.....Respondents

By Advocate : Mr Sunil Bhandari.

ORDER

Per Smt. Hina P. Shah

At the outset, it is pertinent to record that the present OA has been filed under Section 19 of the Administrative Tribunals Act

readwith Section 4 (5) (b) of the CAT (Procedure) Rules, 1987 as the same has been filed on 23.07.2015 by an Association alongwith one affected person, seeking following relief (s):

- (A) In view of the facts and grounds enumerated above, it is most respectfully prayed that the screening committee reports dated 13.07.2010 and 05.12.2011, Annex A/4 and A/5 may be quashed and respondents may be directed to regularise the services of the applicant daily wagers from 10.04.2006 with consequential benefits with interest @ 9%.
- (B) Any other appropriate writ, order or direction, which may be considered just and proper in the facts and circumstances of the case, may be issued in favour of the Applicants.
- (C) Costs may be awarded.

2. The applicants herein filed Original Application challenging the report of the screening committee formed by the respondents for regularization of daily wagers (Annex. A/4) as well as review committee report (Annex. A/5) on one of the ground that relevant records have not been placed before such committee (Ground 5/G) so that it may recommend the case of the applicants, especially applicant No. 2. Applicant No. 2, after obtaining impugned reports under RTI, filed representation before the respondent No. 2 on 15.05.2015 (Annex. A/2) but the same was replied by respondent No. 2 vide letter dated 22.06.2015 that names of the applicants were considered by the screening committee vide report dated 13.07.2010 and further by review committee report dated 05.12.2011 but Committee vide report dated 13.07.2010 did not recommend any name for regularization.

Review Committee had also not recommended any name for regularization vide its report dated 05.12.2011. Hence, the applicants have approached this Tribunal challenging the report of Screening Committee as well as Review Committee on the ground mentioned.

3. On 16.05.2016, respondents filed their preliminary objections to the OA instead of detailed reply. It is inter-alia submitted in their preliminary objection that present OA has been filed by an unregistered Association/Union which has no sanction/authority in the eyes of law. None of the members of the alleged union are identifiable nor have they submitted list of their members. The alleged Union has not filed any resolution before this Tribunal empowering it to file present Original Application. Thus, applicants cannot maintain present Original Application in such manner and style as has been done. It has also been averred that present OA is barred by principles of resjudicata/constructive resjudicata as applicant No. 2, i.e. Shri Kamal Pal filed OA No. 111/2012 before this Tribunal seeking regularization but the same was not pressed by him.

4. On 16.05.2016, in view of preliminary objections filed by the respondents, Division Bench of this Tribunal listed the matter for hearing on preliminary objection raised on the maintainability of the OA. On 19.01.2017, matter was heard on issue of

maintainability by the Tribunal, and the Tribunal recorded following proceedings :

Heard.

The respondents have taken a plea qua non-maintainability of the OA and have also filed a reply in that regard stating that it is barred by principles of res-judicata as members of the Union including applicant no.2 had earlier filed an O.A No. 111/2012 which was dismissed alongwith other OAs by a common order dated 29.10.2012. In that OA, the prayer of the applicants for regularization was rejected as not pressed and other reliefs were allowed which has been upheld by the Hon'ble High Court. So, he submits that since matter has already attained finality at the level of Jurisdictional High Court also, the applicants cannot file another OA on the same cause of action.

Mr T.C. Gupta, Learned counsel for the applicant seeks time to file rejoinder to the reply filed qua maintainability of the OA. May do so within 03 weeks.

During course of court proceedings on 10.11.2017, this Tribunal recorded as follows :

Learned counsel for the respondents Shri Sunil Bhandari stated that this OA has been filed by the Income Tax Contingent Employees Union. He stated that preliminary objection regarding maintainability of the OA needs to be decided before proceeding further in the matter. He submitted that the applicant Union has not filed any Registration Certificate nor it has filed a resolution empowering the filing of the present OA through counsel. He submitted that there are various judgments in different judicial fora on the subject. He further stated that the prayer for regularization made by the applicants is barred by the principles of res judicata. He submitted that various casual labour /daily wagers prayed for regularization before this Tribunal but the said prayer was abandoned and thus they are restrained from praying for the said relief again. In this regard, he refers to an order dated 29.10.2012 passed by the Tribunal.

At this point of time, learned counsel for the applicant Shri T.C.Gupta, on a specific query, stated that he will be filing the names of the members of Income Tax Contingent Employees Union, who are affected.

In pursuance of above court proceedings, Mr T.C. Gupta filed written statement on 21.11.2017 under his signature, verified by him instead of Income –tax employee’s Contingent Union and another (applicant No. 2 Mr Kamal Pal), wherein he furnished name of 56 affected persons in tabular form with the foot note that

Un-intentional error if any can be corrected, in para 2 of the said written statement. The respondents filed counter-affidavit to the said written statement before this Tribunal and this Tribunal vide order dated 08.01.2018 taken the same on record, while recording following court proceedings :

Learned counsel for the respondents produces his counter affidavit today, which is taken on record.

Heard. Learned counsel for the respondents submits that the first applicant has no locus standi to file this OA inasmuch it has not obtained authorization from individual members involved to file this OA in the first place. The second applicant was an applicant in one of the several OAs filed earlier in the year 2012, seeking regularization of the applicant therein. The request for regularization was not pressed during the course of hearing and, therefore, he and persons similarly placed had only been allowed to continue with no order regarding regularization. The present OA is, therefore, not maintainable on the principles of res judicata. Learned counsel for the respondents also produces a list of 09 OAs in which similar relief has been sought involving nearly 100 original applicants. All these OAs are also barred by the principle of res judicata, it is contended.

Learned counsel for the applicant produces a copy of order of this Tribunal in OA No.261/2013 and submits that in the earlier OAs, the report of the Committee constituted in pursuance of the Uma Devi judgment of the Hon'ble Apex Court had not been challenged. It is, therefore, not correct to say that the OA is barred by res judicata. As for the contention that the first applicant was not authorized to file the present OA, he would submit that the Tribunal had previously entertained such OAs filed with only an affidavit by the counsel on record and, therefore, there was no reason to treat this OA differently.

After hearing both sides, considering that a number of OAs on the same issue are pending in this Tribunal and posted to different dates, we are of the view that all such OAs should be brought together and posted on the same date so as to consider the issue comprehensively including the issue of maintainability raised by the counsel for the respondents. Accordingly, this OA along with the nine similar OAs mentioned by the counsel for respondents be posted to 01.02.2018 for hearing.

Thereafter, on 01.02.2018, this Tribunal again heard the matter in view of written statement filed by Mr T.C. Gupta and counter-affidavit filed by the respondents and recorded following court proceedings :

The instant OA has been filed by the applicant No.1 association and one Shri Kamal Pal (applicant No.2 herein) claiming himself to be a member of the said association with a prayer to quash the screening committee reports dated 13.07.2010 and 05.12.2011 (Annexures A/4 & A/5) and for issuance of a direction to respondents to regularize the services of the applicants w.e.f. 10.04.2016.

The respondents, while joining the defence by way of a joint reply have raised a preliminary objection that Income Tax Contingent Employee's Union (applicant No.1 herein) cannot maintain the instant OA as neither the registration certificate of said association nor any resolution authorizing applicant No.2 to file the instant OA has been placed on record.

During the course of argument on 10th November, 2017, learned counsel for the applicants had stated that he shall be filing the names of the members of the Income Tax Contingent Employee's Association who are affected. Pursuant thereto, a list of 56 persons purported to be the members of the said association was placed on record with an assertion that a direction be issued for regularization of those 56 persons in services w.e.f. 10.04.2006. The statement containing the list of those 56 persons including the assertions with regard to claim for regularization of services was neither filed by applicant No.2 nor it was verified by him. Whereas, the learned counsel appearing for the applicants himself chose to verify the said facts and placed on record the list of said 56 persons.

Shri Sunil Bhandari, learned counsel for the respondents, while referring to a counter affidavit filed by Shri S.M. Joshi, DCIT (Hqrs.), in the office of Chief CIT, Jodhpur submitted that 13 persons namely Vinod Kumar Tailor, Ramesh Kumar Sen, Kishore Kumar Yadav, Ravi Sanova, Kamal Pal, Jagdish Solanki, Ramesh Kr. Sharma, Suresh, Mahendra Singh Gurjar, Geeta Bai, Mahesh Nalawat, Bhawar Singh Rajawat and Kanhaya Lal Dangi whose names have been supplied by learned counsel for the applicants in the aforesaid list of 56 candidates had earlier filed OAs No.81/2012, 115/2012, 261/2013, 82/2012, 111/2012, 119/2012, 259/2013, 107/2012, 109/2012, 17/2012, 292/2017, 398/2011, 116/2012 and 292/2017. He further submitted that OAs No.259/2013 and 292/2017 are still pending and the remaining OAs have already been decided determining the respective rights of the applicants therein. He while referring the assertions made in paragraph 6 of the counter affidavit filed by Shri S.M. Joshi, argued that the instant OA is an abuse of process of law and the same cannot be maintained by the applicant No.1 association.

The Registry of this Tribunal has also received a letter dated 10th January, 2018 from 14 persons whose names are included by the learned counsel for the applicants in the aforesaid list of 56 candidates purported to be the members of the applicant No.1 association. In the letter dated 10.01.2018, those 14 persons have stated that neither they are the members of the applicant No.1 association nor they ever authorized anybody to maintain the instant OA on their behalf. Letter dated 10.01.2018 is taken on record. Let copies of this letter be supplied to the learned counsels for both the parties.

Learned counsel for the applicants is directed to submit his response to aforesaid letter dated 10.01.2018. He is further directed to bring on record the constitution of applicant No.1 association as well as a copy of resolution authorizing applicant No.2 to sign vakalatnama in his favour. Learned counsel for the applicants is further directed to produce the register of proceedings in original wherein the resolution passed by applicant No.1 association has been recorded authorizing him to maintain the instant OA on its behalf. An affidavit shall also be filed by him specifying therein that under which provision of law he could verify the facts containing the aforesaid list of 56 persons submitted on behalf of the applicant association.

At this stage, learned counsel for the respondents has further pointed out that the applicant No.1 association has also preferred OAs No.47/2017, 48/2017, 368/2017 and 369/2017 which are listed today itself at serial No.7, 8, 21 and 22 in the cause list and in those cases also no valid authorization/resolution has been filed to maintain them. Let all these cases be listed together on 06.03.2018.

The directions issued hereinabove shall be carried out three days prior to the date fixed and the requisite material shall be placed on record with an advance copy to the learned counsel for the respondents.

A copy of this order be supplied to learned counsels for both sides.

5. In pursuance of court proceedings dated 01.02.2018, Mr T.C. Gupta again filed a written statement on 09.05.2018 under his signature and also verifying the contents under “Verification” head, while stating in para (ii) of the said written statement that :
 “Regarding letter of 14 persons of Jaipur, it is sufficient to mention that the Counsel did not file the OA neither he filed the list of 56 persons on his own. The OA was filed by the Union and the list was also filed by the Union under signature of its Counsel. Therefore, no comments of the Counsel are required. The Union in its resolution has elaborately discussed the issue. A true copy of the resolution dated 11.04.2018 is enclosed as Annexure A/2.”
 The said written statement alongwith its annexure has been kept

in Part-C of the file as he did not put in continuous pagination to paper book, as recorded by Registry. The annexure filed with the said written statement, kept in Part-C, is alleged Resolution of applicant No. 1 dated 20.03.2015 & 11.04.2018, which is a typed copy on A-4 size paper signed by Mr T.C. Gupta himself alongwith copy of constitution of applicant No. 1 Union and judgment of Hon'ble Supreme Court passed in Civil Appeal No(s) 2795-2795 of 2018 arising out of SLP (C) Nos. 33258-33259 of 2015 dated 13th March 2018.

6. Thereafter, when matter again came up for hearing on 10.05.2018 in view of written statement and documents filed in pursuance of directions issued in court proceedings dated 01.02.2018, the matter was adjourned as Mr T.C. Gupta left the court at relevant time. He, however, returned later. In court proceedings dated 10.05.2018, Division Bench of this Tribunal recorded that :

Heard both sides. Counsel for the applicants submits that the applicants have filed written reply covering all the points contained in the direction issued by this Tribunal in its order dated 01.02.2018. Accordingly, the matter may be proceeded with.

Counsel for the respondents submits that when the matter was taken up and a direction was issued by the Tribunal, contemptuous references had been made on various persons, including the Bench on the manner in which the case has been conducted regarding maintainability.

On perusal, it is seen that the Resolution of the Union does contain objectionable references to the manner in which proceedings had been conducted. Accordingly, counsel for the respondents was allowed to make his submissions during which time the counsel for the applicant appeared to have left the court. However, the latter returns after some time and submits that when the matter was permitted to be heard along with the O.A. at Sl.No.9 listed for today and adjourned since, he was under the impression that this matter was also adjourned.

In view of the aforesaid submission, counsel for the applicant is granted one more opportunity. Post the matter on 16.07.2018.

On 07.03.2019, the matter was finally heard and reserved for orders.

7. At the outset, Mr T.C. Gupta, learned counsel for the applicant has specifically been asked by this Bench whether he would like to withdraw the present OA in view of preliminary objections raised by the respondents, pleadings filed by him under his signature etc. He answered in negative and abruptly stated which we record as stated that "This Tribunal may pass whatever order it would like to". Thereafter, Mr T.C. Gupta argued the case on merits and Mr Sunil Bhandari, learned counsel for the respondents argued the case while reiterating the contents of preliminary objections raised, as well as counter-affidavit filed in this regard.

8. In these circumstances, although we are conscious of the fact that it is always desirable to decide the issues on merits rather than technicalities. We are also conscious of the fact that aggrieved persons in the present OA are casual labour who are on lowest pedestal of the litigants approaching this Tribunal. Having noted that, it is also important to note that pleadings have been allegedly filed on behalf of the Union which may include so many aggrieved persons but this Court is unable to verify the same as after filing of the OA documents as well as written

statements have been filed under the signature of Mr T.C. Gupta, learned counsel for the applicant stating that he is acting on behalf of the Union. However, the assertion of Mr T.C. Gupta was refuted when Registry of this Tribunal received a letter of 14 persons refuting that they have never authorized any Union or Mr T.C. Gupta to file OA on their behalf. Earlier in written statement filed by Mr T.C. Gupta under his signature on 21.11.2017, names of these persons have been mentioned as members of the Union and affected persons. These facts were recorded in the proceedings dated 08.01.2018 quoted above and learned counsel for the applicant failed to place on record any acceptable document which can satisfy this Tribunal as far as 'Verification' part of the pleadings is concerned.

9. Further, issue of persons joining together in single application by an Association/Union has been dealt with by this Tribunal in OA No. 47/2017 & 48/2017 wherein applicant No. 1, i.e. applicant-Union herein was an applicant. In order dated 24.08.2018 passed in these OAs, this Tribunal has observed that :

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.

In the present case also, the applicants have not made any specific prayer anywhere in their OA for joining together nor have they prayed orally during course of arguments. Hence, the present OA is not maintainable for want of specific prayer, which was not forthcoming during course of hearing, even orally.

10. Further, in the present OA as well as other OAs filed before this Tribunal by applicant No. 1 Union, the issue of contemptuous references as well as filing of pleadings by the Advocate under his signature had already come up and adjudicated wherein this Tribunal prima-facie found that documents have been forged by Mr T.C.Gupta. The relevant portion of order dated 03.01.2019 passed in Original Applications No. 368/2017 & 369/2017 is as under :

12. Furthermore, in OA No. 368/2017 applicants did not choose to challenge the order dated 17.02.2017 (Annex. A/2) passed by the respondents denying payment of interest on wages as claimed in one of the OA (Annex. A/2 in OA 368/2017). The representation which has been disposed of by the respondents seems to have been sent by Mr T.C. Gupta, learned counsel for the applicants and the same has not been challenged by the applicants herein. They approached this Tribunal seeking fresh directions. They have also not provided list of affected members to the respondents. In the OA No. 368/2017, only two documents, i.e. representations as Annex. A/1 from Mr T.C. Gupta and one from Mr Jagdish Solanki has been annexed. Later on counsel for the respondents annexed alleged Resolution dated 20.03.2015 alongwith written reply on 09.05.2018 affixing his signature instead of applicants at each page of reply and thereafter certificate of registration of Trade Union. Resolution filed alongwith the rejoinder contains signature of some persons at the end of

document. Orders passed by this Tribunal and Hon'ble High Court have not been annexed with the OA No. 368/2017 which were brought on record by the respondents alongwith their reply. Similarly, almost identical deficiencies were there in record filed by the applicants in OA No. 369/2017 except that judgment of Hon'ble High Court was brought on record by the applicants. Almost identical rejoinder has been filed in both the OAs and rejoinder has been signed by Mr T.C. Gupta, learned counsel for the applicant himself instead of the applicants. The documents filed alongwith rejoinder, i.e. Registration Certificate and alleged Resolution of the Union has been attested by Mr T.C. Gupta, learned counsel for the applicants. These documents nowhere bears the signature of the office bearer of the Union or applicant No. 2.

13. Rule 4, 5, 6 & 7 of **The Central Administrative Tribunal Rules of Practice, 1993** provides that :

4. Preparation of pleadings and other papers.—

(a) All pleadings, affidavits, memoranda and other papers filed in the Tribunal shall be fairly and legibly typewritten or printed in English or Hindi language on durable white foolscap folio paper of Metric A-4 size (30.5 cms. long and 21.5 cms. wide) on one side only in double space with a left margin of 5 cms. and right margin of 2.5 cms. duly paginated, indexed and stitched together in the paper-book form. The index shall be in Form No. 1.

(b) English translation of documents/pleadings shall be duly authenticated by any legal practitioner.

5. Date and signature.—**A party required to affix his signature shall also state his name in capitals near his signature and initial or sign at the bottom of each page.** Explanation.—The expression 'signature' or 'initial' includes thumb mark.

6. Attestation.—

(a) The attestation contemplated in Rule 9(2) of the Procedure Rules shall be made at the end of the document in the form given below: "This/Annexure.....is the true copy of the original document."

(Signature) Name and Designation of the Attestor with date".

(b) Sub-rule (a) above shall also govern production of xerox copies of the documents, provided they are clear and legible.

7. 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.

In the present case, Mr T.C. Gupta, learned counsel for the applicant himself verified the contents of rejoinder which is in violation of

CAT Rules of Practice, 1993 as well as Civil Procedure Code. Furthermore, he attested copy of Resolution passed by the applicant-association. Copy of Resolution filed alongwith the rejoinder clearly reveals that it cannot be genuine as it is evident that signature of some alleged persons seems to be superimposed by trick using Xerox machine or otherwise as content of the document is very light and signature are quite dark one. On 07.05.2018 an alleged resolution dated 20.03.2015 alongwith a written reply was filed in both the OAs before this Tribunal. The written reply was signed by Mr T.C. Gupta himself and Resolution was also signed and attested by him. Thereafter, on 30.11.2018, a rejoinder alongwith same resolution of the applicant-association (union) was filed. Pleadings in rejoinder was verified by Mr T.C. Gupta himself and each page of rejoinder was signed by him as a pleader. However, while going through the record, I find that copy of resolution of the Union filed by T.C. Gupta on 07.05.2018 did not contain signature of any of its office bearers, which was a computer print only. Thereafter, he filed another copy of the same resolution containing signature of some persons at the end of alleged Resolution. While comparing both the documents filed on different dates, I can see with bare eyes that document filed alongwith the rejoinder wherein signatures of some persons are there, these signatures have been superimposed by using Xerox machine on an existing document. Apparently, there are two documents having same content available on record, one containing signatures of some persons and other does not bear the said signatures. Though the legality of both the documents is questionable but document which is suspected to be having forged signatures, i.e. Resolution filed alongwith the rejoinder containing signatures of the members of alleged association, facts pleaded in rejoinder has been verified by the learned counsel appearing for the applicants, i.e. Mr T.C. Gupta instead of applicants themselves, which is clear violation of CAT Rules of Practice, 1993 as well as CPC.

14. The contents from resolution, as well as certificate of registration of trade union filed by Mr T.C. Gupta is reproduced below :

The resolution filed by the review-applicant is reproduced below:

आज दिनांक 20.03.2015 को इनकमटैक्स कंटीजेंट एम्प्लॉईज यूनियन के सदस्यों की मीटिंग हुई। जिसमें निम्न मुद्दों पर विचार विमर्श किया गया तथा आवश्यक निर्णय लिए गए।

1. कर्मचारी की समस्याएं :-

क- कर्मचारियों को छठे वेतन आयोग के अनुसार बढ़ा हुआ वेतन नहीं मिलना।

ख— पिछले कई वर्षों से बोनस नहीं मिलना।

ग— कर्मचारियों को रेगुलर करने का मामला इत्यादि।

इन मुद्दों पर पूर्व में श्री जे के कौशिक तथा री जे.के. मिश्रा वकील के माध्यम से कर्मचारियों ने अपने-अपने स्तर पर कैट तथा हाई कोर्ट में केस लड़े। इसके लिए गरीब कर्मचारियों को भारी मात्रा में फीस के रूप में भुगतान वकील को करना पड़ा।

आयकर विभाग में पूर्व में सेवारत श्री टी.सी. गुप्ता, डिप्टी कमीशनर सेवानिवृत्ति के बाद वकील का काम कर रहे हैं। कर्मचारियों के केस लड़ने के लिए जब उनसे सम्पर्क किया गया तो उन्होंने बताया कि वे इन कर्मचारियों को हर मामले में निःशुल्क कानूनी सहायता देने व हर स्तर पर निःशुल्क केस लड़ने को तैयार हैं। उन्होंने यह भी बताया कि आमतौर पर सभी कर्मचारियों की समान समस्याएं हैं इसलिए कर्मचारियों को अलग-अलग केस लगाने की जरूरत नहीं है तथा इस तरह के ज्यादातर केस यूनियन के नाम पर लगाए जा सकते हैं जिससे एक ही केस से सभी कर्मचारियों को फायदा मिल सकता है। सदस्यों ने विचार-विमर्श के बाद यह निर्णय लिया कि श्री टी.सी.गुप्ता के माध्यम से सभी केस यूनियन के नाम से सक्षम कोर्ट में लगाए जाएं। इस संबंध में श्री टी.सी.गुप्ता को यूनियन का वकील आगामी आदेशों तक नियुक्त किया जाता है। इस संबंध में अगर कोई कर्मचारी की अलग समस्या हो या कोई कर्मचारी यूनियन से हटकर अपना केस लगाना चाहता हो तो उसे पूरी छूट है। श्री गुप्ता ने बताया कि वे ऐसे मामलों में भी निःशुल्क सेवा देने को तैयार हैं। यूनियन के नाम से जो भी केस लगाना होगा उसके लिए यूनियन के पदाधिकारी श्री गुप्ता जी से विचार-विमर्श करके उनके माध्यम से केस लगाएंगे तथा केस की पैरवी के लिए जो भी आवश्यक होगा उसके लिए श्री गुप्ता जी पदाधिकारियों से विचार-विमर्श करके आवश्यक कार्यवाही करेंगे।

यूनियन के नाम से कोई भी केस लगाने के लिए यूनियन के अध्यक्ष या मंत्री किसी भी सदस्य को ऑथराइज कर सकते हैं।

2. यह यूनियन अपने किसी सदस्य से कोई चंदा या अन्य राशि नहीं लेती है। क्योंकि अभी तक यूनियन का कोई खर्चा नहीं है। कानूनी मुद्दों पर सभी कोर्ट कचहरी में श्री गुप्ता जी निःशुल्क सेवा देने के लिए राजी हैं। जिसके लिए उनको नियुक्त किया गया है। सभी केस लड़ने के लिए श्री गुप्ता जी कागज पत्रों का खर्चा भी स्वयं उठाने को सहमत हैं। यूनियन का और किसी भी प्रकार का खर्चा नहीं है। इसीलिए कोई चंदा वसूल नहीं किया जाता है। इस प्रकार बिना चंदा दिए ही राजस्थान प्रभार के सभी कैज्यूअल लेबर यूनियन के सदस्य हैं।

अगर किसी सदस्य को कोई ऐतराज हो तो वह यूनियन की सदस्यता छोड़ सकता है।

Section 4 and 5 (A) of the Constitution annexed with the his Rejoinder by Mr T.C. Gupta is reproduced below :

इन्कम टैक्स कन्टिनजेंट एम्पालाईज यूनियन, राजस्थान प्रभार का विधान

धारा नं. 4 सदस्यता :

1— साधारण सदस्य :—

अ— राजस्थान में आयकर कार्यालयों में कार्य करने वाले दैनिक वेतन भोगी कर्मचारी जिन्हें चाहे किसी भी पद से संबंधित किया जाता हो तो यूनियन के उद्देश्यों को मानते हो, यूनियन की साधारण सदस्यता प्राप्त कर सकता है। साधारण सदस्य के लिए प्रवेश शुल्क 100/— रूपया होगा तथा मासिक सदस्य शुल्क 30/— रुपये प्रतिमाह होगा।

धारा नं.5 (अ) – सदस्यों के अधिकार :

1. यूनियन के विधान में प्रदत्त अधिकारों का उपयोग वही सदस्य करने को अधिकारी होगा जो यूनियन के विधान और नियमों का पालन करें तथा यूनियन द्वारा सदस्यता शुल्क लगातार जमा करवाये। उक्त सदस्य के लिये यूनियन के निर्णय को लागु करना भी लाजमी होगा।

Notwithstanding the veracity of Resolution filed by Mr T.C. Gupta, it is also evident that contents of Resolution and Constitution is contrary to each other.

15. The reasons for verification of pleadings by the parties are to enable the Court to find out which facts can be said to be proved. Allegations may be true to knowledge or allegations may be true to information received from persons or allegations may be based on records but the importance of verification is to test the genuineness and authenticity of allegations and also to make the deponent responsible for allegations. It is important to note that Mr T.C. Gupta is a retired officer of respondent-department and it is also apparent from records that he himself became defacto party to the present cases by verifying and signing the contents of rejoinder rather than appearing on behalf of applicants. He may have some prejudices which could be understood from the relief sought in these OAs to the extent that payment of interest on arrears may be provided to the applicants from the officers responsible for delay. It appears that he is using the platform of alleged association/union for his personal prejudices. In order to achieve his self goals, he not only prejudiced the cause of casual labours but has also abused the process of law by acting in the manner he did. In my view, he has been given long rope for too long considering interest of justice as he appeared in cases filed by the casual labours or lower rung employees. Looking to the entire facts and circumstances of the present cases, in my view, it is high time to call a spade a spade and all these things should be noted and taken cognizance of by this Tribunal as applicants nor Mr T.C. gupta deserve any sympathy from this Tribunal. Mr T.C. Gupta in the year made indecent comments about Hon'ble Judges of Rajasthan High Court in **Review Application No.290/00006/2017 in OA No.290/00327/2015**. While recording the comments made against the Hon'ble Judges of High Court and his behaviour in the Court, this Tribunal has observed in order dated 23.02.2017 as under :

15. I am constrained to observe that this entire exercise of the learned counsel was to try and intimidate the Bench with a view to securing an order of his choice, which certainly, cannot be permitted. The allegations levelled against the Judges of the Hon'ble High Court in the name of the right to be heard, by using intemperate language and casting unwarranted aspersions on judicial officers and attributing motive while discharging judicial functions - tantamounts to abusing his position as a lawyer and as an officer of the court. The dignity of any judicial forum cannot be allowed to be compromised by way of intimidation and interference – by a disgruntled litigant.

19. Any criticism of the judicial institution, couched in a language which is apparently contemptuous, ultimately results in undermining the credibility of the institution. An advocate is the most accountable, privileged and erudite person of the society. The norms of behaviour expected of him, make him worthy of the confidence of the community as an officer of the Court. The learned advocate has shown disrespect to the Hon'ble High Court and their Lordships by name, in writing also. In para 16 of the R.A., he stated that– **“It seems that the order dated 19-3-2015 passed by Shri Govind Mathur and Shri Prakash Gupta, as High Court Judges, to this extent, is perverse, absurd, senseless, without application of mind and contemptuous as per definition of contempt given by the Hon'ble Supreme Court.”**

20. In view of this sad course of events, I am left with little option but to record the facts, in the order. The Registry is directed to send a copy of this order to the Secretary, Bar Council of Rajasthan, Office at Jodhpur High Court Campus, for further necessary action.

Thereafter, Mr T.C. Gupta did not stop there and further casted aspersions on various Members of this Tribunal at relevant times by producing documents of applicant-association containing such remarks. Thereafter in RA No. 290/00004/18 in OA 290/00047/17, he repeated such acts again and this Tribunal in order dated 19.09.2018 passed in the said RA has observed as under :

It is evident that as per CAT (Procedure) Rules, 1987, the Review Application shall ordinarily be disposed of by circulation. There are no valid grounds made out by the applicant to hear the review application in open court. Furthermore, applicant has to learn to accept the verdict of the Court if he has chosen to move the court in a certain way. He can choose the forum of his choice but not the Judge. It is the duty of the counsel to take the burden of an Officer of the Court and protect the majesty of the Court. The review applicant has pleaded in the application that :

“It seems that the Bench/Member due to her experience in Mumbai Bench has passed such illegal and erroneous order as per illegal practice being followed there, ignoring the full Bench decision of Jodhpur Bench.”

It can be seen that the applicant has repeated his indecent comments time and again. Indulging in making vague insinuations on the role of a Judge with a view to embarrass them warrant severest of the reprimands.

While going through the records of OAs filed by applicant-association wherein Mr T.C. Gupta appeared on their behalf and also pondering over the facts and circumstances of the present cases, it can safely be deduced that it is not the poor casual labours who were behind these acts but Mr T.C. Gupta infact using them for his personal prejudices towards respondent-department as well as Hon'ble Courts. Since he voluntarily became de-facto party to the present case by signing and verifying the contents of the rejoinder and also filed fictitious Resolution himself, therefore, he is liable to pay for misrepresentation of facts, abuse of process of law as well as being solely detrimental to the cause of other persons serving as casual labour in the respondent-department in addition to the so-called President Mr Jagdish Solanki who signed authorization on behalf of Income-tax Contingent Employee's Union (applicant No. 1) and Mr Mahendra Singh (applicant No.2). All these persons in my view are partners in misdemeanour/misconduct.

15. In view of discussions hereinabove made, it is clear that these Original Applications lacks merit as well as the same are not maintainable on various counts as discussed above. Accordingly, both the OAs are dismissed with costs.

16. Rule 24 of 'The Central Administrative Tribunal (Procedure) Rules, 1987' notified in exercise of the powers conferred by Clauses (d), (e) and (f) of sub-section (2) of Section 35 and Clause(c) of Section 36 of the 'Administrative Tribunals Act, 1985' provides that :

24. Order and directions in certain cases. - The Tribunal may make such orders or give such directions as may be necessary or expedient to give effect to its order or to prevent abuse of its process or to secure the ends of justice.

Therefore, to prevent abuse of the process of the Tribunal or otherwise to secure the ends of justice, this Tribunal is empowered to pass such an order which may include order to pay costs. This power is not conditioned or controlled by any other rule/section nor is curtailed. No doubt, this jurisdiction is of exceptional nature and is to be exercised in exceptional cases for achieving the purposes stated in the rules. The facts and circumstances of the present case is such

that a learned Advocate who is entitled to argue and assist the Court as an officer of the Court fairly, honestly without identifying himself with the cause or party, has entered into the shoes of a party and has himself become a party interested, fomenting the litigation to achieve the end as cherished by him in view of his personal prejudices. In the process, he became de-facto party to the present cases and therefore, he has his own personal responsibility for the said abuse of process of law as well as wasting precious time of this Tribunal and filing fictitious document. In these circumstances, it would be appropriate to impose costs upon Mr T.C. Gupta (Advocate for the applicants) in his personal capacity in order to deter him for future from violating and abusing the procedures of the Tribunal as well as CPC. Since, Mr Jagdish Solanki, President of applicant No. 1 Association has already been imposed costs of Rs 50,000/- in another case, I am not inclined to impose any costs on him. However, Mr Mahendra Singh (applicant No. 2) shall be imposed costs.

16. In view of the above, OAs are dismissed with following directions :

(a) Mr T.C. Gupta, former officer of respondent-department and appearing as counsel for the applicant who became de-facto party to the present cases shall be imposed costs of Rupees One Lac to be paid in Rajasthan State Legal Services Authority within two months from the date of receipt of this order. Till deposition of costs and presenting the proof of doing so in this Tribunal, he cannot appear for applicant No. 1 Association/Union.

(b) The Registry is directed to send a copy of this order to the Secretary, Bar Council of Rajasthan, Office at Jodhpur High Court Campus in continuation to their earlier letter sent in pursuance of order dated 23.02.2017 passed by this Tribunal in RA No. 290/00006/17 in OA No. 290/00327/15, for further necessary action.

(c) Costs of Rupees Ten Thousand is also imposed on applicant No. 2, i.e. Mr Mahendra Singh, to be deposited in Rajasthan State Legal Services Authority. Costs bill shall be preferred by the Registry through Respondent-department. It is made clear that he will only be allowed to file any case in this Tribunal subject to production of receipt of paying costs before the Registry.

10. In the present OA, documents filed by learned counsel for the applicant for Verification part have been disputed by the respondents, as well as members of the applicant Union. Moreover, pleadings were required to be filed by the applicants and authenticated by the counsel appearing on behalf of the applicants. Since applicants have failed to file proper documents in support of verification, the present OA is not maintainable on this count also. However, while passing orders in earlier Original Applications, i.e. OA No. 47 & 48 of 2017 and OA No. 368 & 369 of 2017, this Tribunal has taken into consideration all the issues relating to choice of words or language by the applicants, filing of pleadings by Mr T.C. Gupta on his own etc. and imposed costs for the same. Hence, we are not inclined to consider the same now and are in agreement with the view taken by this Tribunal while hearing and passing the order in aforesaid OAs.

11. Although matter was heard on preliminary objections raised by the respondents but while going through the pleadings in the OA and documents annexed with it, we find that applicants herein approached challenging the Screening Committee report dated 13.07.2010 and Review Committee report dated 05.12.2011 whereby these committees did not recommend any name for regularisation. The said information was provided by the respondents on 22.06.2015 (Annex. A/1) in response to letter dated 15.05.2015 (Annex. A/2) whereby applicant No. 2

requested respondent No. 2 to intimate in detail the position of his case for regularization in service. On perusal of records, we find that applicant contended that some records have not been put before these committee and hence, finding of these committees are false, fabricated, distorted and not reliable. In other words, the applicants herein disputed the facts. In these circumstance, it would have been appropriate to raise these disputes before the competent authority and then approach this Tribunal for adjudication. However, applicants neither represented before the respondents with regard to the reports of these committees nor have they produced any documentary evidence before this Tribunal which would have found these reports false, fabricated, distorted and non-reliable. In view of these submissions made by the applicant in the matter, we find no illegality in these Committee reports. Hence, present OA also lacks merit.

12. In view of discussions made hereinabove, present OA is not maintainable in view of Verification part and also as the same lacks merit. Accordingly, the same is dismissed. No costs.

13. In view of the order passed in OA, the MA no.259/2017 for filing written statement is also dismissed.

[Archana Nigam]
Administrative Member

[Hina P. Shah]
Judicial Member

Ss/-