

**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR**

- 1. Original Application No.290/00368/2017**
- 2. Original Application No.290/00369/2017**

RESERVED ON: 14.12.2018

Jodhpur, this the 3rd January, 2019

CORAM

Hon'ble Smt Hina P. Shah, Judicial Member

1. Income-tax Contingent Employee's Union, Income-tax Office, Jodhpur. (Association of casual labours of Income-tax, Rajasthan)
2. Mahendra Singh S/o Amar Singh Tak, aged 41 years, R/o 95 A, Abhay Nagar, Magra Punjla, 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 Revenue Secretary, Ministry of finance, Department of Revenue, Government of India, New Delhi-110001.
2. Chief Commissioner of Income Tax, Paota, C-Road, Jodhpur-342010.

.....Respondents

By Advocate : Mr. Sunil Bhandari.

ORDER

These Original Applications have been filed under Section 19 of the Administrative Tribunals Act, 1985 readwith Rule 4 (5) (b) of Central Administrative Tribunal (Procedure) Rules, 1987 by the same applicants seeking direction on the respondents who are also one and the same. Since, these OAs are second round of

litigation and preliminary objections raised by the respondents in both OAs are similar, therefore, I find it expedient to decide the same by common order.

2. OA No. 290/00368/17 has been filed by the applicant stating that despite order dated 14.08.2012 passed by this Tribunal in OA No. 531/2011, the applicants have not been granted increased daily wages from 01.07.2008 onwards and therefore, applicants approached this Tribunal by filing OA No. 325/2015 seeking correct wages alongwith interest @ 12% p.a. This Tribunal vide order dated 12.05.2016 passed in OA No. 325/2015, however, directed the respondents to pay correct wages but did not adjudicate the issue of grant of interest for the period of inordinate delay. Thus, the applicants filed RA No. 09/2016 seeking review of order dated 12.05.2016 but the same was dismissed by this Tribunal by circulation. Hence, applicant approached the Hon'ble High Court by filing D.B.C.W.P. No. 10798/2016 and Hon'ble High Court observed that it is always open for applicants to raise the claim before respondents. The applicants raised the issue of payment of interest on inordinate delay in payment of correct wages before the respondents vide representation dated 13.12.2016 (Annex. A/1) but respondents rejected the same vide order dated 17.02.2017 (Annex. A/2).

Hence, applicants approached this Tribunal with following specific prayer :

“Respondents may be directed to pay interest @ 12% on ad-hoc delayed wages from 01.07.2008, for the unexplained inordinate delay as per prayer made by representation dated 13.12.2016 (Annex. A/1) by recovering the amount from the officers responsible for the delay.”

3. Similarly, OA No. 369/2017 has been filed stating that respondents were paying Rs 1184/- as bonus each year to the casual labours upto 2010-11 but thereafter respondents did not pay the same without assigning or recording reasons for the same. Therefore, applicants approached this Tribunal in OA No. 323/2015 for grant of bonus with interest. This Tribunal relying upon its earlier order dated 07.04.2016 passed in OA No. 365/2014, allowed OA No. 323/2015 vide order dated 12.05.2016. However, this Tribunal did not adjudicate the issue of payment of interest for period of delay in payment of ad-hoc bonus to the casual labours. A contempt petition No. 17/2017 has also been filed by the applicants for alleged non-compliance of order dated 12.05.2016 passed by this Tribunal in OA No. 323/2015. The applicants also preferred D.B.C.W.P. No. 10798/2016 before the Hon'ble Rajasthan High Court against order dated 12.05.2016 passed by this Tribunal. Hon'ble Rajasthan High Court vide order dated 06.12.2016 held that “Since, the actual entitlement of the individual members of the petitioner's Union has not been

determined by the CAT, it is always open for the members of the petitioner's Union to raise the claim regarding interest as well before the respondents." In pursuance of aforesaid order of Hon'ble High Court, applicants filed the representations before the respondents seeking interest @ 12% p.a. on 12.12.2016 but the same are pending consideration. Hence, the applicants have filed present OA seeking following specific relief :

"Respondents may be directed to pay interest @12% on ad-hoc bonus for the year 2011-12 onwards, for the unexplained-inordinate delay as per prayer made by representations dated 12.12.2016 (Annex. A/1), by recovering the amount from the officers responsible for the delay."

4. Respondents filed reply in both the OAs raising preliminary objections. Rejoinders in both these OAs have been filed by Mr T.C. Gupta, learned counsel for the applicant under his signature in his personal capacity and these rejoinders nowhere bears the signature of the applicants.

5. I have heard learned counsel for the parties and thoroughly perused the records available. The respondents have raised following preliminary objections :

(i) OA filed by the Union/Association is not maintainable as none of the members of the alleged union are identifiable nor the list of the casual labours, who are member, had been given to the respondents.

- (ii) No resolution is placed on record empowering Mr Jagdish Solanki, self-proclaimed President and Mr Mahendra Singh to file and verify the contents of the present OA.
- (iii) Various casual labours in their individual capacity have already filed various OAs seeking payment of enhanced wages and on various other issues. The list of members of the Union/Association has not been filed.
- (iv) OA is barred by principles of res-judicata.
- (v) OA is barred by limitation.

6. Mr T.C. Gupta, learned counsel for the applicants filed rejoinder by himself (signing rejoinder at his own) and contended as given below:

- (i) As per the Rule 7 of CAT Rules of Practice, the person signing the application filed by the Association shall produce a copy of the resolution of the association empowering such person to do so. In this case, Registry never asked to file any such document.
- (ii) Copy of registration certificate, constitution and resolution regarding filing of court case of the applicant association are enclosed with a request to permit the registered association for casual labours to file single application (Annex. A/1).
- (iii) Under any rule, list of the members of the Registered Association is not required. Further, the objection of filing similar applications by any of the members is no bar under any rule for the Association. The individual members can file individual applications, this does not mean that the provisions of the Act, allowing the Association to file single applicant is illegal or infructuous.
- (iv) The issue of res-judicata is a legal issue can be decided by the Bench. To file OA for non-acceptance of request filed under directions of the High Court under similar circumstances is not res-judicata under any law or

imagination. The respondents cannot be allowed to file all and sundry objections to waste public money.

7. These Original Applications have been filed by the applicants under Section 19 of Administrative Tribunals Act, 1985 readwith Central Administrative Tribunal (Procedure) Rules, 1987. 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."

'The Central Administrative Tribunal (Procedure) Rules, 1987', hereinafter referred to as Procedure 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) reads as under:

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.

8. Similar issue of joining together in Single Original Application by an Association came up for hearing before this Tribunal in OA Nos. 47/2017 wherein the applicant-association herein was there. By order dated 24.08.2018 passed in the aforesaid OA, this Tribunal held as under :

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.

This Tribunal held the said OA as not maintainable under the CAT (Procedure) Rules, 1987 and imposed costs of Rs 50,000/- on the President of the alleged union. Thereafter, three Review Applications were preferred, for order dated 24.08.2018 passed in OA Nos. 47 & 48 of 2017, inter-alia stating that no separate application seeking leave of the Tribunal for joining together to pursue the matter as per rule 4(5)(b) is required in view of Full Bench judgment of CAT dated 22.04.2009 in MA No. 11/2008 in

OA No. 19/2008. This Tribunal considered the said contention and observed as under while dismissing the RA Nos. 5 & 6 of 2018 by circulation :

6. Although no reference of judgment of Full Bench passed in MA No. 11/2008 in Original Application No. 19/2008 (Kishan Lal & Ors Versus I.C.A.R. & Ors) pronounced on 22nd April, 2009 was made while hearing these Original Applications on maintainability wherein order dated 24.08.2018 was passed. The review applicants now, however, chose to refer the same in review application. As per Rule 7 of 'The Central Administrative Tribunal Rules of Practice, 1993', an 'Association' filing application before this Tribunal under Rule 4 (5) (b) of 'The Central Administrative Tribunal (Procedure) Rules, 1987' is enjoined upon to file a true copy of resolution of the Association empowering such person(s) to do so for verification. In the judgment of Full Bench referred by the review applicants, following issue was framed by the Tribunal in OA No. 19/2008 :

'Whether separate Misc. Application is required to seek ' permission' to join-together in on O.A.?'

The Full Bench while noticing Rule 7, Chapter-III of 'Central Administrative Tribunal Rules of practice 1993" held that:

"On the same analogy, no separate application is required for granting permission under Rule 4(5) (a) of CAT Procedure Rules."

The Full Bench in the peculiar facts and circumstances of that particular case considered and confined itself to Rule 4(5) (a) of the CAT Procedure Rules wherein individual having common cause of action can agitate the same in Single Application without insisting separate application from such persons joining together in Single Application. The Full Bench further observed that :

..... As already held above, care can always be taken whether the joint application is maintainable or not at appropriate stage when the Tribunal proceeds to entertain the O.A. on merit after taking into consideration the objections, if any, raised by the respondents or in case the Bench is of the opinion that joint application on behalf of the persons is not maintainable.

Thereafter, the Full Bench answered the aforesaid issue in the following manner :

“There is no need to file separate Misc. Application to seek permission to join together in one Original Application, if necessary facts under the heading ‘Facts of the case’ are incorporated in terms of Rule 4(5) of CAT (Procedure) Rules.”

After going through the judgment of Full Bench, it is clear that facts and circumstances as well as the basic issue considered in the said case was totally different from the present case. Full Bench has taken into consideration Rule 4 (5) (a) of CAT (Procedure) Rules, 1987 to answer the issue raised before them. Full Bench nowhere considered the issues of persons joining together in Single Application under the umbrella of ‘Association’ as per Rule 4 (5) (b) of CAT (Procedure) Rules, 1987. Hence, the judgment of Full Bench cited by the review applicants is not applicable in the facts and circumstances of the present case.

9. Although in view of earlier orders passed by this Tribunal in similar circumstances on the same issue, it is evident that present OAs are not maintainable at all. However, while going through the records, I find that it is not an innocent error of judgment on the part of the applicants or their learned counsel but there is more than what meets the eye as prima-facie it appears that either applicants or Mr T.C. Gupta, learned counsel for the applicant; or all in connivance with each other misrepresented the facts and also placed on record fictitious documents. Before recording my findings on these issues, it would be appropriate to take a look on merits involved in both the OAs.

10. Earlier applicant-association filed OA No. 325/2015 alongwith one Mr Anil Kumar Solanki as an affected person and member of the association. Mr T.C. Gupta who is also

representing the applicants in the present OAs, was appeared on behalf of applicant-association. In OA No. 325/2015, applicant-association sought following relief :

In view of the facts and grounds enumerated above, it is most respectfully prayed that the respondents may be directed to pay dailway wages at enhanced rates with arrears alongwith **interest on market rate of 12% for delay in all due payments**.....

After hearing learned counsel for the parties, this Tribunal has observed and passed the following order on 12.05.2016 :

5. Considered rival contentions and perused the record. I tend to agree with the contention of the respondents that the stipulations in Rule 7 of the Central Administrative Rules of Practice, 1993 have not been adhered to strictly by the applicants (in this case the Income-Tax Contingent Employee's Union). In the absence of specific particulars of the individuals claiming to be aggrieved for not receiving correct and enhanced daily wages from the department, the respondent-department will not be able to calculate the correct dues (if admissible), since the particulars, i.e. date of joining, etc. will vary in each case. I am not inclined to enter into a debate regarding maintainability or otherwise of this OA on this ground alone, since this controversy already stand settled vide this Tribunal order 14.08.2012 in OA No. 531/2011, which has been affirmed by the Hon'ble Rajasthan High Court in DB Civil Writ Petition No. 49/2013 vide judgment dated 22.08.2013.

6. I was informed by the learned counsel for the respondents that he department has already commenced making payment of similarly placed person. It was noticed that similar MAs for payment of correct daily wages to the casual labourers in Income Tax Department, have been listed before me today. Out of which, full payment has already been made in two cases. Thus, I find that this is work in progress, which is likely to take some time because of huge financial implications. The learned counsel for the respondents informed the Tribunal that a grant of Rs 2 crores has been sanctioned by Ministry of Finance for this purpose. Sincere efforts are being made by the department to comply with the directions of the Tribunal/High Court. In my opinion, this takes care of concerned issue at hand. However, learned counsel for the applicants is directed to supply the names of the effected individuals to the respondent-department, to enable them to process their claims and make payments, wherever due.

The OA & MA are accordingly disposed of with no order as to costs.

Three things are very clear from the aforequoted order of this Tribunal, viz. issue of maintainability was not considered on merits by this Tribunal as principal issue of entitlements of enhanced wages to casual labours had already been settled by this Tribunal and also affirmed by Hon'ble High Court. Secondly, applicants have been directed to supply names of the affected individuals, which do not appear to be complied by the applicants till date. Third thing which emerges is that the applicant-association had earlier sought the relief of interest @ 12%, which was not granted by this Tribunal after considering facts and circumstances of the case. Be as it may, the applicants filed review application No. 9/2016 before this Tribunal which was also dismissed on 31.08.2016 by circulation and thereafter, they approached Hon'ble High Court by filing D.B.C.W.P. No. 10817/2016 and Hon'ble High Court vide judgment dated 04.11.2016 did not find any just reason to interfere with the order of this Tribunal at admission stage, which is as under :

This writ petition is preferred to question correctness of order dated 12.05.2016 passed by Central Administrative Tribunal, Jodhpur Bench, Jodhpur in Original Application No. 290/00325/2015.

By the order aforesaid, the Tribunal while accepting the original application directed the respondent-Income Tax Department to revise pay of members of the petitioner-union and also to make payment of arrears accrued.

The instant petition for writ is preferred to have a direction for interest upon the arrears accrued.

We do not find any just reason to interfere with the order, which otherwise takes care of all the rights claimed by the petitioner trade-union.

It is evident that Hon'ble High Court refused to interfere with the order dated 12.05.2016 passed by this Tribunal whereby no direction for interest upon the arrears had been issued by this Tribunal. As such, the issue of interest on arrears raised by the applicants now in OA No.368/2017 had already been settled upto the level of Hon'ble Rajasthan High Court yet applicants brazenly re-agitated the same again. Hence, OA No. 290/00368/2017 is barred by the principle of res-judicata.

11. Similarly, applicant-association earlier filed OA No. 323/2015 seeking following relief :

In view of facts and grounds enumerated above, it is most respectfully prayed that the respondents may be directed to pay ad-hoc bonus for the years 2011-12 onwards with interest at market rate of 12% for delay in all due payments of bonus.....

After hearing learned counsel for the parties, this Tribunal has passed following order on 12.05.2016 in OA No. 323/2015 :

6. Considered rival contentions and perused the record. I tend to agree with the contention of the respondents that the stipulations in Rule 7 of the Central Administrative Rules of Practice, 1993 have not been adhered to strictly by the applicants (in this case the Income-Tax Contingent Employee's Union). In the absence of specific particulars of the individuals claiming to be aggrieved for not paying the ad-hoc bonus for the years 2011-12 onwards, the respondent-department will not be able to calculate the correct ad-hoc bonus (if admissible), since the particulars, i.e. date of joining, etc. will vary in each case. I am not inclined to enter into a debate regarding maintainability or otherwise of this OA on this ground alone, since

this controversy already stand settled vide this Tribunal order dated 365/2014 dated 07.04.2016.

7. Accordingly, the OA is disposed of with a direction to the applicants to supply the names of the effected individuals to the respondent-department. The respondent-department thereafter may settle the issue in terms of the order dated 07.04.2016 passed in OA 365/2014. No order as to costs.

From perusal of aforequoted order of this Tribunal, it is clear that issue of maintainability was not considered on merits by this Tribunal as principal issue of entitlement of adhoc bonus to casual labours had already been settled by this Tribunal in OA No. 365/2014 vide order dated 07.04.2016. The applicant-association therein sought relief of grant of interest on delayed payment of adhoc bonus, which had not been granted by this Tribunal. Be as it may, the applicants approached Hon'ble High Court by filing D.B.C.W.P. No. 10798/2016 and after hearing both sides, Hon'ble High Court vide judgment passed following judgment on 06.12.2016 order :

6. It is to be noticed that the petition-union, while claiming the payment of bonus to its members from the year 2011 onwards, did not set out any details regarding claim of the individual members and, therefore, the CAT has disposed of the original application in the terms indicated above. Obviously, in terms of the directions issued by the CAT, the individual member of the petitioner Union has to submit his claim before the respondent-department in its turn is required to decide the same in view of the order dated 7th April, 2016 passed in Original Application No. 365/2014.

7. Since, the actual entitlement of the individual members of the petitioner's Union has not been determined by the CAT, it is always open for the member of the petitioner's Union to raise the claim regarding interest as well before the respondents.

8. No case for interference by this Court in exercise of its extraordinary jurisdiction is made out.

9. The writ petition is, therefore, dismissed. No order as to costs.
It is clear that writ petition filed against order dated 07.04.2016 was dismissed and order passed by this Tribunal had been affirmed by Hon'ble High Court. Thereafter, applicant-association filed contempt petition No. 290/00017/2017 against alleged non-compliance of order dated 07.04.2016 passed in OA No. 323/2015 but the same had also been dismissed vide order dated 16.11.2018 as applicant-association did not supply list of affected persons to the respondents. The operating paragraph of the order dated 16.11.2018 passed in the aforesaid CP is as under :

We find that Annex. CP/3 document (Xerox) furnished to the respondents is signed by the Advocate appearing on behalf of the petitioner. The petitioner-association did not submit any representation to the respondents with the list of employees as directed by this Tribunal on earlier occasion. Hence, in our view, C.P. does not lie.

In view of the above, it is clear that issue of interest on delayed payment of ad-hoc bonus agitated by the alleged union in the present OA (369/2017) had already been settled at the level of Hon'ble High Court and the same cannot be re-agitated by the applicant-association in OA No. 290/00369/17. Accordingly, OA No. 290/00369/17 is also barred by principle of res-judicata.

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 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 एम्प्लाईज यूनियन के सदस्यों की मीटिंग हुई। जिसमें निम्न मुद्दों पर विचार विमर्श किया गया तथा आवश्यक निर्णय लिए गए।

1. कर्मचारी की समस्याएँ :-

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 सेवानिवृति 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 समस्याएँ 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 री 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 ऑथोराईज 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/- रुपया 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 runk 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.

**[Hina P. Shah]
Judicial Member**

Ss/-