

**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR**

O.A. No.290/00238/2018 with MA 290/00167/2018

Jodhpur, this the 23rd May, 2019

CORAM

Hon'ble Smt Hina P. Shah, Judicial Member

Hon'ble Ms Archana Nigam, Administrative Member

K.G. Joshi S/o Shri Vijay Kishan Joshi, aged about 74 years, R/o 1-Ka-3, 1st Pulia, Chopasani Housing Board, Jodhpur-342008.

.....Applicant

By Advocate : Mr T.C. Gupta.

Versus

- (1) Union of India, through the Finance Secretary, Ministry of Finance, Government of India, North Block, New Delhi-110001.
- (2) Chief Commissioner of Income-tax, Paota C-Road, Jodhpur-342010.
- (3) Zonal Accounts Officer, CBDT, NCR Building, Statue Circle, Jaipur-302005.

.....Respondents

ORDER (Oral)

When the matter listed at S.No. 7 in list of businesses on 23.05.2019, i.e. OA No. 290/00238/2018 K.G. Joshi vs Union of India & Ors, was taken up for hearing, Mr T.C. Gupta has been shown the letters written by him under his signature, addressed to Member (J) by her name and asked as to whether these letters have been written/issued under his signature. On the said query, when these original letters were handed over to him, he

put these letters under his case file and submitted that he wants to argue his case first and then divulge anything about these letters. When he was insisted by the Bench to confirm about the issue in open court in presence of Advocates including Mr Sunil Bhandari, counsel appearing on behalf of respondents, he lost his cool as well as mental balance and started shouting that he will see Member (J) in CVC, CBI, Courts etc. and thereby, created unwanted scene while threatening the Bench. In view of the scene created by him, while pronouncing oral order of the court that all his cases are adjourned sine die, also he had to be removed and sent out of the court.

2. In the above context, it is worthwhile to record that Members of the Jodhpur Bench were in receipt of various letters written by Mr T.C. Gupta alleging bias, partial behaviour while passing orders in the cases represented by him, as well as containing personal allegations especially against the Member (J). The personal allegations levelled in one of the letter written by Mr T.C. Gupta addressed by name to Member (J), contents of which vehemently reiterated by him in open court without looking or reading the same when he was being sent out of the Court. He also threatened the Bench by using intemperate language and casting unwarranted aspersions. His reiteration of

contents of some of the letters left no doubt in our mind that these letters have indeed been written by Mr T.C. Gupta.

3. Since all his cases were adjourned sine die by pronouncement made in open court, therefore, there is no occasion for this Tribunal to take up the other two matters wherein Mr T.C. Gupta, Advocate is appearing on behalf of the applicant, i.e. OA No. 290/00220/17 and OA No. 290/00027/18 listed on 23.05.2019 at S.Nos. 21 & 23 respectively.

4. Mr T.C. Gupta, Advocate has written four letters addressed to Member (J) by her name sent to her office as well as to the office of Member (A) also. These letters are dated 11.05.2019, 12.05.2019, 15.05.2019 and 17.05.2019.

5. In the letter dated 12.05.2019 he levelled the allegation of corruption, which reads as under :

2. That on inquiry, it appears that you submitted bogus and inflated fee bills to the Railway authority in Mumbai, while engaged as Standing Counsel. It seems to be a case of your immense corruption and madness for money.

3. Before, the matter is referred to the CBI/CVC or other appropriate authority for proper action against you, you are given an opportunity of giving your explanation/reply in the matter within 10 days, if any.

In letter dated 15.05.2019, he alleged that Member (J) has rejected his cases on flimsy grounds and alleged biased and partial behaviour, content of the same reads as under:

2. That you rejected cases of my clients on flimsy grounds in an arbitrary and illegal manner and in violation of all norms of justice.

It might be due to some misunderstanding. It is always better to remove the misunderstanding by discussion and communication. To remove misunderstanding, if any, I tried to meet you in your chamber four times. At three times your PA told that you do not meet the advocates in chamber and any matter, if any, can be discussed in the open court only.....

In letters dated 11.05.2019 and 17.05.2019, he alleged judicial indiscipline and malafide action as the judgment rendered or orders passed by him were not favourable to him. In all these letters, he has called explanation from the Member who pronounced these orders in regard to the judgments rendered or order passed by her.

6. It is not the case that Mr T.C. Gupta, Advocate has misbehaved or levelled false allegation or made indecent comments for the first time. It is recorded fact that he used indecent language for the Hon'ble Judges of High Court also in his original application filed before this Tribunal. He also has a history of creating scenes in the open court. However, in our view, this Tribunal while taking into consideration the poor litigants, ignored his misconduct. However, with the passage of time, the view of the Tribunal embolden Mr T.C. Gupta instead of bringing any significant change in his whimsical behaviour. The first such incident is recorded in the order dated 23.02.2017 while hearing RA No. 290/00006/2017 in OA No.290/00327/2015 (Santosh Vs UOI & Ors.) in open court by the then Member (A)

Hon'ble Ms Praveen Mahajan. The conduct of Mr T.C. Gupta, Advocate recorded in the said order reads as under :

13. Before concluding the issue, however, I have to bring on record the unbecoming behaviour of the counsel, Shri T.C.Gupta, coupled with some extremely indecorous remarks made by him. This is being done, keeping in mind the fact that violation of the principles of professional ethics by an advocate is not only unfortunate, but also unacceptable. Ignoring even a minor violation/misconduct shakes the fundamental foundation of the public justice system. If such a trend is allowed to go un-curbed, the entire judicial process would get afflicted and may even collapse.

14. Shri T.C.Gupta, learned counsel for the applicant, digressed from the pleadings in the Review Application and started discussing the case on merit seeking relief - which was denied to the applicant in the OA vide order dated 4.1.2017. On being reminded that this was only a Review Application and not a rehearing of the issue, visibly annoyed and irritated – losing control, he shouted that he may be allowed to argue and the Bench must hear the submissions, even if already made in the OA. He then, obstinately – continued arguing the facts of the case. Criticising the order dated 4th January, 2017 with obvious disdain, he stated that the order passed by this Tribunal, as well as that of the High Court on 19.3.2015 (discussed in the Tribunal's order), directing the respondents to continue the services of the applicants therein (working on casual basis) is absurd, and without application of mind. On being asked, firmly, to exercise restraint in language, Shri T.C.Gupta shouted that the Bench must let him argue, otherwise there was no point in having this hearing. Losing control over his voice and visibly shaking with anger, Shri T.C.Gupta – stated, contemptuously, that the courts are just hitting “**chowkas**” (**fours**) and “**Chikkas**” (**sixes**), insinuating that the orders are being issued whimsically, without going into the facts and merits of the case.

The manner in which the case was argued by Shri T.C.Gupta, cannot be said to be dignified or graceful by any stretch of imagination. In fact, his abrasive behaviour and choice of words to say the least, were grossly inappropriate for the forum where he was placed.

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.

16. In **Chetak Contruction Ltd. vs. Om Prakash & Ors.**, (1998) 4 SCC 577, the Hon'ble Apex Court deprecated the practice of making allegations against the Judges and observed as under “Indeed, no lawyer or litigant can be permitted to browbeat the court or malign the presiding officer with a view to get a favourable order.”

17. In the case of **L.D. Jaikwal vs. State of Uttar Pradesh**, (1984) 3 SCC 405, the Hon'ble Apex Court held that :-

“7. We have yet to come across a Judge who can take a decision which does not displease one side or the other. By the very nature of his work he has to decide matters against one or other of the parties. If the fact that he renders a decision which is resented to by a litigant or his lawyer were to expose him to such risk, it will sound the death knell of the institution. A line has therefore to be drawn somewhere, some day, by someone.....We, therefore, cannot take a lenient or indulgent view of this matter. We dread the day when a Judge cannot work with independence by reason of the fear that a disgruntled member of the Bar can publicly humiliate him and heap disgrace on him with impunity...”

18. In **Lalit Mohan Das vs. Advocate General, Orissa and Another**, AIR 1957 SC 250, the Hon'ble Apex Court observed as under:- “A member of the Bar undoubtedly owes a duty to his client and must place before the Court all that can fairly and reasonably be submitted on behalf of his client. He may even submit that a particular order is not correct and may ask for a review of that order. At the same time, a member of the Bar is an officer of the Court and owes a duty to the Court in which he is appearing. He must uphold the dignity and decorum of the Court and must not do anything to bring the Court itself into disrepute...”

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.

7. Thereafter, in some of the cases, wherein, Mr T.C. Gupta represented Income Tax Employees Union, he was found to be presenting fictitious documents on his own for the purpose of verification, which is recorded in the order dated 03.01.2019 passed in OA Nos. 368 & 369 of 2017. He also repeated his indecent comments for the Judges in some of the review applications filed by him, which have been dismissed by circulation. It is to record that in all these cases the petitioners were either casual labours or lower rank employee etc.

8. Although the conduct of Mr T.C. Gupta, Advocate warrants initiation of contempt of courts proceedings against him but while he was speaking in the Court we observed that he does not

seems to be mentally and physically fit to appear in the Court. Although we are conscious of the fact that this Tribunal does not have such expertise in this regard but prima-facie observing his conduct, his physical appearance as well as his choice of words and in the manner he was yelling the same, he appeared us to be an insane person. We are also fortified in our view looking to the fact that had he or his client had any grievances, he should have approached appropriate forum challenging the orders of the Tribunal, but instead he indulges in passing indecent comments on Judges and unnecessary observations are made by him. In these circumstances, we are of the firm view that it would not be appropriate to initiate contempt proceedings at this stage against a person who does not seem to be mentally or physically fit.

9. Accordingly, in view of the observations made hereinabove, we are of the consensus view that :

- (a) Registry of Central Administrative Tribunal, Jodhpur Bench, Jodhpur shall send a copy of this order alongwith copy of letters received from Mr T.C. Gupta to the Secretary, Bar Council of Rajasthan, Office at Jodhpur High Court Campus in continuation to earlier letters written by the Registry enclosing copy thereof, for taking appropriate action in view of observations made in this order as well as in earlier orders passed by this Tribunal, as per law. Till finalization of appropriate proceedings by the Bar Council of Rajasthan, Registry shall not allow Mr T.C. Gupta, Advocate to represent in any matters pending before this Tribunal or file fresh matters. All such cases wherein Mr T.C. Gupta, Advocate is representing shall remain adjourned sine die.
- (b) In the meanwhile, notices be issued to the litigants represented by Mr T.C. Gupta in pending cases, informing

them to either appear in person or engage any other advocate of their choice, if desired. In case, the litigants want to appear in person, registry shall give them suitable date on receipt of simple application by the litigant himself after due verification and list the case before the Court.

- (c) Registry shall keep original copies of the letters received from Mr T.C. Gupta, Advocate in safe custody and send copy of the same alongwith certified copy of this order to the Principal Registrar, Principal Bench, CAT, New Delhi.
- (e) Certified copy of this order be placed in all the pending cases wherein Mr T.C. Gupta, Advocate is representing the litigants.

10. Ordered as above.

[Archana Nigam]
Administrative Member
Member

[Hina P. Shah]
Judicial

Ss/-