

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

ERNAKULAM BENCH

O.A.153/92

DATE OF DECISION: 13.9.93

P.Daniel .. Applicant  
Mr.G.Sivarajan .. Advocate for the Applicant

vs.

1. Union of India,  
represented by the Secretary to Government,  
Ministry of Finance,  
New Delhi.
2. The Central Board of Direct Taxes,  
New Delhi,  
represented by its Secretary.
3. The Chief Commissioner of Income Tax,  
C.R.Buildings,  
I.S.Press Road,  
Kochi-682 018.
4. The Commissioner of Income Tax,  
Cochin-18.
5. K.O. Chacko
6. S.Subodhan
7. L.Krishnamoorthy
8. Sosamma Thomas
9. K.G.Padmanabha Menon
10. M.D.Xavier
11. N.Thankamani
12. F.Cornelius
13. Smt. R.Muthulakshmi .. Respondents

Mr.M.V.S.Nampoothiry,ACGSC .. Advocate for R1-4  
Mr.T.P.K.Nambiar .. Advocate for R8 to 13

CORAM:

THE HON'BLE MR.JUSTICE CHETTUR SANKARAN NAIR, VICE CHAIRMAN

THE HON'BLE MR.R.RANGARAJAN, ADMINISTRATIVE MEMBER

JUDGMENT

CHETTUR SANKARAN NAIR(J),VICE CHAIRMAN:

Applicant, an Inspector of Income Tax seeks a declaration that the ratio in Annexure-A1 judgment in TAK-617/87 should govern his case also. He challenges the proceedings of Departmental Promotion Committee held in 1980 and 1981 also. Other ancillary reliefs too, are sought.

2. Shri T.P.Kelu Nambiar, appearing for some of the respondents raised a preliminary objection as to the maintainability of the application. According to him, principles of res judicata and public policy, stand in the way of applicant from getting the reliefs sought. Applicant

had moved this Tribunal earlier by TAK-112/86, claiming similar reliefs and that application was dismissed by Annexure-R9(1) judgment. Without even referring to that, applicant has approached this Tribunal with the present application, and his conduct disentitles him to get the relief claimed, submits counsel.

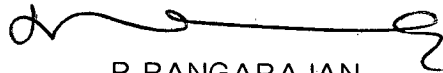
3. In answer, Shri G.Sivarajan, learned counsel for applicant submits that similarly situated persons, namely, Madhavan, TV Subramanian and Nandakumara Menon have obtained reliefs, such as those prayed for, and that there is no reason why applicant should be singled out, for a different treatment. This argument would have been attractive, had applicant not approached this Tribunal and suffered an adverse decision in Annexure-R9(1). The issues herein were in issue in T.A.K.112/86 and there was a decision on merits. The same issues cannot be agitated again. The decision in T.A.K. 112/86 would remain in force, unless varied by review or appeal.

4. Applicant would try to make a distinction, stating that he is now challenging the proceedings of the DPC of 1980 and 1981. If that is so, ground of delay also would stand against him. The decision in Sushil Kumar Mehta v. Gobind Ram Bohra(Dead) through his Legal Representatives, (1990) 1 SCC, 193 relied on by the applicant will not help him. That decision is only to the effect that when the state of law has changed by the pronouncement of a competent Court, plea of res judicata should not be put in the way of parties. There is no such change of law in the instant case.

5. The application is belated. Res judicata stands in the way of the applicant and his own conduct disentitles him to get relief. Applicant is not similarly situated as those who obtained benefits on the basis of the decision in Madhavan's case, because there was no decision against those persons, while there is a decision against the applicant.

6. We dismiss the application . Parties will suffer their costs.

Dated the 13th September,1993.

  
R.RANGARAJAN  
ADMINISTRATIVE MEMBER

  
CHETTUR SANKARAN NAIR(J)  
VICE CHAIRMAN

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List of Annexures:

1. Annexure-A1 True copy of Judgment of C.A.T.  
Ernakulam Bench in TAK 617/87.
2. Annexure R9(1) True copy of order dated 10.11.86  
in T.A. No.112 of 1986.