

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
BANGALORE BENCH, BANGALORE

DATED THIS THE 25th DAY OF MARCH , 1987

Present : Hon'ble Shri Ch.Ramakrishna Rao Member (JM)

Hon'ble Shri L.H.A.Rego Member (AM)

APPLICATION No.1893/86(F)

J.Anthony Dass,  
R/o No.9, 'G' 4th Street,  
Ulsoor, Bangalore - 8.

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APPLICANT

v.

Secretary to the Ministry of Defence,  
Sena Bhavan, New Delhi.

Controller General of Defence Accounts,  
West Block V, R.K.Puram,  
New Delhi - 66.

Controller of Defence Accounts,(DRs)  
South,Teynampet, Madras - 18.

The Accounts Officer I/C,  
P.A.O.(DRs) MEG & Centre,  
Bangalore - 42.

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RESPONDENTS

( Shri M.S.Padmarajaiah ... Advocate )

This application has come up before the court today.

Hon'ble Shri L.H.A.Rego, Member(AM) made the following :

O R D E R

This is an application filed under Section 19 of the  
Administrative Tribunals Act, 1985('ACT' for short), wherein the applicant  
prays that :

(i) that the impugned order dated 15.2.1984  
(Annexure-J) passed by respondent-3(R-3) proposing to retire him from service, be quashed.

(ii) that the communication dated 3.3.1984  
(Annexure-K) by R4 relating to completion and forwarding of the pension papers, be annulled.

(iii) that the respondents be directed to reinstate and continue the applicant in service till 30.9.1987, till he reaches the age of superannuation in the normal course and that he may be granted all consequential relief.



2. <sup>LA</sup> Succinctly, the background of this case is as follows: The matter came up before us earlier in Application No. 479 of 1986 corresponding to Writ Petition No.4387/84, which was transferred to this Tribunal, by the High Court of Judicature of Karnataka, Bangalore, under Sec.29 of the Act, wherein we had directed the respondents on <sup>1</sup>30.9.1986, to decide the pending appeal dated 20.3.1983 of the applicant in the matter, in the light of our observations, in regard to that application and in accordance with law, within a period of two months from the date of receipt of that order, with liberty to the applicant to move this Tribunal thereafter, for redress, if he was yet aggrieved. We directed that in the meanwhile, status quo would continue.

3. Thereafter, the applicant filed I.A.III on 27.10.1986, before this Bench, stating inter alia, that the Controller of Defence Accounts (DRs), Madras (R-3), had informed him on 3.3.1984, that the Union Ministry of Defence (Finance) had rejected his appeal to restore his date of birth originally recorded as 5.9.1929 in his Service Book. The applicant explained in the said I.A. that he could not produce this letter as an Annexure to his Writ Petition No.4327/84, as the same was received by <sup>the</sup> <sup>DR</sup> <sup>him</sup> <sup>DR</sup>, after the said writ petition was filed in the High Court of Karnataka. He further averred, that owing to a bona fide error on his part, the said letter was not brought on record by him. Neither the applicant nor his learned Counsel, brought this fact to our notice even at the time of hearing of Application No.479/86, on account of which, we had directed the respondents to decide the pending appeal within a period of two months as aforementioned.

4. At the time, the above I.A.III came up for hearing before us, Shri Padmarajaiah, learned Senior Standing Counsel for Central Government, brought to our notice, that the appeal was

actually dated 11.3.1983 and not 20.3.1983, and that the same was already disposed of by the Ministry of Defence (Finance), Government of India, on 1.3.1984. Counsel for both sides brought to our notice, that this fact could not be brought on record, at the time of pronouncement of our order dated 30.9.1986, due to inadvertence on their part. Since the appeal dated 11.3.1983 was no longer pending, we observed on the aforesaid I.A.III, that no further direction was necessary in the matter, at this stage and if the applicant was aggrieved, he was at liberty to move this Tribunal by a separate application in the light of our order dated 30.9.1986, on Application No.479 of 1986.

5. The present Application No.1893/86(F) is an outcome of the above factual position, the background of which, has already been narrated at length in our Order dated 30.9.1986. We have heard the rival contentions and examined carefully the material placed before us. While the respondents were represented by Shri M.S.Padmarajaiah, learned Senior Standing Counsel for the Central Government, the applicant argued the case in person, in the absence of his Counsel.

6. The applicant had filed I.A. I under Sec.21(3) of the Act, on 17.11.1985, before this Bench, for condonation of delay in filing the main application, viz., Application No.1893/86. He notice, that the appeal of the applicant to the Union Ministry of Defence(Finance), was finally disposed of under letter dated 2.3.1984 (Annexure-R1) by the PAC(ORS) by R4, the contents whereof were noted by the applicant on 2.3.1984 but for reasons best known to him, he made no mention thereof, either in his Writ Petition 4327 of 1984 ( dated 15.3.1984 ) or at the time of the hearing of the case before us, consequent to transfer of that writ petition to this Bench under Section 29 of the Act. The applicant has not explained satisfactorily, as to why he suppressed this fact both before the High

