

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
BANGALORE BENCH BANGALORE

DATED THIS THE 2nd DECEMBER 1986

Present : Hon'ble Shri Ch. Ramakrishna Rao - Member (J)  
Hon'ble Shri L.H.A. Rego - Member (A)

Review Application No. 16/1986  
(Application No. 437/1986)

T.Miniswarasa  
No.17, Vidyarnayanagar  
Magadi Road, Bangalore 23 - Applicant  
(Sri M. Sampath, Advocate)

v

1. Chief Commissioner (Admin)  
& Commissioner of Income Tax,  
Karnataka I, Bangalore
2. The Inspecting Assistant Commissioner  
Income Tax, Circle II  
Unity Building Annex  
Bangalore - Respondents  
(Sri M.S.Padmarajaiah, Senior C.G.S.C.)

This review application came up to-day  
before this Tribunal for hearing and Hon'ble Member (A)  
Shri L.H.A. Rego, made the following

O R D E R

In this Review Application filed under Section 22  
of the Administrative Tribunals Act, 1985 (the Act, for  
short), the applicant prays for review of the Judgement  
pronounced by us on 9.9.1986 in this case and for setting  
aside his transfer to Mangalore as ordered by the first  
respondent. The facts of the case are, that the applicant,  
who was working as Selection Grade Stenographer as a Group C  
employee, under the respondent, was transferred by him under

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his order 31-8-1986 to Mangalore, on grounds of administrative exigency as stated by the respondent, with due regard to the principles of normal transfer set out in the above guidelines.

2. At the outset, we desired to know from the learned counsel for the applicant as to whether the applicant had reported for duty by now at Mangalore consequent to the dismissal of Application No. 437/1986 by us. At first, he gave us to understand, as stated in the Review Application dated 18-11-1986, that the applicant had not yet joined duty at Bangalore: but this was promptly countered by the learned counsel for the respondent, who brought to our notice that the applicant had actually resumed duty at Mangalore on 13-11-1986. On this ground alone, the Review Application is liable to be dismissed. The learned counsel for the applicant should have first ascertained and faithfully disclosed to us the fact as to whether the applicant had resumed duty or not at Mangalore. We cannot but refrain expressing our surprise and displeasure that he failed to do so.

3. Turning to the legal position, Section 22 of the Act makes the provisions of the Code of Civil Procedure 1908 applicable to the proceedings before the Tribunal in respect of reviewing its decisions. Construing these provisions the Supreme Court in *Thungabhadra Industries Ltd v. Govt. of A.P. A.P.*, AIR 1964 has observed: ~~that~~

"A review cannot be asked for merely for fresh hearing of arguments or for correction of an allegedly erroneous view taken earlier, but only for correction of a patent error of fact or law which stares one in the face without any elaborate argument being needed for establishing it."

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It is thus clear that in a review application it is not open to the applicant to re-agitate the matter already decided. We are not in a position to discern any patent error of fact or law, which calls for interference,

4. This apart, even on merits, the applicant does not succeed. The learned counsel for the applicant has overemphasised on the fact that the aforementioned guidelines were issued on 25-2-1986 while the orders of transfer of the applicant were passed earlier on 31-1-1986. He, therefore, pleaded that the transfer could not have been in accordance with the guidelines. Rebutting this contention, the counsel for the respondent submitted that the applicant was transferred mainly on grounds of administrative exigency and that there was a spate of complaints against him, which, prima facie, were found to be true.

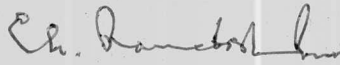
5. The applicant cannot seek shelter merely on the premise, that his transfer preceded the issue of the above guidelines and therefore ~~xxx~~ he would not be governed by them. Such an inference, in our view, would imply that no transfers of Groups C and D officials could, at all, have been effected, in the absence of these guidelines, which would have virtually led to an impasse in administration. We cannot be oblivious of the fact that the transfers of these groups of officials were being given effect to, even prior to the issue of the written guidelines ostensibly on reasonable norms which, though

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tacit, were later reduced to black and white to ensure better appreciation and proper compliance. The applicant cannot, therefore, make an issue that his transfer was not governed by the guidelines and we reject this contention of his.

6. Besides, the Department could not have remained complacent against the background of a spate of complaints against the applicant which, prima facie, were found to be true.

7. In the result, we find no merit in the Review Applicant and we dismiss the same.



(Ch. Ramakrishna Rao)  
Member (J)



(L.H.A. Rego)  
Member (A)

2.11.1980