

CENTRAL ADMINISTRATIVE TRIBUNAL  
BANGALORE BENCH  
\*\*\*\*\*

Commercial Complex (BDA)  
Indiranagar  
Bangalore - 560 038

Dated : 17 MAR 1993

CONTEMPT  
PETITION (CIVIL)

~~APPLICATION~~ NO (X)

55

92

W.P. NO (S)

(Formerly O.A. No. 43/91 in T.A. No. 248/87 of  
Madras Bench)

Applicant (X)

Respondent (s)

Shri V.R. Nair

V/s

Shri P.K. Lahiri, Secretary, Dept of  
Revenue, M/o Finance, New Delhi

To

1. Shri V.R. Nair  
Chief Commissioner of Income Tax  
Central Revenue Building  
Queen's Road  
Bangalore - 560 001
2. Shri P.K. Lahiri  
Secretary  
Department of Revenue  
Ministry of Finance  
New Delhi - 110 001
3. Shri M.S. Padmarajaiah  
Central Govt. Sng Counsel  
High Court Building  
Bangalore - 560 001

Subject : FORWARDING COPIES OF THE ORDER PASSED BY THE BENCH

Please find enclosed herewith a copy of the ORDER /~~XXXX~~/

~~XXXX~~ ORDER passed by this Tribunal in the above said C.P.(Civil)

~~XXXX~~ on

26-2-93

FCs  
DEPUTY REGISTRAR  
(JUDICIAL)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
BANGALORE BENCH: BANGALORE

13  
DATED THIS THE TWENTYSIXTH DAY OF FEBRUARY, 1993

Present: Hon'ble Shri S. Gurusankaran, Member(A)

Hon'ble Shri A.N. Vujjanaradhya, Member(J)

C.P.(CIVIL) A.NO.55/1992

Shri V.R. Nair  
Chief Commissioner of Income Tax  
Central South, Central Revenues Building  
Queen's Road, Bangalore-560 001.

... Petitioner

Vs.

Union of India  
Ministry of Finance  
Department of Revenue  
represented by Shri P.K. Lahiri  
Secretary to the Government  
Finance Department, New Delhi.

... Respondents

(Shri M.S. Padmarajaiah, S.C.G.S.C.)

This Contempt Petition having come up for Orders  
before the Tribunal today, Hon'ble Shri S. Gurusankaran,  
Member(A), made the following:

O R D E R

This Contempt Petition was originally filed by the  
Petitioner herein as C.A.No.43/1991 in T.A. No. 248/1987 in the  
Madras Bench of this Tribunal and subsequently as per the  
orders of the Hon'ble Chairman in M.P. 1965/1992 filed by the  
Petitioner before the Principal Bench, this Bench has been  
directed to dispose of the matter after notifying all the  
parties.

2. The Petitioner has stated in his petition that the  
respondents have deliberately refused to give effect to the  
orders of the Madras Bench in T.A. 248/1987, as subsequently

amended by the Supreme Court in the SLP filed by the respondents in T.A. 248/1987 against the orders of the Madras Bench and thereby committed the mischief of contempt of wilfully disobeying the orders of the Madras Bench of this Tribunal. 14

3. On the issue of notice the respondents have filed their reply contesting the Petition. They have submitted that they have faithfully complied with the orders dated 21.11.1990 in C.P. 21/1990 filed in T.A 248/1987.

4. We have heard Shri V.R. Nair in person and Shri M.S. Padmarajah, learned Senior Central Government Standing Counsel for the respondents and perused the records placed before us. In order to appreciate the contentions raised in this contempt petition, it is necessary to briefly state the facts of the case leading to the filing of this petition. On 23.2.1982, the applicant had filed a writ petition before the Kerala High Court questioning the promotion of some of his juniors as Commissioner of Income Tax superceding the claims of the applicant. This petition was transferred to the Madras Bench of this Tribunal and the same was disposed of vide orders dated 12.2.1988 in T.A.248/87. The following directions were given therein:

" After giving our anxious consideration to the material placed before us we have reached the conclusion that the case of the applicant for promotion to the post of Commissioner of Income Tax (Level II) could not be fairly considered by the DPC on 9.12.1981 in view of the biased report of the third respondent which did not reflect the true merit of the applicant as Inspecting Assistant Commissioner of Income Tax (Audit) and as such, the decision of the DPC in December 1981 in so far as the applicant and Respondents 4 to 21 are concerned, should be taken to have been vitiated and is therefore, liable to be set aside. We accordingly set aside the order impugned in this application in so far as it relates to the respondents 4 to 21. Since the applicant has made out a case for a reconsideration of the question of his non-promotion as Commissioner of Income Tax (Level II) as on 9.12.1981, when 41 of his juniors were selected, we direct that a review DPC should be held to reconsider the applicant's case as also the respondents 4 to 21, after taking into account all the relevant materials referred to above. If on

such a review and reconsideration by the review DPC the applicant is selected, his name shall find a place in the select list as on 9.12.1981, based on merit and he shall be entitled to the seniority and all other consequential benefits arising therefrom. Such a review and reconsideration, as stated above, should be done by the review DPC within three months from the date of receipt of this order. "

5. The respondents were granted Special Leave by the Supreme Court of India in SLP(Civil) 11362 of 1988 and in Civil Appeal No.1856 of 1989, the following order dated 7.3.1989 was passed disposing of the appeal.

"The case of the respondent No.1 for promotion may be considered as on 9.12.1981 by the Departmental Promotion Committee in the light of the material on record excluding the remarks made by Shri Nair, Commissioner of Income Tax, Cochin, who was respondent No.3 before the Tribunal. If necessary the Departmental Promotion Committee may call for the report of any other Commissioner under whom the first respondent may have worked during the relevant period. DPC shall decide the case of the first respondent for promotion within three months from today."

The applicant had filed Contempt Application No.42/1988 before the Madras Bench, which was dismissed for non-prosecution. Subsequent to the judgement of the Supreme Court in SLP, a review DPC was held on 10.7.1989 considering the case of the applicant only and accordingly he was placed in the select list of Chief Commissioner of Income Tax, Level-II, above the 4th respondent in T.A. 248/1987. The applicant was also deemed to have been promoted to the post of Commissioner of Income Tax, Level-II from 12.4.1982, the date from which his junior Shri Kesavan, took over charge. The applicant's case for promotion for Commissioner of Income Tax, Level-I was also considered by the review DPC and vide order dated 27.10.1989, the applicant was deemed to have been promoted as Commissioner of Income Tax, Level-I with effect from 4.2.1987 below Shri A. Arunachalam and above Shri T.S. Sreenivasan. The same DPC considered the case of the applicant for promotion as

Chief Commissioner of Income Tax and found that there was no material change from the position as it stood when the applicant's case was considered on 2/3.1.1989 and hence it only endorsed the earlier finding that he was not found fit for the next higher post of Chief Commissioner of Income Tax.

6. The applicant filed C.A.21/1990 before the Madras Bench of this Tribunal and the same was disposed of vide order dated 21.11.1990. Paras-20 & 21 of the above orders are extracted below:-

"Para-20: We also make it clear that if it is found that the applicant's case has to be considered as pointed out in paragraph 16 & 19, the Review DPC for the post of CIT/I shall not include Shri A.V. Swaminathan as he will be a competitor to the applicant and for similar reasons, the review DPC for the post of CCIT shall not include either Shri A.V. Swaminathan or Shri C.V. Kothari.

Para-21: This contempt application is closed with the directions as in paragraphs 13, 16, 19 and 20 supra, along with the other observations herein, preserving the right of the applicant to agitate in the appropriate forum in accordance with law, if so advised, any matter in respect of which he may have grievance in future. The respondent is directed to comply with the direction contained in paragraph 13 within a period of two months and the directions contained in paragraph 16 and 19 within a period of four months from the date of receipt of a copy of this order."

7. Since the Madras Bench vide their orders dated 21.11.1990 in C.A.21/1990 have closed the Contempt Petition with certain directions, all that is required to be examined by this Tribunal in the present contempt petition is to see whether the directions given by the Madras Bench have been fully complied with or not. As far as the question of payment of arrears to the applicant as directed in para-13 of the orders, the applicant has no grievance. Regarding the directions given in para-16, we find that the Tribunal had noted that they were not taking the trouble of going into all the details, since the preamble to the DPC proceedings of 1984 indicated that there was a long history behind it. Thus, they have not given any finding, but

only directed the respondents to examine whether the applicant was entitled to certain considerations and if so, the respondents should arrange for a review DPC which should examine the claims of both the applicant and Shri A.V. Swaminathan for promotion as Commissioner of Income Tax, Level-I as on 26.6.1985. Similarly, the directions contained in para-19 of the orders state that the Tribunal had not gone into the proceedings of the DPC held on 4.4.1988, if one was held on that date, promoting Shri Swaminathan as Chief Commissioner of Income Tax with effect from 27.11.1987 and Shri Kothari with effect from 27.7.1988. Thus, on this aspect also the Tribunal had not given any finding and only directed the respondents to examine whether, in view of the fact that the applicant has been deemed to have been promoted as Commissioner of Income Tax, Level-I from 4.2.1987, the applicant was entitled to be considered for promotion as Chief Commissioner of Income Tax along with S/Shri A.V. Swaminathan and C.V. Kothari when they were promoted to such post, in accordance with the rules of recruitment then in force. While indicating that the respondents have fully complied with the directions given by the Madras Bench of this Tribunal, the respondents have indicated that in the review DPC held on 3.10.1989, the applicant's seniority was restored in the grade of Commissioner of Income Tax, Level-I, but he was not considered fit for promotion as Chief Commissioner of Income Tax and the review DPC did not find any cause for giving the applicant a different grading than the one given by the earlier DPC held on 2/3.1.1989. Thus, from the facts placed before us, we are of the opinion that the respondents have not committed any contempt in wilfully disobeying the directions of the Madras Bench of this Tribunal dated 21.11.1990 and they have considered the case of the applicant and disposed of the same. We are unable to agree with the submissions of the applicant that the Madras Bench of this Tribunal <sup>has given</sup> have any specific finding as far as the interest

seniority between Shri Swaminathan and Shri Kothari on the one hand and the applicant on the other. Further, in para-21 of their orders, the Madras Bench, while closing the contempt petition, had reserved the right to the applicant to agitate in the appropriate forum in accordance with law, if so advised, any matter in respect of which he may have grievance in future. Thus, we are of the opinion that the issues like restoration of seniority of S/Shri Swaminathan and Kothari and the applicant having not been empanelled for promotion as Chief Commissioner of Income Tax by the review DPC cannot be subject matters of a contempt petition.

8. In the result, we find no merit in this contempt petition and the contempt petition is accordingly dismissed discharging the respondents/alleged contemnors. As observed by the Madras Bench of this Tribunal, it is for the applicant to agitate the matter in the appropriate forum in accordance with law, if so advised, any matter in respect of which he has still grievance, including the implementation of the directions of the Madras Bench of this Tribunal in their order dated 21.11.1990.

AM

Sd-

(A.N. VUJJANARADHYA)  
MEMBER(J)

Sd-

(S. GURUSANKARAN)  
MEMBER(A)

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CLERK OFFICE

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17/12/93

True Copy

C.R. NAIR

Chief Commissioner

CENTRAL ADMINISTRATIVE TRIBUNAL  
BANGALORE BENCH

Second Floor,  
Commercial Complex,  
Indiranagar,  
Bangalore-560 038.

Dated: **24 JUN 1993**

Review APPLICATION NO(s). 21 / 93

Applicant(s)

1. V.R. Nair

Respondent(s)

P.K. Laloni

1. V.R. Nair, Chief Commissioner, G.  
Income Tax Central Revenue Building  
Queens Road Bangalore-1.

2. Sri. P.K. Laloni, Secretary,  
Department of Revenue, M.C. Finance  
New Delhi.

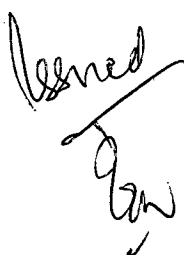
3. Sri. M.S. Padmanabhaiah, Senior Counsel  
for Central Govt, High Court Building  
Bangalore.

SUBJECT:- Forwarding of copies of the Order passed by  
the Central Administrative Tribunal, Bangalore Bench  
Bangalore.

Please find enclosed herewith a copy of the ORDER/  
~~STAY/INTERIM ORDER~~ passed by this Tribunal in the above said  
application(s) on 15.6.93

  
DEPUTY REGISTRAR  
JUDICIAL BRANCHES.

gm\*







CENTRAL ADMINISTRATIVE TRIBUNAL  
BANGALORE BENCH  
BANGALORE

DATED THIS THE FOURTEENTH DAY OF JUNE, 1993

Present: Hon'ble Shri S. Gurusankaran, Member(A)

Hon'ble Shri A.N. Vujjanaradhya, Member(J)

REVIEW  
APPLICATION NO. 21/1993

Shri V.R. Nair  
Chief Commissioner of Income Tax  
Central Revenue Building  
Queen's Road, Bangalore-560 001 ..... Applicant

Vs.

Shri P.K. Lahiri  
Secretary  
Deptt. of Revenue  
M/O. Finance  
New Delhi. .... Respondent

(Shri M.S. Padmarajaiah, S.C.G.S.C.)

This Review Application having come up for  
hearing before the Tribunal today, Hon'ble Shri S. Gurusankaran,  
Member(A), made the following:

O R D E R

This review application has been filed by the  
review applicant, who was the applicant in C.P.55/1992.  
C.P. 55/1992 came to be disposed of by this Bench vide order  
dated 26.2.1993.

2. We have heard Shri Nair, on the question of  
admission of this review application. The main submission  
of the review applicant is that he is not well conversant  
with the law and he is only praying for the proper implementa-  
tion of the orders passed by this Tribunal itself.  
He stressed the fact that the respondents themselves have  
admitted that they have not carried out the orders and



hence they have committed the mischief of contempt. Shri Nair also submitted that he filed C.P. 55/1992 not against the wilful disobedience of the respondents in complying with the directions of the Madras Bench of this Tribunal in disposing of C.P. 21/1990, but against the implementation of the orders of the Madras Bench of this Tribunal in T.A.248/1987.

3. We are unable to agree with the submissions of the review applicant. C.P. 21/1990 filed against the non-implementation of T.A.248/1987 was already disposed of by the Madras Bench giving certain directions. The further C.P., i.e., C.P.55/1992 filed by the applicant originally in the Madras Bench was heard and subsequently transferred to this Bench at the request of the applicant, since he had been transferred to Bangalore in the meantime. This was disposed of vide order dated 26.2.1993 as already indicated above. The scope of review application is very limited and can be admitted only if there are errors apparent on the face of the record or the applicant has produced any new evidence, which after the exercise of due diligence he could not produce earlier before the disposal of the application or for any other similar grounds. In our opinion, the applicant has not made out any of the above grounds for reviewing our judgement dated 26.2.1993. As pointed out by the Supreme Court in the case of Thungabhadra Industries Limited Vs. Government of Andhra Pradesh reported in 1964 (5) SCR 174 a review is by no means an appeal in disguise whereby an erroneous decision is rehard and corrected, but lies only for patent error.

4. In view of the above, we find no merit in this review application and the review application is accordingly dismissed at the admission stage itself.

TRUE COPY

SECTION OFFICER  
CENTRAL ADMINISTRATIVE TRIBUNAL  
ADDITIONAL BENCH  
BANGALORE

(A.N. VUJJANARADHYA)  
MEMBER (J)

(S. GURUSANKARAN)  
MEMBER (A)