

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

Second Floor,
Commercial Complex,
Indiranagar,
Bangalore-38.

Review Application No.15/93 in

Dated: 8 NOV 1993

APPLICATION NO(s) 1121 of 1989.

APPLICANTS: A. Saldanha v/s.

RESPONDENTS: Secretary, M/o. Environment
and Forests, New Delhi & Others.

TO.

1. Dr.M.S.Nagaraja,
Advocate, No.11,
Second Floor,
First Cross,
Sujatha Complex,
Gandhinagar,
Bangalore-9.
2. The Secretary,
Ministry of Environment and Forests,
Paryavaran Bhavan, CGO Complex,
Lodhi Road, New Delhi-110003.
3. The Commissioner and Secretary to Government,
Department of Environment and Forests,
Fort St. George, Madras-600009.
4. Sri.M.S.Padmarajaiah,
Central Govt.Stng.Counsel,
High Court Building, Bangalore-1.
5. Sri.M.Vasudeva Rao,
Central Govt.Stng.Counsel,
High Court Bld, Bangalore-1.

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

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Please find enclosed herewith a copy of the
ORDER/STAY ORDER/INTERIM ORDER/, Passed by this Tribunal
in the above mentioned application(s) on 03-11-1993.

gm*

Issued
gm

for DEPUTY REGISTRAR
JUDICIAL BRANCHES.

OC

8/11/93

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH: :BANGALORE

DATED THIS THE THIRD DAY OF NOVEMBER, 1993

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

REVIEW APPLICATION NO.15/93

Shri A.Saldanha,
Aged 67 years,
Son of Late S.N.Saldanha,
residing at No.9, Albert Street,
Richmond Town,
Bangalore-560 025.

.... Applicant

(Dr. M.S.Nagaraja - Advocate)

Versus

1. The Secretary to Government,
Ministry of Environment and Forests,
Paryavaran Bhavan, CGO Complex,
Lodhi Road,
New Delhi-110 003.
2. The Secretary to Government,
Ministry of Personnel, Public Grievances
and Pension,
Department of Personnel and Training,
New Delhi-110 001.
3. The Commissioner and Secretary to Government,
Department of Environment and Forests,
Fort St. George,
Madras-600 009.
4. The Principal Accountant General (A&%),
261, Anna Salai,
Madras-600 018.

.... Respondents

(Shri M.S.Padmarajaiah - Advocate for R1 and R2,
and Shri M.V. Rao - Advocate for R3 and R4)

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

O R D E R

This review petition is filed by the



applicant in O.A.1121/89 seeking review of the order passed in the said O.A.1121/89 on 30th October, 1992 granting certain relief by allowing the application in part.

2. The review petitioner is aggrieved by the fact that he was not granted the arrears and interest in the impugned order and contends that as the Tribunal did observe that the applicant had not been sleeping over the matter and that the Tribunal had jurisdiction to decide the matter because the cause of action arose only on 12.8.1988, the review petitioner ought to have been granted arrears as well as interest and thus an error apparent on the face of the record has occurred and the same should be rectified by allowing this review petition.

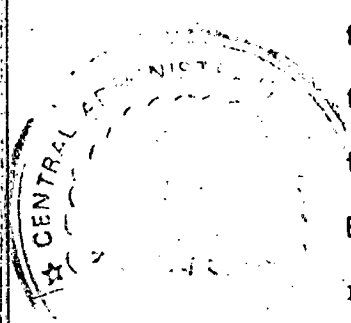
3. The respondents have filed reply to this review petition after they have been notified and we have heard Dr. M.S.Nagaraja, the learned counsel for the applicant and Shri M.S.Padmarajaiah and Shri M.V.Rao, the learned counsel representing respondents 1 and 2 on the one hand and the respondents 3 and 4 on the other respectively.

4. Dr.Nagaraja representing the review petitioner vehemently contended that having come to the conclusion that the cause of action for the applicant arose on 12.8.1988 and that this Tribunal has jurisdiction to decide the matter as could be seen from para 7 of the impugned order, it was neither justifiable nor proper to deny the arrears as well as interest due to the review petitioner. Consequently, he further contended that this is an error apparent on the face of the record and therefore, it should

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rectified by granting the arrears as well as interest sought by the review petitioner. The learned counsel representing the respondents dispute this contention and supported the order passed by the Tribunal.

5. In the course of the order at para 7, it was specifically referred to the first representation made by the applicant/review petitioner on 3.10.1981 and subsequent reminders and also to the reply which is dated 12.8.1988 and therefore a Bench of this Tribunal to which one of us (Hon'ble Shri S.Gurusankaran, Member (A)) was a party concluded that the reply gave cause of action and hence the Tribunal had jurisdiction to decide the matter, since the respondents had raised an objection regarding jurisdiction. Even with the cause of action arising on 12.8.1988 the O.A. was filed on 23.11.1989 only and the delay was condoned and the application was decided on its merits. This discussion apparently is only for the purpose of holding that this Tribunal had jurisdiction to decide OA 1121/89. In this view of the matter, even though it was incumbent on the part of the applicant to approach the competent legal forum after 3.10.1981 without waiting for the reply beyond the specified period and sending reminders, the jurisdiction was assumed by this Tribunal to grant limited relief to the review petitioner. If at all the review petitioner had approached competent legal forum in time without waiting for the reply, it was open for him to urge that he did not sleep over the matter and therefore he was entitled to arrears as well as interest. But the applicant unnecessarily went on making repeated representations and reminders and only because the first



respondent has chosen to send the reply during the year 1988, the review petitioner got the benefit of extended period of limitation and as such the observation that the applicant did not sleep over the matter was only to support the conclusion of the Tribunal that it had jurisdiction to decide the application on its merits.

6. The applicant seems to be aggrieved because of the fact that no reasons are assigned for denying the claim for arrears and restricting the claim for arrears for a period of three years prior to the institution of the application. This denial of the applicant's claim is eloquent from the discussion itself. The applicant ought to have approached the competent authority when his representation was not replied within the stipulated or reasonable time. Because no such step was taken by the review petitioner, his claim was restricted only for a period of three years prior to the institution of the application. When this Tribunal has specifically ruled and restricted the claim only for a period of three years prior to the filing of this application, it cannot be said that it is an error apparent on the face of the record. It can only ~~be~~ ^{be an} erroneous view taken by the Tribunal, which is not open to review. Consequently, we find no merit in this application and therefore, we hereby, dismiss the same, but without any order as to costs.

Sd-
"3/11/93"
MEMBER (J)

Gaja

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SECTION OFFICER
CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH
BANGALORE
8/11/93

Sd-
"3/11/93"
MEMBER (A)