

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH: BANGALORE

DATED THIS THE FIRST DAY OF SEPTEMBER, 1993

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

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

REVIEW APPLICATION NO. 9/93

Shri Rajendra Sharma
Aged 39 years
S/o Late Shivakumara Sharma
Geophysicist (Senior)
CMC AMSE Wing, Geological Survey of India,
29/6, 38th Cross,
8th Block, Jayanagar,
Bangalore - 560 082.

... Applicant

(Dr. M.S. Nagaraja, Advocate)

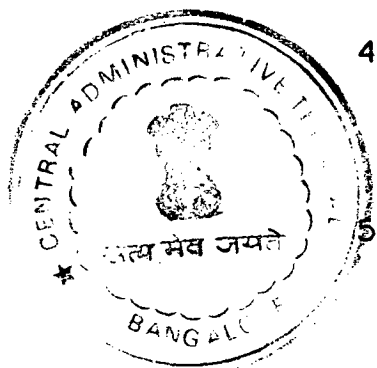
Vs.

1. The Director,
CMC Division, AMSE Wing,
Geological Survey of India,
29/6, 28th Cross, 8th Block,
Jayanagar, Bangalore-560 082.
2. The Deputy Director General,
Air Borne Mineral Survey & Exploration Wing,
Geological Survey of India,
No.2, Church Street, Prestige Complex,
Bangalore - 560 001.
3. The Director General,
Geological Survey of India,
4, Chowringhee Lane,
Calcutta - 700 016.
4. The Secretary to Government of India,
Ministry of Mines,
Department of Mines,
Shastri Bhavan, New Delhi - 110 001.
5. Union of India Represented by its Secretary
to Govt. of India, Ministry of Finance,
New Delhi.

... Respondents

(Shri M. Vasudeva Rao, Advocate)

This Review application having come up for
Orders before the Tribunal today, Hon'ble Shri A.N.
Vujjanaradhya, Member (J), made the following:



ORDER

We have heard the learned counsel representing the parties, Dr. M.S. Nagaraja for Review petitioner once again took us through the decision of the Supreme Court in H.M. Ramaul Vs. State of Himachal Pradesh and other reported in 1991 SCC (L&S) 839 and contended that the said decision was not fully quoted and applied properly and for that reason error had crept in the impugned order which is apparent on the face of the record. He, therefore, contended for review of the order, mentioning that the supreme ^{court} ~~limit~~ had reviewed its order even in a contempt petition issuing a specific direction for extending the monetary benefits which was implicit in the reasoning of the order. These contentions were specifically considered in the impugned order and were rejected giving reasons of the same. Such an order can only be contended to be error of judgement and not error apparent on the face of the record, in which case the remedy is not by review, but elsewhere. In para 5 of the order the contention of the learned counsel for the applicant was considered in detail and then rejected. Under the circumstances, the Review Petitioner cannot maintain this Review Application.

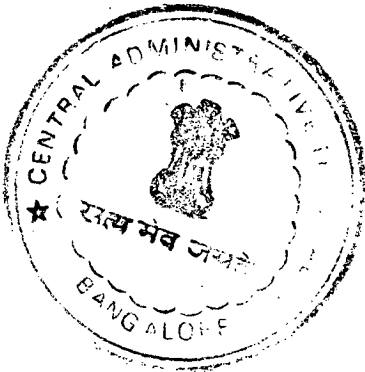
2. Dr. Nagaraja next contended that under Administrative Tribunal, Act 1985, no appeal as of right is allowed to the party aggrieved and therefore the Tribunal is required to be more liberal in considering the Review application, more so when the applicant, a Government servant, will not be in a position to approach the Supreme Court. Though we see some merit

in this contention, we are unable to take the review that error alleged in one apparent on the face of the record. To repeat at the risk of repetition, the rejection of the contention was after due consideration of the case put forth by the petitioner and on the basis of the ratio as deduced by the Tribunal from Ramaul's case. The acceptance of the contention of the learned counsel for the petitioner would be to exercise appellate power which would not be the proper approach in a Review application.

3. To elaborate further, it is the ratio of the decision on which the learned counsel has relied upon and not the final decision itself which has to be applied, since the final decision takes the colour from the facts of the case. Accordingly in the order under review it was observed at page 6:

"Thus, the ratio laid down is that if there is no specific direction regarding the consequential reliefs, inspite of having been specifically prayed for by the applicant in the application, it has to be seen whether such a consequential relief was implicit in the reasoning of the order. A careful perusal of the order dated 17.7.1991 produced as Annexure-A1 does not show that the reasons given in the order for granting the relief of considering the case of the applicant by a review DPC for retrospective promotion would also entitle him for the consequential relief of arrears of pay and allowances from the retrospective date."

This observation speaks for itself that the decision of the Supreme Court cited was duly considered, and after discussion only, the contention of the petitioner was found untenable. Such an order cannot be contented to be a glaring omission or error which can be corrected



by exercising the power of review. It is needless to say that power of review is limited to error apperant on the face of the record which is not the case herein.

Viewed from any angle, we see no merit in the application and therefore we hereby reject the same at the admission stage itself with ^{no} order as to costs.

Sd/-

11/11/77

(A.N. VUJJANARADHYA)
MEMBER (J)

Sd/-

11/11/77

(S. GURUSANKARAN)
MEMBER (A)

TCV



TRUE COPY

[Signature]
SECTION OFFICER
CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH
BANGALORE

15/9/83

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

Second Floor,
Commercial Complex,
Indiranagar,
Bangalore-560038.

Dated: **15 SEP 1993**

Review Application No.9/93 in

APPLICATION NO(S) 296 of 1992.

APPLICANTS: Rajendra Sharma v/s. RESPONDENTS: Director, CMC Dvn, AMSE Wing,
Geological Survey of India & Others.

TO.

1. Dr.M.S.Nagaraja,
Advocate, No.11,
Second Floor,
Sujatha Complex,
First Cross,
Gandhinagar,
Bangalore-9.
2. Sri.M.Vasudeva Rao,
Central Govt, stng.counsel,
High Court Building,
Bangalore-1.

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

Please find enclosed herewith a copy of the
ORDER/STAY/INTERIM ORDER, passed by this Tribunal in the
above said application(s) on First Sept'1993.

Issued

gm*

for *M. S. Nagaraja*
DEPUTY REGISTRAR
JUDICIAL BRANCHES.

25/9/93