

CENTRAL ADMINISTRATIVE TRIBUNAL  
BANGALORE BENCH

C.P. NO.48/93

FRIDAY THIS THE TWENTY FIFTH DAY OF NOVEMBER 1994

Shri Justice P.K. Shyamsundar ... Vice-Chairman

Shri T.V. Ramanan ... Member [A]

Sri Sreekumar,  
Aged 38 years,  
S/o G.K.Menon,  
Assistant Collector of  
Central Excise,  
61, Block 4, Akshaya Apartments,  
13th Cross, Malleswaram,  
Bangalore-3.

... Petitioner

[By Advocate Dr. M.S. Nagaraja]

v.

1. Sri Sivaraman, M.R., I.A.S.,  
Secretary to Government,  
Ministry of Finance,  
Department of Revenue,  
New Delhi.
2. Sri S.A. Govindaraj,  
Chairman,  
Central Board of Excise & Customs,  
New Delhi.
3. Shri H.N. Rao,  
Collector of Central Excise,  
Karnataka Circle,  
Bangalore.1.

... Respondents

[By Advocate Shri M.S. Padmarajaiah ...  
Senior Standing Counsel for Central Government]

O R D E R

Shri Justice P.K. Shyamsundar, Vice-Chairman:

1. Although this matter comes up under the Contempt of Courts case category seeking the interference at our hands asking us to deal with an erring government for not complying with the directions given by a Bench of this Tribunal while passing its orders in O.A. No.294/92 in which a grievance had been made of the



refusal to promote the applicant during the pendency of a departmental enquiry, we now find that there has not been a proper or alert advertence to our order made while disposing of OA No.294/92 referred to supra.

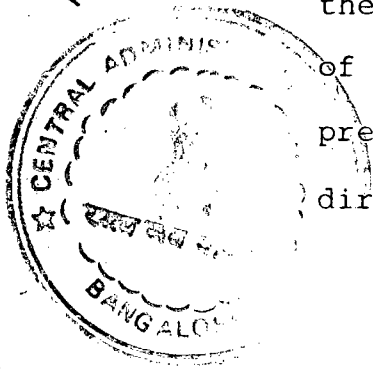
2. It is common ground that the applicant while he was the subject matter of a disciplinary enquiry also surfaced for consideration for promotion to the post of Deputy Collector from the post of Assistant Collector, Bangalore Customs Circle. On that occasion the Departmental Promotion Committee ['DPC' for short] which was charged with the task of elucidating the claim for promotion made its recommendation but put it in a sealed cover and, therefore, when his aspirations for further progress in his career began to languish inside a sealed cover, the applicant came up with an original application urging that notwithstanding the disciplinary enquiry he should be considered for promotion and pointed out inter alia that in the meanwhile all his juniors have come on top much to his discomfiture. This Tribunal while disposing of the said application held that the case of the applicant for promotion should be considered notwithstanding the embalmment of his chances in the sealed cover by the DPC and in that connection ordered Government to consider his case by opening the sealed cover. This is what the Tribunal said --

"Since there is no dispute that as per the extent instructions the applicant's case has to be considered for adhoc promotion upto two years from the date of the meeting of the first DPC by opening the sealed cover, we are of the opinion that the application can be disposed of by directing the respondents to consider the case of the applicant for adhoc promotion immediately without any further loss of time, particularly, in view of the fact that the two year period has since elapsed by November, 1992."

Albeit a very clear and unmistakable direction given as aforesaid enjoining upon the authorities to consider the case of the applicant for promotion after opening the sealed cover, it however transpired that in the penultimate portion of the order there was no reference to the opening of the sealed cover. Para 5 of the order reads thus --

"5. In the result, the application is disposed of with a direction that the respondents should consider the case of the applicant for adhoc promotion at an early date, in any case, not later than 6 weeks from the date of receipt of a copy of this order and the results of the same should be advised to the applicant immediately thereafter. The application is disposed of accordingly."

We do find from the above para which is actually the decree of the Tribunal, the direction for opening of the sealed cover and thereafter considering the matter in the light of the disclosures made by the sealed cover were not specifically referred to but then if the order in its sequence is taken note of and with particular reference to the direction in the body thereof directing the department to consider the case of the applicant for adhoc promotion read with the preceding para in which the court gave a specific direction to consider the case of the applicant for



promotion after opening the sealed cover, it follows without doubt that the department had at first to unravel the secrets of the sealed cover and after perusing the contents of the sealed cover proceed thereafter to consider the case of the applicant for promotion and to make a proper order in consequence.

3. We are now told and that indeed is the main string in their defence in the statement filed on behalf of the Government, vis a vis our direction regarding consideration of the claim of the applicant for promotion have been carried out figuratively. In other words they were carried out literally vis a vis the penultimate portion of the order there being no specific reference to the opening of the sealed cover before considering the case of the applicant for promotion and that procedure was not adopted. With the result since the disciplinary enquiry is said to be still pending the department was left with no option except to isolate the applicant from the demand for promotion.

X  
4. We think the excuse preferred is really a vague one. We expect our orders to be read in full and construed in a pragmatic and real sense and true spirit in which the order was made. The order does not give any room for doubt or speculation on any account whatsoever. If the entire order was read and construed without a desire to find a narrow ally<sup>e</sup> for escaping from the obligation imposed on the department by the

court, we think all that the department was required to do was to open up the sealed cover, take out its contents, read and pass appropriate orders in regard to granting of adhoc promotion. There can be no doubt whatsoever that the contents of the sealed cover did relate to the applicant's promotion. In the circumstances we now say that the justification pleaded on the absence of a specific direction for opening of the sealed cover in order to evaluate the merit of the applicant is clearly a faux pass which we cannot countenance. We do not propose to take any action against them but on the contrary we take this opportunity to direct the respondents to open the sealed cover, look into the contents of the same and thereafter pass appropriate orders based on the recommendations of the earlier DPC as found in the sealed cover. With this observation this petition stands disposed off. The department will do the needful within one month from the date of this order.

Sd-

MEMBER [A]

Sd-

VICE-CHAIRMAN



TRUE COPY

Central Administrative Tribunal  
Bangalore Bench  
Bangalore

CENTRAL ADMINISTRATIVE TRIBUNAL  
BANGALORE BENCH

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

CONTEMPT PETITION NO.48 of 1993 in

Dated: **12 DEC 1994**

APPLICATION NO: 294 of 1992.

APPLICANTS:- Sri Sreekumar, Bangalore,  
V/S.

RESPONDENTS:- Sri. Sivaraman, M.R., IAS, Secretary, Deptt. of Revenue,  
Ministry of Finance, New Delhi and two others.,

T.

1. Dr.M.S.Nagaraja, Advocate, No.11,  
Second Floor, First Cross,  
Sujatha Complex, Gandhinagar,  
Bangalore-560 009.

2. Sri.M.S.Padmarajaiah,  
Sr.Standing Counsel for Central Govt.,  
High Court Bldg, Bangalore-560 001.

3. Sri.M.R.Sivaraman, IAS.,  
Secretary to Government,  
Department of Revenue,  
Ministry of Finance,  
North Block, New Delhi-110 001.

Issued on  
13/12/94 *R*

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

Please find enclosed herewith a copy of the ORDER/  
STAY ORDER/INTERIM ORDER/ passed by this Tribunal in the above  
mentioned application(s) on 25th November, 1994.

*Rand*  
*copy*  
*for*  
*Ch. K. ROOVAPPA*  
*gm\* For applicant.*  
*12/12/94*

*for*  
DEPUTY REGISTRAR  
JUDICIAL BRANCHES.

CENTRAL ADMINISTRATIVE TRIBUNAL  
BANGALORE BENCH

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

Dated: 12 JAN 1995

Miscellaneous APPLICATION NO: 7/95 in C.R.NO.48/1993.

APPLICANTS:- Sri.Sreekumar, Bangalore  
V/S.

RESPONDENTS:- Sri.Sivaraman, IAS, Secretary, Deptt. of Revenue,  
New Delhi and two others.,

T.

1. Dr.M.S.Nagaraja, Advocate, No.11, Second Floor, First Cross,  
Sujatha Complex, Gandhinagar, Bangalore-9.
2. Sri.M.S.Padmarajaiah, Senior Central Govt. Stng. Counsel,  
High Court Bldg, Bangalore-1.

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

--xx--

Please find enclosed herewith a copy of the ORDER/  
STAY ORDER/INTERIM ORDER/ passed by this Tribunal in the above  
mentioned application(s) on 04-01-1995.

Issued on  
12/01/95.

*[Signature]*

*[Signature]*

*[Signature]*

DEPUTY REGISTRAR  
JUDICIAL BRANCHES.

Sri. Sreekumar, v/s. Sivaraman JAS, Secy. D/o. Revenue, New  
Delhi & Co.

C.P. NO<sup>2</sup> 48/93

Date

Office Notes

Orders of Tribunal

PKSVC/TVRMA  
4/1/95

Orders on M.A. No. 7/95

Heard learned standing  
counsel.

On the circumstances  
mentioned in the M.A.  
time for compliance of the  
directions of this Tribunal  
extended by a further  
period of two months from  
the date of this order.

Sd/-

Sd/-

Member W

Vice-Chairman



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*[Signature]*  
Section Officer  
Central Administrative Tribunal  
Bangalore Bench  
Bangalore



CENTRAL ADMINISTRATIVE TRIBUNAL

BANGALORE BENCH

Second Floor,  
Commercial Complex,  
Indiranagar,  
BANGALORE - 560 033.

Dated: 21 MAR 1995

Misc. APPLICATION NO. 130 of 1995 in Contempt Petition No.48/1993.

APPLICANTS: ~~Sreen~~<sup>K</sup>umar, Bangalore

V/S.

RESPONDENTS: Sri.M.R.Sivaraman and others.,

To

1. Dr.M.S.Nagaraja, Advocate, No.11,  
Second Floor, First Cross,  
Sujatha Complex, Gandhinagar,  
Bangalore-560009.
2. Sri.M.S.Padmarajaiah, Senior Central  
Govt. Standing Counsel, High Court Bldg,  
Bangalore-560001.

Subject:- Forwarding copies of the Orders passed by the  
Central Administrative Tribunal, Bangalore-38.

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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 10-03-1995.

Issued on  
21/03/95  
*[Signature]*

*[Signature]*  
DEPUTY REGISTRAR  
JUDICIAL BRANCHES.

In the Central Administrative Tribunal  
Bangalore Bench  
Bangalore

MA 130/95

in C.P. Application No. 48 of 1993

Sreemumar v/s. M. R. Swaraman & Ors.

ORDER SHEET (Contd.)

Date	Office Notes	Orders of Tribunal
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VR(MA)/ANV(MJ)

10.3.95.

we have heard Shri M.S.P. who seeks for extension of time from 3.3.95. Shri Shidehan for Dr. M.S. Nagaraja opposes the application on the ground that two months time had already been given earlier and the department should have completed the same within that period.

In view of the reasons furnished in the A.P. for extension of time, we think that it is a fit case to grant further extension of time.

we accordingly grant time of one month from 3.3.95.

Sd-

Sd-

m(J)

m(A)

TRUE COPY

Section Officer  
Central Administrative Tribunal  
Bangalore Bench  
Bangalore

