

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

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

Dated: 8 MAR 1995

APPLICATION NO: 959 of 1994.

APPLICANTS:- Sri.A.Rama Rao,
V/S.

RESPONDENTS:- Secretary,Ministry of Finance,New Delhi
and Others.,

T.

1. Sri.P.Changalaraya Reddy,
Advocate,No.113-F,5th Floor,
Central Chambers,Second Main,
Gandhinagar,Bangalore-9.
2. Sri.M.Vasudeva Rao,Additional
Central Govt.Standing Counsel,
High Court Bldg,Bangalore-1.

Subject:- Forwarding of copies of the Order 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 21-02-1995.

Issued on
8/3/95

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for

DEPUTY REGISTRAR
JUDICIAL BRANCHES.

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH: BANGALORE

ORIGINAL APPLICATION NO.959/1994

DATED THIS THE TWENTYFIRST DAY OF FEBRUARY, 1995

Mr. Justice P.K. Shyamsundar, Vice Chairman

Mr. T.V. Ramanan, Member(A)

Mr. A. Rama Rao
Residing at No.195, Ward No.5,
Gowliwada Street, Ishwara Park
Compound, Brucepet, Bellary. Applicant

(By Advocate Shri P.C. Reddy)

Vs.

1. Union of India by its
Secretary, Ministry of
Finance, New Delhi.
2. The Secretary
Central Board of Excise and Customs
Govt. of India, New Delhi.
3. The Asstt. Controller
of Central Excise, Nehru Nagar
Kurnool - 518 004. Respondents

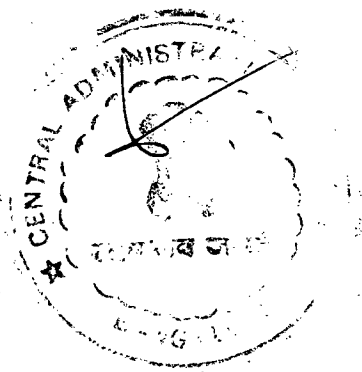
(By Shri M.V. Rao, A.C.G.S.C.)

O R D E R

Mr. Justice P.K. Shyamsundar:

We have heard the very enthusiastic submissions of Shri P.C. Reddy, appearing for the applicant sponsoring the claim of a 70 year old Government servant for pensionary benefits. The facts are that the applicant who was working as a Lower Division Clerk in the Central Excise Department, suddenly vanished from the scene one day. Taking note of his long

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absence from work, the department discharged him from service with effect from 3.3.1952 by an order no.II/3/44/52(M) dated 17.2.1953 pointing out, inter alia, that the applicant had failed to rejoin duty after exhausting his extraordinary leave. The department produced before us the service book of the applicant in which the above information is found recorded. After he vanished from the scene he made no attempt to get in touch with the department at all. It is no doubt that as on today there is no material indicating that the order of discharge was actually served on him. At any rate we cannot ~~we cannot~~ look askance at the department to task on this scene.

2. Now the applicant expects the department to retract the order of discharge passed more than 4 decades ago merely because it was not served on him. The applicant cannot take advantage of this omission and claim that he has not been discharged. It is a lame argument and we do not propose to accede to it.

3. It transpires that some where in the year 1980 he made a representation for appointment of one of his sons on compassionate grounds. This request was rejected by the department. Aggrieved by this rejection, he came to this Tribunal in O.A. No.555/1993, which was also disposed of by pointing out that in the absence of any substantive material or proof indicating that the applicant had retired, the position that emerged was that he was still in service and in that view of the matter the Tribunal rejected the demand for appointing his son on compassionate grounds.

4. In this application he now comes up with a claim for pensionary benefits. The department says that the applicant has been discharged way back in the year 1952 and that controversy we cannot adjudicate at this stage, since much water has flown under the bridge, the time gap being nearly 40 and odd years and a serious question of limitation and latches does arise. As a matter of fact, we do not have jurisdiction at all in view of Section 21(2) of the Administrative Tribunals Act which extends only to a throw back period of 3 years prior to the constitution of the Tribunal in the year 1985 and since the cause of action herein arose long long ago and even much before the establishment of the Administrative Tribunals. We have no jurisdiction to adjudicate on the important issue even if we were inclined to do so. But we rest our decision based on the ground there being some material to show that in the year 1952, the applicant was discharged and hence what becomes evident is that he would not be entitled to any pensionary benefits and therefore, the demand in that behalf is clearly untenable. This being the only point raised in this application, the same fails and hence it we dismiss this application.

No costs.



(T.V. RAMANAN)
MEMBER(A)

mr.

TRUE COPY

(P.K. SHYAMSUNDAR)
VICE CHAIRMAN

Section Officer
Central Administrative Tribunal
Bangalore Bench
Bangalore