

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

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

Dated: 30 JAN 1995

Review APPLICATION NO: 40/94 in OA.NO.767/93.

APPLICANTS:- Sri.K.N.Sachidananda and three others.
V/S.

RESPONDENTS:- The Dy.Secretary, Deptt. of Revenue,
M/o. Finance, New Delhi and two others.

To

1. Sri.H.S.Ananthapadmanabha, Advocate,
No.108,N.H.C.S.Layout, Third Stage,
Fourth Block, Basaveswaranagar,
Bangalore-560 079.
2. Sri.M.Vasudeva Rao, Addl.Standing Counsel
for Central Govt.High Court Building,
Bangalore-560001.

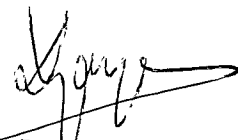
Subject:- Forwarding of copies of the Order passed by the
Central Administrative Tribunal, Bangalore.

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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 23-01-1995.

Issued on
30/01/95
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for DEPUTY REGISTRAR
JUDICIAL BRANCHES.

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

R.A. NO.40/94

MONDAY THIS THE TWENTY THIRD DAY OF JANUARY 1995

Shri V. Ramakrishnan ... Member [A]

Shri A.N. Vujjanaradhya ... Member [J]

1. K.N. Sachidananda
2. R. Ananda Rao
3. N. Annaiah
4. P.V. John ... Applicants

[By Advocate Shri H.S. Ananthapadmanabha]

v.

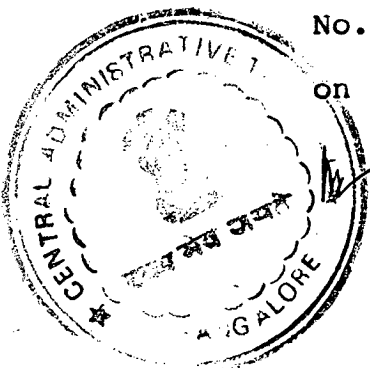
1. Deputy Secretary
Govt. of India
Ministry of Finance
Department of Revenue [Ad IIA]
New Delhi - 110 001.
2. Collector of Central Excise
Queen's Road
P.B. No.5400
Bangalore-560 001.
3. Additional/Deputy Collector
Customs & Central Excise
Queen's Road
P.B. No.5400
Bangalore-560 001. ... Respondents

[By Advocate Shri M. Vasudeva Rao ...
Addl. Standing Counsel for Central Government]

O R D E R

Shri A.N.Vujjanaradhya, Member [J]:

1. Review of the order passed by this Bench in O.A.
No.767/93 dated 8.3.1994 is sought by the applicants
on the following grounds:



[a] The applicants are subjected to injustice in that they being seniors, their pay has not been stepped up to the level of their juniors thus denying natural justice to them;

[b] ESO 3/91 dated 4.1.1991 [Annexure A-7 annexed to O.A.] was not sought to be assailed as the applicants are not aggrieved but their grievance is that any such order should not put them to disadvantageous position;

[c] The decision rendered by the Ernakulam Bench of this Tribunal on which the review applicants have relied upon though referred to in the order, has not been followed and distinction is sought to be made on the ground that facts are not similar which is erroneous and that the ratio of the said decision is equally applicable to the facts of the case of the review applicants.

[d] In the decision of the Full Bench rendered in VIJAYAKUMAR SHRIVASTAVA AND OTHERS V. UNION OF INDIA AND OTHERS in O.A. No.30/86 dated 24.10.1986 it has been observed that the decision rendered by a Bench of the Tribunal in respect of similar matter is required to be followed by the other Benches of the Tribunal because the Tribunal is one and in case of any disagreement with the view of another Bench of the Tribunal, the course open to is to refer the matter to the Full Bench and not to differ.

2. We have heard Shri Ananthapadmanabha, learned counsel for the review applicants and Shri M. Vasudeva Rao, learned Standing Counsel for the respondents.

3. Shri Ananthapadmanabha advanced contentions similar to those stated above and the same were controverted to by the learned Standing Counsel.

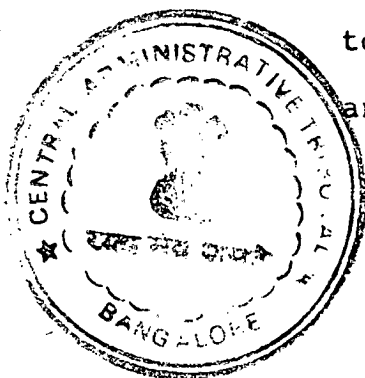
4. Shri Rao contended that all the contentions raised by the review applicants have been considered in detail and the review applicants cannot be allowed to re-agitate the same points again and that review applicants have not pointed out any new point which was not avail-

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lable to them when the original application was heard in spite of they being diligent.


5. According to Shri Ananthapadmanabha, the pay of the seniors, the review applicants being seniors to those whose pay is shown to be higher than that of the review applicants being not in dispute, ought to have been stepped up because the case of the review applicants satisfies all the four conditions which he says were laid down by Ernakulam Bench and non-acceptance of such contention has resulted in meting out injustice to them and, therefore, it has resulted in erroneous conclusion being reached, which is an error apparent on the face of the record and it has to be rectified. He further contended that there are no specific guidelines applicable to the case of the applicants and, therefore, the same has resulted in rendering the decision which is impugned in this review application. We have referred to the Government Orders and guidelines relating to removal of anomaly and pointed out how juniors stood to gain advantage over the seniors viz., review applicants and the same was justified particularly when the review applicants have not sought to challenge ESO 3/91 dated 4.1.1991..

6. ESO 3/91 dated 4.1.1991 which is Annexure A-7 to the O.A. was brought into force retrospectively and the same is not sought to be assailed by the review



applicants. At one stage the review applicants seek to contend that they are not aggrieved by the said ESO 3/91 and at another stage they contend that the said ESO 3/91 stands challenged by implication for seeking relief which is inconsistent and contradictory to the earlier stand. Such a stand cannot be appreciated and accepted as correct and on that ground it is not open to the review applicants to contend that an error apparent on the face of the record has crept in the order.

7. Regarding the contention relating to the support sought by the decision rendered in Ernakulam Bench of this Tribunal we have given our reasons for not following the same and, therefore, we are unable to accept the contention advanced by learned counsel for the review applicants. Of course, the facts in every case cannot be similar. But the principles of law should be shown to be applicable to the facts of the present case which the review applicants had not so made out. As we had only observed that the ratio of the decision of Ernakulam Bench is not applicable to the facts of the case of the review applicants, there was no question of referring the points that arose in the OA to the Full Bench. Consequently reference to the decision of the Full Bench in VIJAYA-KUMAR SRIVASTAVA & OTHERS v. UNION OF INDIA & OTHERS is not of any assistance to the review applicants.



8. As rightly contended by the learned standing counsel the contentions raised in these review applications[✓] are the same that were considered in deciding the OA and no new points which were^{not} available to the applicants earlier have been raised and no fresh ground which was not available to the review applicants in spite of due diligence was sought to be raised herein. Consequently these[✓] review applications[✓] lacks merit and the same is hereby dismissed with no order as to costs.

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Sd-
MEMBER [J]

Sd-
MEMBER [A]



TRUE COPY
[Signature]
30/01/95
Section Officer
Central Administrative Tribunal
Bangalore Bench
Bangalore