

CENTRAL ADMINISTRATIVE TRIBUNAL  
BANGALORE BENCH

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

Dated: 18 FEB 1994

Review APPLICATION NO(s) 3/94.

APPLICANTS:

The Chief Engineer  
TO. Southern Command  
Pune

RESPONDENTS:

vs P.K. Mathur Kelkar

1. The Chief Engineer Engineering Branch,  
(Headquarters) Southern Command. Pune.
2. The Commander works Engineering,  
Air Force - Hebbal Bangalore.
3. Secy of India by its Secretary to Govt  
Ministry of Defence. New Delhi.
4. Sri. M. Vasudeva Rao, Central Govt  
Standing Counsel, High Court Building  
Bangalore.

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

-xxx-

Please find enclosed herewith a copy of the  
ORDER/~~STAY ORDER~~/INTERIM ORDER/, Passed by this Tribunal  
in the above mentioned application(s) on 7.2.94.

gm\*

o/c  
copies issued  
on 18/2/94

DEPUTY REGISTRAR  
JUDICIAL BRANCHES.  
18/2

CENTRAL ADMINISTRATIVE TRIBUNAL

BANGALORE BENCH

REVIEW APPLICATION No.3/94.

MONDAY, THIS THE 7TH DAY OF FEBRUARY, 1994

SHRI JUSTICE P.K. SHYAMSUNDAR .. VICE CHAIRMAN

SHRI V. RAMAKRISHNAN ... MEMBER (A)

1. The Chief Engineer,  
Engineering Branch (Headquarters),  
Southern Command,  
Pune.
2. The Commander Works Engineering,  
Air Force,  
Hebbal, Bangalore.
3. Union of India  
by its Secretary to Govt.,  
Ministry of Defence,  
New Delhi. ... Review Applicants

(By Advocate Shri M. Vasudeva Rao)  
Central Govt. Standing Counsel.

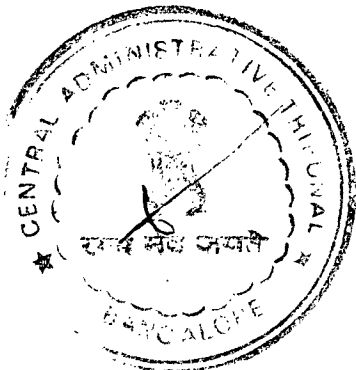
Vs.

1. P.K. Mathu Kutty,  
aged 55 years,  
S/o Sri Thomas Kunjuman,  
Quarters No.T-88/e,  
1st MAH Area, Opp: HMT House,  
Jalahalli Post,  
Bangalore - 560 013. ... Respondent

O R D E R

Shri Justice P.K. Shyamsundar, Vice Chairman.

We have heard the learned standing counsel in this application which seeks a review of our order made in O.A. No.523/93 disposed off on 28.7.1993. There appears to be some delay in filing this R.A. We are asked to condone the delay. In this context, an application for condonation of delay is filed. On perusal of the application, we see that there is a small delay involved herein. We condone the delay and dispose off this application on its merits.



3. All that we told the department then was to implement the posting policy after its finalisation in regard to this officer as well. We think that, that order was just, fair and proper. It did not in any way deny the right of the department to make transfers, but, when we mentioned that let the transfer take place in terms of the policy which according to the department itself was very much on the anvil.

4. We need hardly emphasise that administrative orders and directions must always be fair and just. We think an order of transfer is always liable to be tested as that of touch stone and if it fails to satisfy that test, it is bound to be held arbitrary in which event it will have to be struck down. If orders were issued based on unintelligible criteria, we think it inapt for the Govt. to ask us to change our views as if the view taken earlier was so unreasonable and unjust as to require us to rectify the same in a Review Petition.

5. It was certainly open to the department to appeal against our judgment. But, instead, to ask us to recall our order and redo it again, and that we think in the circumstances to be not the appropriate technique to be adopted and is therefore liable to be rejected in limine itself. We make it clear that whatever we have said in the earlier order was only of reiterating the department in making transfers which are wayward and capricious. We think that staying their hands from shunting an officer thousands of miles away from the present area of posting is not something which the department could have treated as an encroachment on an unbridled authority. It has no such authority. Application is rejected.



TRUE COPY

*Sd/-*  
SECTION OFFICER  
CENTRAL ADMINISTRATIVE TRIBUNAL  
ADDITIONAL BENCH  
BANGALORE

*Sd/-*  
(V. RAMAKRISHNAN)  
MEMBER (A)

*Sd/-*  
(P. K. SHYAMSUNDAR)  
VICE CHAIRMAN

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
BANGALORE BENCH : BANGALORE

DATED THIS THE TWENTY EIGHTH DAY OF JULY 1993

Present:

Hon'ble Mr. Justice P.K. Shyamsundar ... Vice-Chairman

Hon'ble Mr. V. Ramakrishnan ... Member (A)

APPLICATION NO.523/1993

P.K. Mathu Kutty,  
Aged 55 years,  
S/o Sri Thomas Kunjuman,  
Quarters No.T-88/3, 1st  
MAH Area, Opp. HMT House,  
Jalahalli Post,  
Bangalore-560 013.

Applicant

(Dr. M.S. Nagaraja ... Advocate)

v.

1. The Chief Engineer,  
Engineering Branch,  
Headquarters,  
Southern Command,  
Pune.
2. The Commander,  
Work Engineering  
(Airforce),  
Hebbal,  
Bangalore.
3. Union of India,  
by its Secretary to  
Government,  
Ministry of Defence,  
New Delhi.

Respondents

(Shri M. Vasudeva Rao ... Advocate)

This application having come up for admission before  
this Tribunal today, Hon'ble Vice-Chairman, made the follow-  
ing

ORDER



- 2 -

1. We think it appropriate to dispose of this application itself <sup>fully</sup> with a direction to the respondents that the case of the applicant be regulated in terms of the new policy to be formulated by the Department. Even <sup>and</sup> in the new policy also <sup>again</sup> the man is likely to be transferred outside it cannot be helped. Dr. M.S. Nagaraja for the applicant says that he <sup>us</sup> should be given liberty to approach <sup>himself</sup> if the applicant is aggrieved by such order that may be passed. We agree.



bsv

Sd/-

MEMBER (A)

Sd/-

VICE-CHAIRMAN

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SECTION OFFICER  
CENTRAL ADMINISTRATIVE TRIBUNAL  
ADDITIONAL BENCH  
BANGALORE

12/8/93