

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

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

Review Application No.9 of 1994 in

Dated:- 29 APR 1994

APPLICATION NUMBER: 369 of 1992.

APPLICANTS:

Sri.V.Balachandran
To.

v/s.

RESPONDENTS:

Secretary, Deptt. of Mines, N Delhi
and Others.

1. Dr.M.S.Nagaraja, Advocate,
No.11, Second Floor, I-Cross,
Sujatha Complex, Gandhinagar,
Bangalore-9.

2. Sri. G. Shanthappa,
Addl. C.G.S.C
High Court Bldg,
Bangalore-1

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

Please find enclosed herewith a copy of the ORDER/
STAY ORDER/INTERIM ORDER/, passed by this Tribunal in the above
mentioned application(s) on 15-04-1994.

Issued on
29/4/94

B.

gm*

Recd and
27/5/94

[Signature]
Addl. C.G.S.C

O/c

[Signature]
for DEPUTY REGISTRAR
JUDICIAL BRANCHES. 29/4

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

PRESENT

The Hon'ble Shri S.GURUSANKARAN, ADMINISTRATIVE MEMBER
and
The Hon'ble Shri A.N.VUJJANARADHYA, JUDICIAL MEMBER

Review Application No. 9 of 1994
in

C.A.No. 369 of 1992

R.A.No.9 of 1994 CA 369 of 1992

V.Balachandran .. Petitioner Applicant
Vs.

1.Union of India rep. by
the Secretary to Government
Ministry of Steel and Mines
Department of Mines
New Delhi

2.The Director General
Geological Survey of India
No.27, Jawaharlal Nehru
Street
Calcutta

3.The Director-in-charge
(Operation)
Karnataka and Goa
Geological and Goa
Geological Survey of India
Jayanagar Shopping Complex
Bangalore - 11

and others

.. Respondents .. Respondents

Dr.M.S.Nagareja

.. Advocate for the
petitioner/applicant

Mr.G.Shanthappa

... Advocate for the
respondents 1 to 3



Order pronounced by the
Hon'ble Shri S.GURUSANKARAN, ADMINISTRATIVE MEMBER

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This Review Application has been filed by the applicant in O.A.No.369 of 1992, which came to be disposed of by an order dated 7.12.1993 rejecting the application. This review application has been filed on 11.2.1994 and by a memo dated 7.4.1994 the review applicant has prayed for posting the review application for a preliminary hearing before the Bench. The main grounds on which the review applicant has prayed for reviewing the order dated 7.12.1993 are mistakes apparent on the face of the record.

2. First we will deal with the request of the applicant for posting the review petition before the Bench for ~~maxx~~ preliminary hearing. The reasons stated are that the judgement was not pronounced on the day the arguments were concluded, i.e. 8.11.1993, but was reserved for orders and pronounced on 7.12.1993. Even on 7.12.1993 only the operative portion of the order was read out. As per Rule 105(c) of the Central Administrative Tribunals Rules of Practice 1993, which came into force with effect from 1.11.1993, reading of the operative ~~maxx~~ portion of the order in the open court shall be deemed to be pronouncement of the order. In view of ~~ix~~ this and also the other grounds raised by the review applicant regarding the

15

errors apparent on the face of the record for reviewing the order, we do not find that this is a fit case for being posted for preliminary hearing. Hence we proceed to pass the order by circulation - vide Rule 17(3) of the Central Administrative Tribunal (Procedure) Rules, 1987.

3. We now proceed to consider the various points raised by the review applicant as mistakes apparent on the face of the record.

(a) The first point is that the DPC had not indicated the procedure or criteria or the method or device adopted ^{for} such re-evaluation of the Annual Confidential Reports (for short ACRs). This aspect has been ~~not~~ dealt with extensively in para 5(a) of the order and the following finding has been given:-

"We are entirely in agreement with the submission of the respondents and the applicant has to fail. Para 6.1.2 of the OM dated 10.4.1989 clearly indicates ~~that~~ that the broad guidelines are being laid down to regulate assessment of suitability of candidates by the DPC and it does not indicate that each committee has to lay down in writing the methods and procedures followed by them for arriving at the overall assessment of the candidates. All that is required is whatever methods and procedures are followed have to be followed uniformly in the case of all the candidates and the perusal of the records produced before us does not lead us to the conclusion that the DPC failed to apply the methods and procedures uniformly to all the candidates".



(b) The proceedings of the DPC does not even indicate the number of years of the CRs assessed in respect of the candidates and whether ~~he~~ there was any divergence or deviation in respect of the number of years of CRs assessed.

This point has also been considered in para 5(b) of the order ~~and the following finding has been given:-~~

"A perusal of the ACRs of some other officers referred to by the applicant does not also indicate in any way that the DPC had not considered the ACRs for the same period for all the officers except in cases where ACRs are not available as per the relevant guidelines".

(c) The distortion in relative assessment of the applicant and one P. Balasubramanian by the DPC was clearly pointed out. The finding on this aspect has been given in the concluding portion of para 5(b) of the order as follows:-

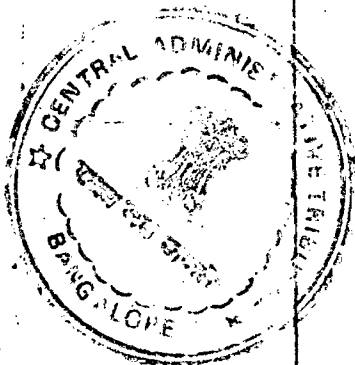
"As we have already pointed out, even this case does not help the applicant since a perusal of the ACR of some of the other ~~candidates~~ candidates does not in any way indicate that the action of the DPC was unfair or discriminatory, even though this Tribunal does not sit as an appellate authority over the DPC and cannot in any case go through the ACRs of very large number of candidates (nearly 300) to decide as an appellate authority as to whether the DPC had adopted a uniform procedure in all cases".

(d) The Hon'ble Tribunal unilaterally and contrary to the facts came to the ~~xxxx~~ conclusion that the DPC held was a review DPC and was a continuation of the DPC held in April 1991-92 which is not a fact. The finding on this aspect has been given in para 5(b) of the order as follows:-

"As clearly pointed out in the minutes of the Review DPC held in April 1992, the review DPC was held because in the DPC held in April 1991, the additional vacancies which became available in September/October 1990 were not considered by the DPC. Hence the review DPC had to consider ACRs only for the same years as was considered in April 1991".

(e) Another serious flaw pointed out during submission was that one Shri S.K.Mathur who was considered in April 1992 had left the department on 23.9.1989. On this aspect the finding given in para 5(d) of the order is as follows:-

"Apart from this, even if Shri S.K.Mathur had not been considered by the DPC, one more person very much junior would have had been considered and that person is not before us. Further we observe that from the persons considered and the final select list, number of juniors to the applicant, who were already graded as 'very good' could not be included in the panel because of the number of vacancies. Thus the consideration of one more junior person would not have in any way vitiated the position of the applicant as far as the ~~xxxx~~ select list is concerned. In any



case in the conspectus and circumstances of the case, we are unable to agree that the consideration and inclusion of the name of Shri S.K.Mathur, who had already retired, has in any way prejudiced the case of the applicant".

4. Lastly it ^{has been submitted} ~~was pointed~~ that prima facie

the mistake in the case of Shri Indiranil Roy regarding the classification was pointed out.

On this aspect we have given our finding in para 5(c) of the order as follows:-

" On the final day of hearing it was pointed out to Dr.Nagaraja that a careful examination of the original copy of the final select list submitted by the Director General, Geological Survey of India shows that Mr.Indranil Roy has been classified as 'very good' only and on a perusal of the ACRs of Mr.Indranil Roy also supports such a classification by the DPC. In view of this Dr.Nagaraja did not pursue this point further".

From the above facts, it is clear that all the important points raised by the applicant during the hearing of the case have been considered in detail in the order and our findings have been given. Hence we are unable to agree that there are mistakes apparent on the face of the record justifying recalling and reviewing the judgement. In fact we may observe that what the applicant is trying to do is to get a complete ^{re-}hearing of the case for arguing the very same points, which have already been heard and

decided. Hence this review application has to fail.

5. In the case of Thungabhadra Industries Ltd.
Vs. Govt. of Andhra Pradesh, reported in 1984(5)SCR 174

the Supreme Court has pointed out that the review is by no means an appeal disguised whereby an erroneous decision is heard and corrected but lies only for apparent error. We find no such apparent ~~error~~^{error} in the order.

6. In the result we find that there are no ~~any~~ sufficient grounds made out by the applicant for reviewing the order dated 7.12.1993 and hence this review application is rejected at the admission stage itself by circulation as per Rule 17(3) of the CAT(Procedure)Rules, 1987.

Sd/-
(17/11/94)

(A.N.VUJJANARADHYA)
 MEMBER (J)

Sd/-
(17/11/94)

(S.GURUSANKARAN)
 MEMBER(A)

15-4-1994

TRUE COPY



S. S. Channar
 SECTION OFFICER
 CENTRAL ADMINISTRATIVE TRIBUNAL
 ADDITIONAL BENCH
 BANGALORE
 29/4