

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

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

Dated: **23 DEC 1994**

Review APPLICATION NO: 43 of 94 in O.ANO.622 of 1991.

APPLICANTS:- Sri.P.Nageshwara Rao,
V/S.

RESPONDENTS:- The Secretary, Deptt. of Per. & Public Grievances,
and Pension, New Delhi and six others.,

T.

1. Sri.B.B.Bajentri, Advocate, No. 71-B, (1220),
Twenty Second Cross, Second Block,
Rajajinagar, Bangalore-560 010.
2. Sri.M.S.Padmarajaiah,
Senior Central Govt. Stng. Counsel,
High Court Bldg, Bangalore-1.
3. Sri.D.R.Rajashekarappa,
Govt. Pleader, Advocate General's Office,
KAT Unit, Commercial Complex,
Indiranagar, Bangalore-560 038.

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 08-12-1994.

Issued on
23/12/94

[Signature]

[Signature]

[Signature]

DEPUTY REGISTRAR
JUDICIAL BRANCHES.

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH: BANGALORE

REVIEW APPLICATION NO. 43/1994 IN
ORIGINAL APPLICATION NO. 622/1994

DATED THIS THE EIGHTH DAY OF DECEMBER, 1994

Mr. Justice P.K. Shyamsundar, Vice Chairman

Mr. V. Ramakrishnan, Member(A)

Mr. P. Nageshwara Rao
presently working as
Revenue Member
Karnataka Appellate Tribunal
Bangalore.

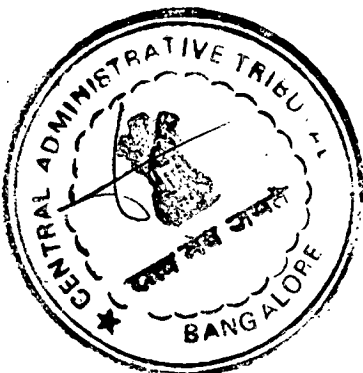
Review
..... Applicant

(Mr. B.B. Bajentri, Advocate)

Vs.

1. Union of India represented
by the Secretary, Department
of Personnel & Public Grievances
and Pension, New Delhi.
 2. The State of Karnataka represented
by its Chief Secretary
Government of Karnataka
Vidhana Soudha, Bangalore.
 3. Mr. Sudhir Kumar
Deputy Secretary (FT)
Department of Economic Affairs
New Delhi.
 4. Mr. Bevis A. Coutinho
Private Secretary to
Deputy Chairman, Planning
Commission, New Delhi.
 5. Mr. Sudhir Krishna
Deputy Director
L.B.S.N.A.S., Mussorie.
 6. Mr. B.L. Sridhar
Joint Commissioner of
Commercial Taxes (NT & Co-ordn.)
Bangalore.
 7. Mr. C.S. Suranjan
Secretary
Coffee Board
Ministry of Commerce
Bangalore.
- Respondents

(Mr. M.S. Padmarejaiah, S.C.G.S.C. for R-1)



O R D E R

Mr. Justice P.K. Shyamsundar:

Heard Mr. B.E. Bajentri, learned counsel for the applicant and Mr. M.S. padmarajaiah, learned Senior Central Government Standing Counsel for R-1 in this review application. We find it difficult to accede to the prayer of the review applicant that something our earlier order pronounced in O.A. No.622/1991 requires reconsideration. While it is true that the applicant an IAS officer has sought to challenge the validity of the 2 different rules in the seniority rules of the IAS (Regulations of Seniority) Rules, 1987 in that he had challenged the vires of Rule 3(3) and Rule 4 Shri Bajentri, who appeared on the previous occasion, appears even now as well, had on the earlier occasion only urged that Rule 3(3) of rules supra was unconstitutional and had never focused his attention to Rule 4 of the Rules. We had then dealt with the point urged appropos the validity of Rule 3(3) and upheld it following the decision of the Supreme Court in Union of India Vs. Nambiar. We find that, that part of our order which bears on the decision of the Supreme Court is not what is now in challenge but the omission to record a finding on the vires of Rule 4 and, therefore, the present application to rectify that omission.

2. We must straightway point out that the vires on Rule 4 although adumbrated in the pleadings, it was not then dealt with and no arguments were addressed at the time the original application was heard. Mr. Bajentri does not deny such

was the position. In that situation, the applicant cannot make any headway in lamenting about the omission in not dealing with the vires of Rule 4. We did not consider it because it was not urged and consequently whatever be the remedy that may be open to the applicant, the remedy of a review is not the apposite one. *prima facie* this review application must be held to be misconceived. We may also add another reason why we should not entertain this application which really deserves to be dismissed in limine, i.e., the long delay in the presentation of application. Although the review application was filed in time, the ^{case} papers had been returned to the counsel for rectification of some defects by the Registry. After a lapse of 353 days defects were rectified by the applicant and papers refiled into court. So much so, the applicant, who is an IAS officer and who is presently doing duty as a Revenue Member in the Karnataka Appellate Tribunal has filed an affidavit for condonation of delay. He has stated in the affidavit that his preoccupation with the work ^{of} the Karnataka Appellate Tribunal prevented him from attending to his own work. The alleged justification in not refiling the review application in time, that is within the time stipulated for such representation is wholly unacceptable. When we asked Mr. Bajentri why the papers were not returned in time, he said that the papers were not in order and he had to take instructions from his client in that behalf and therefore the delay. Even now we do not know why it should have taken such a long time to represent the application. Both the applicant and his counsel are stationed in Bangalore where this Tribunal is also situate. However busy the applicant might have been with his own avocation, what we cannot appreciate is why it

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has taken nearly one year's time to set right some deficiency in the review application in order to make it presentable. We are not satisfied with the explanation offered justifying the delay involved in representation and consequently dismiss this application holding it to be unpardonably belated as well.

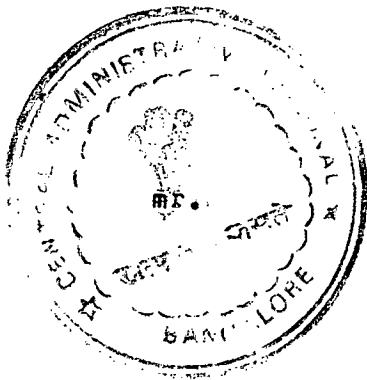
3. For the aforesaid reasons, this application fails and is dismissed.

Sd-

(V. RAMAKRISHNAN)
MEMBER(A)

Sd-

(P.K. SHYAMSUNDAR)
VICE CHAIRMAN



TRUE COPY

Section Officer

Central Administrative Tribunal
Bangalore Bench
Bangalore

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH: BANGALORE

REVIEW APPLICATION NO. 43/1994 IN
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Sd-

(V. RAMAKRISHNAN)
MEMBER(A)

Sd-

(P.K. SHYAMSUNDAR)
VICE CHAIRMAN

TRUE COPY

[Handwritten signature]
12/3/24

Mr.

Section Officer
Central Administrative Tribunal
Bangalore Bench
Bangalore