

THE KARNATAKA ADMINISTRATIVE TRIBUNAL (REVIEW APPLICATIONS) REGULATION, 1994

(REGULATION 1 OF 1994)

In exercise of the powers conferred under Section 22 of the Administrative Tribunals Act, 1985 (Central Act 13 of 1985) and all other powers enabling thereunto the Karnataka Administrative Tribunal hereby makes the following regulation, to regulate the proceedings for reviewing its decision:-

1. Title and Commencement:

(1) These regulations shall be called "The Karnataka Administrative Tribunal (Review Applications) Regulation, 1994".

(2) They shall come into force on the date of their publication in the Karnataka Gazette.

(3) The Rules of Order XLVII of the Code of Civil Procedure 1908, (Act V of 1908) as amended by Act 104 of 1976, shall, as far as may be, apply to Review Applications filed before the Karnataka Administrative Tribunal.

2. Definition: In these Regulation, unless the context otherwise requires, the words and expressions shall have the following meaning:

(i) "Tribunal" means the Karnataka Administrative Tribunal, Bangalore.

(ii) "Act" means the Administrative Tribunals Act, 1985.

(iii) "Application" means any application filed under Section 19(1) or Section 29-A of the Administrative Tribunals Act, 1985, (Central Act 13 of 1985) as amended from time to time or transferred to the Tribunal under Section 29(1) of the aforesaid Act.

(iv) "Chairman" means the Chairman of the Karnataka Administrative Tribunal.

(v) "Member" means and includes Chairman, Vice Chairman Judicial and Administrative Members.

(vi) "Registrar" means the Registrar of the Karnataka Administrative Tribunal and includes the Deputy Registrar or the Assistant Registrar on whom the powers of the Registrar are conferred.

3. Who May Apply for Review:

(a) Any person aggrieved by an order of the Tribunal, who was a party to the application before the Tribunal, and who, from the discovery of new and important matter or evidence which after the exercise of due diligence was not within his, knowledge or could not be produced by him at the time when the order was made on account of some mistake or error apparent on the face of the record or for any other sufficient reason desires to obtain a review of the order made against him, may apply for reviewing the order/judgement made provided, however, no application for review shall lie:

(i) by a person who has sought the leave of the Supreme Court of India under Article 136 of the Constitution of India, for preparing an appeal against the order of the Tribunal, sought to be reviewed, on the same grounds as are urged in the Review Application, but which was rejected by the Supreme Court of India.

(ii) by a person who is a respondent in an appeal pending before the Supreme Court of India, preferred against the order in an application, the review of which is sought for, where he has the opportunity to present the case on which he applies for review before the Supreme Court.

(b) Any person, who is not a party to the proceedings before the Tribunal, but considers himself aggrieved by an order of the Tribunal passed in such proceedings may, with the permission of the Tribunal, on a petition made for this purpose, apply to the Tribunal for the review of an order made by the Tribunal.

4. Procedure for hearing of review application:

(i) A review application shall ordinarily be heard by the same Bench which has passed the Order, however, the Chairman, may for reasons to be recorded in writing, direct it to be heard by any other Bench.

(ii) Unless otherwise ordered by the Bench concerned, a review application shall be disposed of by circulation and the Bench may either dismiss the application or direct notice to the opposite party.

(iii) Where an application for review of any order has been made and disposed of, no further application for review shall be entertained in the same matter.

(iv) No application for review shall be entertained unless it is supported by the duly sworn affidavit indicating therein the source of knowledge, personal or otherwise, and also those which are sworn on the basis of the legal advise. The counter affidavit in review application shall also be a duly sworn affidavit wherever any averment of fact is disputed.

(v) The decision on the review application shall be treated as part of the Judgement/Order made in the main application and shall be read together.

(vi) Every application for review, as soon as it is registered, shall be posted before the Bench which passed the order, the review of which is sought for.

(vii) Where any Member of the Bench, which passed the order, ceases to hold office on account of retirement, resignation or removal or absent on leave for a long period, so as to render it impossible to constitute the Bench, the review application shall be posted before the other Member/s of the Bench, which passed the order.

(viii) Where both or all the Members of the Bench, which passed the order, the review of which is sought for, cease to hold office on account of retirement, resignation or removal or absent on leave for a long period, so as to render it impossible to constitute the Bench, the review application may be posted before such other Members, as the Chairman may by order nominate.

Provided, however, if it is a Bench consisting of the Members, one such Member shall be a Judicial Member and if it is a Bench of more than two Members, the majority of the Members shall be Judicial Members.

5. Limitation:

No application for review shall be entertained unless it is filed within thirty days from the date of receipt of copy of the order sought to be reviewed.

6. Scrutiny:

All Applications for the review of the Order/Judgement shall be scrutinised in the manner explained in Chapter III of the Rules of Practice, 1990.

7. Fees:

All Review Applications referred under Article 5(AA) of Schedule 1 to the Karnataka Court Fees & Suits Valuation Act, 1958 (Karnataka Act 16 of 1958), shall be accompanied by Rs.20 stamp fee.

8. Form: An application, for review of the order under Rule 3 shall be in Form No. I appended to the regulations.

9. Any petition filed seeking permission of the Tribunal for filing a review under Rule 3(b), any petition for interim order/Judgement during the pendency of the review application shall be in Form No.II appended to this regulation.

10. Enclosures to the review application:

An application for review shall be accompanied by:

(a) two copies of paper book containing the application for review and the order of the Tribunal, the review of which is sought for, and any other document or documents on which the applicant relies, typed on one side in good quality paper of substantial thickness, duly indexed, paginated and stitched in paper book form.

(b) Sufficient copies of the application for review for service on the respondents impleaded therein.

No fresh vakalath need be filed on behalf of the applicant in the Review Application provided the Counsel has already filed vakalath in the original proceedings and the vakalath had not been subsequently revoked.

11. Service of notice:

(i) Where notice is ordered to the respondents in the review application, a copy of the review Application shall be served on the review respondents.

(ii) The provision contained in Rule 11 of the Karnataka Administrative Tribunal (Procedure) Rules, 1986, as regards service of notice shall apply to an application for review.

12. Dismissal for default:

(1) (i) Where on the day fixed for hearing of the review application or any other subsequent date to which the application for review stands adjourned the applicant is absent, the Tribunal may adjourn the application or dismiss the same for default or decide the application on merits.

(ii) Where notice to the respondents impleaded therein is ordered in an application for review and the applicant or his Counsel had not taken steps to serve the respondents, the Tribunal, before whom the application is posted for orders by the Registrar, may dismiss the application for

default either against the concerned respondent or against all the respondents.

(2) Where, on the fixed day for hearing of the application for review or any other subsequent date to which the application for review stands adjourned the respondent or his Counsel is absent, the Tribunal may adjourn the application or decide the same "*ex parte*".

13. Restoration of the review application dismissed for default or decided "*ex parte*" :

(1) Where an application for review is dismissed for default for nonappearance or for not taking steps to serve the respondent or for any other reason to where an application is allowed without hearing the respondents impleaded therein or their Counsel and the applicant or the respondent, or their Counsel and the applicant or the respondent or their Counsel show sufficient cause the Bench, on a petition, may set-aside the order passed in the application for review and restore the same to file.

(2) No petition for setting aside the order passed on a review application, under sub-rule (1) above shall be admitted unless it is filed within thirty days from the date of the order.

Provided, however, the Bench may admit the petition, after the prescribed period, if sufficient cause is shown for not filing the petition within the time.

14. The provisions of these regulations, in so far as they are relevant, will apply to I. A.'s filed in a Review Application.

* * * *