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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

O.A.NO.1368/95

Hon'ble Shri A.V.Haridasan, Vice-Chairman(J)
Hon'ble Shri R.K.Ahooja, Member(A)

New Delhi, this 21st day of March, 1996

Pramod Kumar Kulshrestha
s/o Shri Girja Shankar
r/o 1-F, Pocket III
Mayur Vihar
Phase - I
DELHI - 110 091. ... Applicant
(By Shri Shiv Sagar Tiwari, Advocate)

Versus

Union of India through

1. The Secretary
Ministry of Defence
Govt. of India
Secretariat (South Block)
NEW DELHI - 110 011.

2. The Engineer-in-Chief
Army Headquarters,
Kashmir House
D.H.Q. P.O.
New Delhi - 110 011.

3. The Chief Engineer
Headquarters Southern Command
PUNE - 411 001.

4. The Chief Engineer
Pune Zone (formerly BOMBAY Zone)
C/o Chief Engineer
Southern Command
PUNE - 411 001. ... Respondents
(By Shri V.S.R.Krishna, Advocate)

O R D E R(Oral)

Hon'ble Shri A.V.Haridasan, Vice-Chairman(J)

This application filed by the applicant, a Superintendent Electrical/Mechanical-Grade II in the Military Engineering Service(MES) is directed against the order dated 25.11.1992 passed by the third respondent imposing on the applicant the penalty of compulsory retirement and the appellate order dismissing the appeal. Among other grounds the applicant has inter-alia contended that the third respondent is not competent to impose on the applicant the penalty of compulsory retirement.

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2. Though several adjournments were granted, the respondents did not file any reply. When the application came up for hearing today, the learned counsel for ~~for~~ the respondents under instructions from the Departmental Representative, Shri D.K.Sharma, Supdt. Engineer Staff Officer, Pune Zone submitted that the third respondent was in fact not competent to impose on the applicant the penalty of compulsory retirement. A statement to that effect is also placed before us.

3. The learned counsel on either side submitted that as the respondents concede that the impugned order was passed by an authority who is not competent to pass such an order the matter may be disposed of finally without going into the other merits of the case.

4. In the result, in view of the fact that the impugned order dated 25.11.1992 retiring the applicant compulsorily was admittedly passed without jurisdiction and competence, We set-aside the impugned order and direct the respondents to reinstate the applicant in service forth with, at any rate not later than within one month from today and to pay him full back wages for the period he was kept out of service as if the impugned order never took effect. It is made clear that if during this period anything has been passed to the applicant as pension, it will be open for the respondents to make adjustment towards the arrears of pay and allowances. There is no order as to costs.


(R.K. AHUJA)
MEMBER(A)

/RAO/


(A.V. HARIDASAN)
VICE-CHAIRMAN(J)