

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH : CUTTACK

ORIGINAL APPLICATION NO: 457 OF 19 93

Date of decision : 27.9. 1993

B.N. Sarangi

... Applicant(s)

Versus

Union of India & Others ... Respondents

(FOR INSTRUCTIONS)

1. Whether it be referred to the reporters or not? *NP*
2. Whether it be circulated to all the Benches of the *NO* Central Administrative Tribunals or not?

MEMBER (ADMINISTRATIVE)

27 SEP 93

VICE-CHAIRMAN

11 27.9.93

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH CUTTACK

Original Application No.457 of 1990

Date of Decision: 27.9.1993

B.N. Sarangi

Applicants

Versus

Union of India & Others

Respondents

For the applicant

M/s.G.A.R.Dora
Advocate

For the respondents

Mr.R.C.Rath,
Standing Counsel
(Rly.Administration)

...

C O R A M:

THE HONOURABLE MR.K.P.ACHARYA, VICE - CHAIRMAN

AND

THE HONOURABLE MR.H.RAJENDRA PRASAD, MEMBER (ADMN)

JUDGMENT

MR.K.P.ACHARYA, VICE-CHAIRMAN: In this application under Section 19 of the Administrative Tribunals Act,1985, the petitioner prays for a declaration that his retirement is due to invalidation on account of medical unfitness and to direct the opposite parties to treat the period from 25.5.1980 to 25.2.1985 as leave and treat the same as per leave rules and to direct the opposite parties to treat the period from 22.9.1985 to 10.4.1987 and 6.7.1988 as ^{on} duty.

2. Shortly stated the case of the petitioner is that he joined as Slinger on 13.11.1957 under the South Eastern Railways and in course of time the petitioner was confirmed. After rendering 23 years of continuous service, the petitioner suffered from mental derangement

(A)

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and therefore, the petitioner took the recourse of treatment in Ranchi. During treatment, his services were terminated in an ex parte-enquiry because of unauthorised absence. In the year, 1985, the petitioner submitted his joining report, but it was not accepted. Ultimately, vide Annexure-R/5 dated 29.9.1985, the petitioner was told that in view of the extenuating circumstances existing in his favour, his services were restored. The petitioner was directed to appear before a Medical Officer for obtaining medical fitness certificate. Vide Annexure-1 dated 10.4.1987, the Medical Officer referring to the requisition dated 22.9.1985, opined that the petitioner had a defective vision and it was found that his vision will not improve; and hence he was considered unfit to perform his normal duties. Vide Annexure-R/7 dated 8.5.1987, the petitioner made a prayer to the competent authority to allow him to retire voluntarily ~~from Railway~~ ^{by} from Railway Service consequent on being declared medically unfit. Vide Annexure-2 dated 7.6.1988, the competent authority ordered that the petitioner is allowed to retire voluntarily with effect from 10.4.1987 as he was declared medically unfit. Hence this application has been filed with the aforesaid prayer.

2. In their counter the opposite parties maintain that the orders passed in Annexure-A/2 should not be unsettled and no further service benefits should be given to the petitioner as the competent authority has taken a most lenient view as per rules and the petitioner has no legal right to put forward any further ^{and} claims.

3. We have heard Mr.G.A.R.Dora, learned counsel for the petitioner and Mr.R.C.Rath, learned Standing Counsel appearing for the Railway Administration.

4. The question that needs determination as to whether voluntary retirement of the petitioner would be treated merely as a voluntary retirement or voluntary retirement on medically unfit grounds. Mr.Dora, learned counsel for the petitioner strenuously urged before us that the petitioner should be allowed and the retirement of the petitioner should be treated as voluntary retirement on ~~and~~ the grounds of ^{being} medically unfit, and service benefits flowing therefrom should be given to the petitioner. On the other hand Mr.R.C.Rath, learned Standing Counsel urged that at this stage interference by this Court is not warranted, because the representation filed by the petitioner on this account is pending decision by the General Manager, South Eastern Railways. We would have certainly accepted this prayer of Mr.Rath not to interfere at this stage left this matter to the General Manager, especially from administrative point of view, but, we find that the petitioner has retired since 1987 and he has been running from post to pillar including the portals of this Court since 1990. One cannot be sure as to the order the General Manager may pass, but, arguing worst against the petitioner, if the General Manager passes an order of rejection, then there would be multiplicity of litigation and the petitioner is bound to again approach the portals of this Court. We want to avoid multiplicity of ^{litigation} application. Therefore,

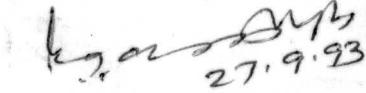
(10)

keeping in view the aforesaid facts and circumstances, and especially the arguments advanced at the Bar, we would direct that the retirement of the petitioner be treated as voluntary retirement on the ground of invalidation due to medical ~~un~~fitness. We do not feel inclined to express any opinion regarding the prayer of the petitioner mentioned in para B & C against Cd. No.8 of the application 'RELIEF SOUGHT'. We would only say that as we have directed retirement of the petitioner ^{to} be treated as voluntary retirement on medical invalidation, all service benefits flowing therefrom, as per rules be given to the petitioner within 60 days from the date of receipt of a copy of this judgment. The competent authority will also apply its mind to Paragraph-B & C of the prayer in the original application and pass necessary orders according to rules. Thus the application is accordingly disposed of. No costs.


MEMBER (ADMINISTRATIVE)

27 SEP 93

Central Administrative Tribunal
Cuttack Bench Cuttack
dated the 27.9.1993/ B.K. Sahoo


VICE-CHAIRMAN

27.9.93