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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

O.A.No.695 of 2011
Cuttack, this the 09th day of September, 2014


U.K.Nanda Applicant

-Versus-

Union of India & Others Respondents

FOR INSTRUCTIONS

1. Whether it be referred to the reporters or not? ☒
2. Whether it be referred to PB for circulation? ☒


(A.K.Patnaik)
Member (Judicial)

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**CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK**

Original Application No.695 of 2011
Cuttack, this the 09th day of September, 2014

CORAM
THE HON'BLE MR.A.K. PATNAIK, MEMBER (JUDL)

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Sri Usakanta Nanda, aged about 62 years, S/o. Sarata Chandra Nanda permanent resident of – At/Po. Chhattia, Ps-Barchana, Dist. Jajpur at present working as Principal, Regional Institute of Education, Sachivalaya Marg, Unit-IX, Po. Bhoi Nagar, Ps.Sahid Nagar, Bhubaneswar-751022, Dist. Khurda, Orissa.

...Applicant

(Advocates: M/s.K.C.Kanungo, H.V.B.R.K.Dora)

-VERSUS-

UNION OF INDIA represented through -

1. The Secretary, School Education & Literacy, Ministry of Human Resource Development, Shastri Bhawan, New Delhi-110001.
2. The Secretary, National Council of Educational Research and Training, Sri Aurobindo Marg, New Delhi-110016.

... Respondents

(Advocate: Mr.U.B.Mohapatra, Mr.B.Dash, Mr.C.Mohanta)

ORDER

A.K.PATNAIK, MEMBER (JUDL.):

The Applicant working as the Principal of the Regional Institute of Education at Bhubaneswar/Odisha has filed this original Application praying to quash the notice of retirement dated 28.07.2011, notice dated 3/4.10.2011 retiring him from service w.e.f. 30.11.2011 and the letter dated 17th November, 2011 intimating rejection of his representation to continue in service till 65 years. The positive case of the Applicant is that as per



provision he was to retire only on reaching the age of 65 years whereas the Respondents have retired him at the age of 62 years and though he has made exhaustive representation quoting various provisions under which he has a right to continue in service till attaining the age of 65 years, the Respondents rejected the same without assigning any reason. Hence while praying to quash the aforesaid notice/letter/order, he has also prayed for issuance of direction to the Respondent No.1 to issue necessary notification enhancing the retirement age to 65 years of the academic staff of Respondent No.2.


2. Respondents filed their counter resisting the claim of the Applicant and applicant has also filed rejoinder to the same. Learned Counsel appearing for respective parties have also led emphasis on the points based on which they have sought the relief but I do not see any justification to put those into the record as I find that the order dated 17th November, 2011 intimating the result of the representation submitted by the applicant seeking retiring him on reaching the age of 65 years is not sustainable being an unreasoned one and the fact that explanation furnished in the counter cannot validate an order which is void *ab initio*. The decision of the Hon'ble Apex Court in the cases of **S.N.Mukherjee Vrs UOI and others**, AIR 1990 SC 1984, **Commissioner of Police Bombay Vrs Gordhan Das Bhanji**, AIR (39) 1952 SC 16 and **Mohinder Singh Gill**

Alleg

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Chief Election Commissioner, AIR 1978 SC 851 bears testimony to the above context.

3. In view of the above, we quash the order of rejection dated 17th November, 2011 and remand the matter back to the Respondents to reconsider the representation of the applicant dated 28.09.2011 in an open mind without being influenced by the stand taken in the counter and communicate the result thereof in a well-reasoned order to the Applicant within a period of 60(sixty) days from the date of receipt of copy of this order. In the result, with the aforesaid observation and direction this OA stands disposed of. There shall be no order as to costs.


(A.K.Patnaik)
Member (Judicial)