

**THE CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH**

Original Application No.309/2006
This the 3¹ day of July 2006

St

HON'BLE MR. M. KANTHAIAH, MEMBER (J)

B.P. Yadav, aged about 54 years son of Sri Jagannath Prasad, at present working as Sub-Post Master, Jail Road, Sitapur.

...Applicant.

By Advocate: Shri Surendran P.

Versus.

1. Union of India through the Secretary, Department of Posts, New Delhi.
2. Director General of Postal Services, Department of Posts, New Delhi.
3. Chief Postmaster General, U.P. Circle, U.P., Lucknow.
4. Director of Postal Services, Lucknow Region, Lucknow.
5. Superintendent of Post Offices, Sitapur.

.... Respondents.

By Advocate: Shri Vishal Chaudhary.

ORDER

BY HON'BLE MR. M. KANTHAIAH, MEMBER (J)

The applicant who filed his main application questioning the validity of order dated 13.07.2006 (Annexure-1) and 11.11.2005 (Annexure-2) asking him to retire from government service w.e.f. 12.02.2006 F.N. sought interim relief to stay the operation and

implementation of the order dated 13.07.06 (Annexure-1) till the disposal of the main application.

2. The respondents have filed their Short C.A. opposing the claim for grant of interim relief stating that the representation of the applicant is pending before the Respondent No.2 and meantime he filed this application and also further stated that the applicant has already been retired on 13.07.2006.

3. Heard both sides.

4. The points for consideration is whether the applicant is entitled for stay of the operation of his pre-mature retirement on 13.07.2006 F.N. as covered in Annexure-A-1, by way of interim orders.

5. The admitted facts of the case are that the applicant who joined as Postal Assistant on 20.03.1974, has been working in OTBP cadre since 1991 and his case has been considered and recommended for B.C.R. cadre in the year 2002 and the same is pending. But subsequently, Respondent No.5 has issued orders stating that the High Power Committee is of the opinion for strengthen the administration, in public interest to retire the applicant prematurely and issued an order on 15.11.2005 (Annexure A-2) which was served on him on 15.11.2005 itself. Immediately the applicant made a representation to the respondents requesting the authority to furnish a copy of the report of the High Power Committee with documents so as to enable him to submit his representation. Annexure-4 is the copy of such an application-dated 24.11.2005. He also made another representation (Annexure-A-5) dated 06.12.2005 to sat-aside the order of his premature retirement issued by Respondent No.5 covered under Annexure-A-2 dated 11.11.2005. It is also not in dispute that a

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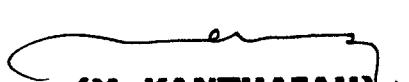
Criminal case in Crime No.613/98 at P.S., Sitapur under section 147/148/149/452/323/506 IPC was registered against the applicant and the said case is still pending for trial. Basing on the said criminal case, the departmental enquiry was conducted and also imposed punishment of with holding of next one increment. Against which he filed an appeal to Respondent No.4, who sat-aside the punishment order dated 15.06.1999 and remitted back the case to the Disciplinary Authority for de-novo enquiry proceedings and Annexure-A-9 dated 30.12.1999 reveals the same. Similarly, the applicant also preferred an appeal against the other order dated 15.10.1998 for with holding of next one increment passed by S.P.O., Sitapur i.e. Respondent No.5 and the same was allowed and remitted back the case for de-novo proceedings and Annexure-A-10 dated 31.12.1999 reveals the same.

6. Now the applicant has filed the present application questioning the validity of the orders covered under Annexure-1 dated 13.07.2006 and Annexure-2 dated 11.11.2005 stating that the High Power Committee has acted contrary to the provisions of F.R. 56 (j) and Rule 48 of the CCS Pension Rules. And such orders have been issued under the pressure of the High Power Committee, who has no power to direct the Appointing Authority to issue the order of retirement prematurely and such orders will also jeopardize the case of the applicant for promotion in BCR cadre, which was considered and recommended by the department. Thus, he questioned the powers of Respondent No.5 in issuing the orders of pre-mature retirement of the applicant and also the recommendations of High Power Committee and stated that the High Power Committee is not constituted in conformity with the provisions of FR 56 (j) and Rule 48 of CCS Pension Rules.



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7. The applicant questioned the constitution of High Power Committee which recommended the respondents to pass orders covered under Annexure-1 and Annexure-2 for pre-mature retirement of the applicant from service 13.7.2006 F.N. which is against the provisions of F.R. 56(j) and Rule 48 of CCS Pension Rules. Further when his promotion has been approved by the D.P.C. on the recommendation of the Appointing Authority issued such orders of pre-mature retirement by the respondents on the recommendation of High Power Committee is not at all justified. No doubt all these points are for discussed in the main application while deciding the case and validity and enforceability of Annexure-1 and Annexure-2, issued by the respondents but when the respondents have implemented the orders Annexure-1 and the applicant has been relieved on ~~31.7.2006~~ ¹³⁻⁷⁻²⁰⁰⁶ the ground for staying the operation of the order covered under Annexure-1 is not at all maintainable at this stage and as such the claim of the applicant is liable to be dismissed. Hence, the claim of the applicant for grant of interim stay of the operation of Annexure-1 is dismissed with no order as to costs. List on 14-8-06


(M. KANTHAIAH)
MEMBER (J)

31-7-06

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