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IN THE HIGH COURT OF JUD

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH
AT HYDERABAD

Fri DAY THE *twelfth* DAY OF *June*
ONE THOUSAND NINE HUNDRED AND EIGHTY SEVEN

: PRESENT :

THE HON'BLE MR. B. N. JAYA SIMHA: VICE-CHAIRMAN
AND
THE HON'BLE MR. D. SURYA RAO: MEMBER.

ORIGINAL APPLICATION NO. 301 of 87

BETWEEN:-

Gr. Appa Rao

.....APPLICANTS.

AND

- 1). Union of India, sup. by The Secretary to Govt. Ministry of Railways, Rail Bhavan, New Delhi
- 2). Joint Secretary (E), Railway Board, New Delhi
- 3). General Manager, South Central Railway, Rail Nilayan, Secunderabad.
- 4). Divisional Railway Managers, (BGR) South Central Railway, Secunderabad.

.....RESPONDENTS..

Application under Section 19 of the Administrative Tribunals Act, 1985, praying that in the circumstances stated therein the Tribunal will be pleased to stay the operation of the impugned proceedings bearing reference NO. E(O)-I-86/SR-10/26 dt. 15-6-87 pending for decision in O.A. NO. 301 of 87 presented to the Tribunal to call for and peruse the records pertaining to NO. E(O)-I-86/SR-10/26 dt. 15-6-87 of the 2nd respondent herein and grant the same.

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(ORIGINAL APPLICATION NO.301 of 1987)

(ORDERS OF THE TRIBUNAL)

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The applicant herein questions the order dated 15-4-1987 issued by the Railway Board, Ministry of Railways, retiring the applicant under Rule 2046(h) of the Indian Railway Establishment Code Volume II, since he had attained the age of 55 years^{as} on 5-9-1981.

The applicant was paid three months advance salary in lieu of retirement notice.

2. The application was admitted on 28-4-1987 with a direction to post the case for final hearing to 10-6-87. Since the learned Standing Counsel for the Central Govt. had agreed to produce the relevant records and the orders of the competent authority, we did not propose to grant any interim stay.

3. Neither a Counter is filed nor the records of the review have been produced by the Learned Standing Counsel for the Department.

4. The Learned Counsel for the Applicant presses for issue of interim directions to the respondents to

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23

- page two -

reinstate the applicant to service, pending disposal of the main case. In the mean while, the Standing Counsel for the Railway has brought to our notice that the applicant had made two representations on 22-4-1987 and 29-4-1987 against the order of his retirement in which he has represented to the Railway Board in regard to the hardship caused to him by the order of his retirement. The Railway Board has not been able to deal with these two representations because of the admission of the application by this Tribunal. He has also contended that the application is liable to be dismissed in limine on the sole ground that the applicant has suppressed this information from the Tribunal in this application. Otherwise, the applicant^{him} would not have been admitted on the ground that his representation is pending. Mr. Venkataramanaiah, Counsel for the applicant, on the other hand, argued that there is no statutory appeal provided against an order of premature retirement. The order itself does not mention that a representation lies against that order. While he regrets on the failure of the applicant to mention the fact of his representation to the Railway Board, he submitted that

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that cannot be held against the applicant, as deliberate suppression of information to the Tribunal. ^{He} ~~we~~, therefore, ~~for~~, stated that ~~where~~ ^{reply} he would not press for any interim order now and the Court ^{to} ~~would~~ direct the Railway Board to dispose of the representation made and the main case may be kept pending for disposal after the Railway Board has disposed of his representation.

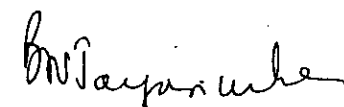
5. We have considered the rival contentions. We find that the applicant ought to have mentioned about the submission of his representation to the Railway Board in the relevant paragraph of the Application. We should therefore deprecate the conduct of the applicant in this regard. However, we do not at this stage ^{the} propose to go into/merits of the rival contentions as to the maintainability of the application. The same will be taken up at the time of final disposal. We will however, at this stage, direct the Railway Board to dispose of the representations made by the applicant in accordance

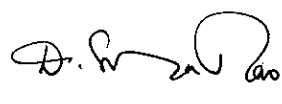
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with the Circular instructions of the Railway Board and the Guidelines dated 1-11-1985 within three weeks from the date of receipt of this Order. It is open to the applicant to encash the cheque issued to him by the Department in respect of three months salary along with the impugned Order in lieu of the notice.

6. Post the main case before the Tribunal on 22nd July, 1987 for filing of Counter, production of records and final hearing.

(dictated in open Court)


(B.N. JAYASINHA)
Vice-Chairman


(D. SURYA RAO)
Member (Judl.)

12th June, 1987.

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