

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH  
AT HYDERABAD

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ORIGINAL APPLICATION NO.16/89

DATE OF JUDGEMENT: 10th June 1993

Between

Manapaka Reddy

.. Applicant

and

1. Secretary,  
Ministry of Finance,  
Dept. of Revenue,  
Central Revenue Buildings,  
New Delhi.
2. The Commissioner of Income Tax (Admn)  
Andhra Pradesh-I, Hyderabad,  
Aayakar Bhavan, Fathemaidan Road,  
Hyderabad
3. The Chief Commissioner of Income Tax,  
Andhra Pradesh-I, Hyderabad  
Ayakar Bhavan, Fathemaidan Road  
Hyderabad
4. Chairman, Central Board of Direct Taxes  
North Block, Central Revenue Buildings  
New Delhi. .. Respondents

Counsel for the Applicant :: Mr Y. Suryanarayana

Counsel for the Respondents :: Mr N.V. Ramana CGSC

CORAM:

HON'BLE SHRI A.B. GORTHI, MEMBER (ADMN)

HON'BLE SHRI T. CHANDRASEKHARA REDDY, MEMBER (JUDL.)

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JUDGEMENT OF THE DIVISION BENCH DELIVERED BY HON'BLE  
SHRI T. CHANDRASEKHARA REDDY, MEMBER (JUDL.)

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This is an application filed by the  
applicant herein, under Section 19 of the Administrative  
Tribunals Act, to set aside the 2nd respondent's  
compulsory retirement order dated 4.5.87 which was  
and confirmed by the 1st respondent vide his orders dt. 22.6.  
direct the respondents to reinstate the applicant in  
service with all consequential benefits as if the  
impugned orders had not been passed and pass such other (

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as may deem fit and proper in the circumstances of the case.

2. The facts giving rise to this OA in brief, may be stated as follows:-

3. The applicant was initially appointed as LDC on 9.7.1956. The applicant was compulsorily retired as per the orders of the 2nd respondent dated 4.5.1987. By the time, the applicant was compulsorily retired, he was working as Inspector of Income Tax and had put in more than 30 years of service. The applicant was informed that he was retired under the Rule 48 of the C.C.S. (Pension) Rules, 1972. As per the impugned order the applicant was compulsorily retired as the applicant had completed 30 years of qualifying service for pension as on 3.7.1986 and on the ground that it is in public interest. The applicant preferred appeal to the 4th respondent as against the order of compulsory retirement. The appeal of the applicant was rejected by the 1st respondent and the same was communicated to the applicant on 1.7.88 by the 3rd respondent. The applicant's case is that the impugned order dated 4.5.1987 compulsorily retiring him is illegal and hence the present O.A. is filed by the applicant for the relief as already indicated.

4. Counter is filed by the Respondents opposing this O.A.

5. We have heard Mr. Noori for Mr. Y. Suryanarayana Counsel for the applicant and Mr. N. V. Ramana Standing Counsel for the respondents.

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6. As the impugned order does not assign any reasons for compulsorily retiring the applicant, it is contended on behalf of the applicant that the compulsory retirement order is bad.

7. At the outset it may be mentioned that compulsory retirement is not a punishment. There is no stigma in compulsory retirement. (See A.I.T. 1975 S.C. 1487 Tara Singh Vs State of Rajasthan). It is also the view of the Hon'ble Supreme Court that if power can be traced to a valid power, the fact that the power is purported to have been exercised under non-existing power does not invalidate the exercise of power. (See (1) AIR 1961 SC 200 Hazarimal Kuthiala Vs Income Tax Officer special circle and (2) Hukumchand Mills Limited Vs State of MP AIR 1964 SC 1329.)

8. The case of the respondents is that the first respondent had the powers to retire the applicant without assigning any reason if the first respondent was of the opinion that it was in the public interest to do so.

9. The relevant portions of Rule 48, CCS (Pension) Rules, 1972 are as hereunder:

48. RETIREMENT ON COMPLETION OF 30 years' qualifying service

(1) At any time after a Government servant has completed thirty years' qualifying service-

a) xx xx xx xx

b) he may be required by the appointing authority to retire in the public interest, and in the case of such retirement, the Govt. servant shall be entitled to a retiring pension;

Provided that-

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a)    xx    xx    xx    xxx  
      xx    xx    xx    xx  
      xx    xx    xx    xxx

b) the appointing authority may also give a notice in writing to a Government servant atleast three months before the date on which he is required to retire in the public interest or three months' pay and allowances ~~x~~ in lieu of such notice:

xx    xx    xx    xx    xx  
xx    xx    xx    xx    xx

10. Even though no reasons might have been assigned in the order of the compulsory retirement is made in public interest the absence of reasons in the order will not invalidate the order as the competent authority has powers to make compulsory retirement in public interest. The important features of the CCS Pension Rules Rule 48 are firstly the Government servant may be asked to retire at any time after he has completed 30 years of qualifying service, secondly such retirement is ordered to be made by giving the government servant a notice of 3 months or three months' pay and allowances in lieu of such notice. Thirdly, the power to retire a Government servant is an absolute right of the competent authority ~~that can't be done without assigning any reasons~~ and 4thly, the power is exercised only, if the appropriate authority is of the opinion that it is in public interest to do so.

As already pointed out, in the counter filed by the respondents, it is pleaded that the order of compulsory retirement of the applicant had been made as the competent authority was of the opinion that it was in the public interest to do so. As it was pleaded by the learned counsel for the applicant, that without any material that the competent authority had acted in compulsorily retiring the applicant, we thought it fit

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to peruse the file relevant to the compulsory retirement of the applicant. Before passing the orders of compulsory retirement, the competent authority has perused the Confidential Reports of the applicant and after perusing the Confidential Report of the applicant, it has come to the opinion that for ~~longer~~ longer periods, the applicant had been considered as an average or satisfactory official and however during the last 5 years from 1983-84 he has been given adverse remarks in number of columns and the overall impression the perusal of the applicant's ACR gives is that of an average official who is not very keen about his duties and responsibilities. Apart from this there are several other matters which raised serious doubts about the applicant's integrity. As laid down in AIR 1987 SC 948 Briz Mohan Singh Vs State of Punjab Public Interest in relation to Public Administration envisages, retention of honest and efficient employees in service and dispensing the services of those who are inefficient, dead-wood or corrupt and dishonest. and therefore, the rule contemplates, pre-mature retirement of inefficient corrupt or dishonest or deadwood persons which would subserve the public interest (emphasis ours). The observations made in the above decision would apply with any amount of force to the applicant herein in view of the material available on record. So, as already pointed out, as the applicant had been found to be inefficient and his integrity was found to be doubtful by the competent authority, as it had sufficient material before it to come to such a conclusion after applying its mind, we are unable to understand

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how it is open for us to interfere with the compulsory retirement of the applicant. As a matter of fact, in retiring the applicant compulsorily, no stigma is attached to the applicant nor any civil consequences follow as the compulsory retirement had not been done by way of punishment.

12. It is the contention of the learned counsel for the applicant that the said order of compulsory retirement dated 4.5.1987 is not valid as 3 months notice before the retirement of the applicant was not given to the applicant. The relevant portion of Rule 48 extracted shows that either 3 months notice or 3 months pay and allowance in lieu of notice are the valid requirements for invoking Rule 48 of CCS Pension Rules 1972. In the counter of the respondents it is specifically pleaded that 3 months salary was paid simultaneously along with the impugned order which averment is not denied before us. So, the order of compulsory retirement is not valid for non-payment of 3 months salary (which is the contention of the applicant) cannot be accepted.

13. It is next contended on behalf of the applicant that there was no application of mind in passing the said compulsory retirement order by the respondents. After a perusal of the record, we are satisfied that the order of compulsory retirement of the applicant is made on proper appraisal of the entire service record of the applicant and also other material. The applicant had preferred an appeal to the appellate authority, who had

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also after applying his mind, had rightly confirmed the order of the competent authority in compulsorily retiring the applicant. So the contention of the applicant's counsel that the competent authority and appellate authority have not applied their minds in dealing with the case of the applicant in compulsorily retiring him cannot at all be accepted.

14. It is faintly contended on behalf of the applicant that the applicant should have been reduced to lower grade instead of compulsorily retiring him. The competent authority under rule 48 of the CCS (Pension) Rules 1972 retains an absolute right to retire the applicant, after the applicant had completed thirty years of qualifying service without giving any reasons and hence the claim of the applicant that he should have been reduced to a lower post cannot be entertained.

15. The counsel for the applicant relied on a decision reported in AIR 1990 SC 1368 wherein it is held as follows:

"Even if an order of compulsory retirement is couched in innocuous language without making any imputation against the Government servant, who is directed to be compulsorily retired from service, the Court, if challenged in appropriate cases, can lift the veil to find out whether the order is based on misconduct of Government servant concerned or the order has been made bonafide and not with oblique or extraneous purpose. More from of the order in such cases cannot differ the court from evolving into basis of the order if the order in question is challenged by the concerned Government servant. xx xx xxx xx xx  
xx xx xx xx xx xx xx  
As such an order is in contravention of Article 311 of the Constitution of India, as well as, it is arbitrary as it violates principles of natural justice and the same has not been made

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bonafide. Therefore, the order is illegal and unwarranted and liable to be quashed."

We have gone through the above said decision. The observations made therein does not apply to the facts of this case as the action of the respondents is bonafide and is made the public interest. On the other hand, we may quote with authority the decision of the Supreme Court with reference to Rule 16(3) of the All India Services (Death-cum-retirement) Rules<sup>1958</sup> reported in AIR 1980 SC 563 - Union of India Vs ME Reddy wherein it is held at Page 566 in Para p 9 as follows:

".....  
.....  
The object of the rule is to weed out the dead wood in order to maintain a high standard of efficiency and initiative in the State Services. It is not necessary that a good officer may continue to be efficient for all times to come. It may be that there may be some officers who possess a better initiative and higher standard of efficiency and if given chance, the work of the Government might show marked improvement. In such a case, compulsory retirement of an officer who fulfils the conditions of rule 16(3) is undoubtedly in public interest and is not passed by way of punishment. Similarly, there may be cases of officers who are corrupt or of doubtful integrity and who may be considered fit for being compulsorily retired in public interest since they have almost reached the fag end of their career and their retirement would not cast any aspersion nor does it entail any civil consequences. Ofcourse, it may be said that if such officers were allowed to continue they would have drawn their salary until the usual ~~of~~ date of retirement. But, this is not an absolute right which can be claimed by an officer who has put in 30 years of service or has attained the age of 50 years. Thus the general impression which is carried by most of the employees that compulsory

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retirement under these conditions involves some sort of stigma must be completely removed."

The observations in AIR 1980 SC 563 are complete answers to all the contentions raised on behalf of the applicant.

16. There are no words in the order of compulsory retirement which ~~throws~~ <sup>W</sup> any stigma. If the order itself does not contain any imputation or charge against the applicant, the fact that considerations of misconduct or misbehaviour weighed with the competent authority in coming to its conclusion to retire him compulsorily does not amount to any imputation or charge against the applicant.

17. Hence we see no merits in this OA and the OA is liable to be dismissed and is accordingly dismissed leaving the parties to bear their own costs.

*h.s.g.s*  
(A.B.GORTHI)  
Member (Admn.)

*T.C.R*  
(T.CHANDRASEKHARA REDDY)  
Member (Judl.)

Dated: 10-1-1992.

*STB/H*  
Deputy Registrar

To

1. The Secretary, Ministry of Finance, Dept.of Revenue, Central Revenue Buildings, New Delhi.
2. The Commissioner of Income Tax(Admn) A.P-I Hyderabad Aayakar Bhavan, Fathemaidan Road, Hyderabad.
3. The Chief Commissioner of Income Tax, A.P-I, Hyderabad mvl/sd Ayakar Bhavan, Fathemaidan Road, Hyderabad.
4. The Chairman, Central Board of Direct Taxes, North Block, Central Revenue Buildings, New Delhi.
5. One copy to Mr.Y.Suryanarayana, Advocate, CAT.Hyd.
6. One copy to Mr.N.V.Ramana, Addl.CGSC.CAT.Hyd.
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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH: AT HYDERABAD

THE HON'BLE MR.

V.C.

AND

A. B. Gorla,

THE HON'BLE MR. R. BALASUBRAMANIAN: M(A)

AND

THE HON'BLE MR. T. CHANDRASEKHAR REDDY: M(J)

AND

THE HON'BLE MR. C. J. ROY : MEMBER (JUDL).

Dated: 10-6-1993

ORDER/JUDGMENT:

For Typing

R.A./ C.A./ M.A. No.

in

O.A. No. 16/89

T.A. No.

(W.P. No.)

Admitted and Interim Directions issued.

Allowed

Disposed of with directions

Dismissed

Dismissed as withdrawn

Dismissed for default

M.A. Ordered/Rejected

No order as to costs.

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