

(28)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD.

O.A.No.655/92.

Date of Judgement 16.10.92

Sajan Bahadur

.. Applicant

Vs.

1. Chief Personnel Officer,
S.C.Rly., Secunderabad.
2. General Manager,
S.C.Rly., Secunderabad.. Respondents

Counsel for the Applicant : Shri G.V.Subba Rao

Counsel for the Respondents : Shri N.V.Ramana, SC for Railways

CORAM:

Hon'ble Shri R.Balasubramanian : Member(A)

Hon'ble Shri C.J.Roy : Member(J)

1 Judgement as per Hon'ble Shri R.Balasubramanian, Member(A)

This O.A. is filed with a prayer to quash the order No.P/EST/579/Vol.II dt. 29.7.92 of the Chief Personnel Office S.C.Rly., Secunderabad wherein the voluntary retirement sought for by the applicant was not accepted.

2. After the required service to the Railways, the applicant for reasons of his own, felt the urge to quit service and applied for voluntary retirement on 10.6.92. This was refused vide the impugned order dt. 29.7.92. Aggrieved, this O.A. is filed.

3. The respondents oppose the O.A. and have filed a counter. Because disciplinary proceedings are contemplated, they did not accept the voluntary retirement.

4. We have examined the case and heard the rival sides. The correctness or otherwise of the action of the respondents is an issue. The applicant questions the competence of the authority which turned down his application for voluntary retirement. As can be seen from what is to follow, it is not necessary to go into the question. In a similar case (O.A.No.488/91) decided

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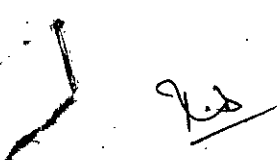
on 10.1.92, this Bench held that while suspension preceding disciplinary action or pendency of a charge-sheet can come in the way of acceptance of voluntary retirement, ^emere contemplation cannot be an obstacle. The respondent's reliance on the memo dt. 29.11.77 of the Railway Board according to which even contemplation can be a ground to deny voluntary retirement does not stand any longer in the light of several court decisions holding that mere contemplation cannot have the force of pendency of a charge-sheet. There being no charge-sheet pending against the applicant his voluntary retirement has to be accepted.

5. We, therefore, direct the respondents to treat the applicant as having retired with effect from 30.9.92. They shall pay all consequential benefits within a period of four months from the date of receipt of this order. The respondent ^{however} are at liberty to pursue the contemplated disciplinary proceedings in accordance with rules. The application is allowed with no order as to costs.



(R. Balasubramanian)
Member (A).


(C. J. Roy)
Member (J).


Dated: 16th October, 1992.


Deputy Registrar (J)

To

1. The Chief Personnel Officer,
S.C.Rly, Secunderabad.
2. The General Manager, S.C.Rly, Secunderabad.
3. One copy to Mr. G.V. Subba Rao, Advocate, CAT. Hyd.
4. One copy to Mr. N.V. Ramana, SC for Rlys, CAT. Hyd.
5. One spare copy.

pvm



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COMPARED BY

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APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH : HYDERABAD

THE HON'BLE MR

AND

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

AND

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

AND

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

Dated: 16 - (6-1992

~~ORDER~~ JUDGMENT:

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

IN

O.A. No. 655/92

T.A. No.

(wp. No)

Admitted and interim directions
issued.

Allowed

Disposed of with directions

Dismissed

Dismissed as withdrawn

Dismissed for default

M.A. Ordered/Rejected

No orders as to costs.

Central Administrative Tribunal

DESPATCH

2 NOV 1992

HYDERABAD BENCH.