

(35)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH  
AT HYDERABAD

ORIGINAL APPLICATION NO.1356/95

DATE OF ORDER : 4-9-96.

Between :-

K.S.Krishna Rao

... Applicant

And

1. Union of India represented by  
The Comptroller and Auditor  
General of India, New Delhi.
2. Accountant General (A&E),  
Andhra Pradesh, Hyderabad.

... Respondents

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Counsel for the Applicant : Shri M.P.Chandra Mouli

Counsel for the Respondents : Shri G.Parameshwara Rao,CGSC

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CORAM:

THE HON'BLE JUSTICE SHRI B.C.SAKSENA : VICE-CHAIRMAN  
(ALLAHABAD BENCH)

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(Orders per Hon'ble Justice Shri B.C.Saksena,  
Vice-Chairman).

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When the Original Application was taken up for hearing none responded for the applicant. Smt.N.Shakti for Sri G.Parameashwar Rao was heard. The applicant through this O.A. has prayed ~~that~~ for quashing of the order dt.6-6-95 passed by the Accountant General (A&E), Andhra Pradesh and consequently for a direction to the respondents to grant all retiriral/terminal benefits such as pro-rate pension with interest at the rate of 12% per annum from the date the applicant left employment from the Respondents Organisation. The brief facts are that the applicant joined as Upper Division Clerk on 1-8-52 in the office of the Accountant General in Madras and was confirmed as UDC in March, 1955. Thereafter he passed the S.A.S. Accountant in the year 1961. While working as S.A.S.Accountant he was sent to the Accountant General, Orissa office on deputation and while on deputation, he applied for a post of Accounts Officer in National Projects Construction Corporation Ltd., New Delhi, It is stated that the said organisation is a Public Sector ~~Enterprise~~ undertaking under the central Government. On his selection, the applicant tendered resignation. It is stated that it was accepted and he was relieved from the Accountant General's Office and joined in the said Public Sector undertaking.

2. The applicant's case is that he is entitled for pro-rate pension for the total service of 11 years 6 months rendered in Accountant General's Office. Reliance has been placed on two

34

- 3 -

office memorandums (i) the O.M. dt.25-3-77.

3. The Respondents in the written statement have indicated that this Office Memorandum is not applicable since he was not absorbed in the Public Sector Undertaking between 8-11-68 and 21-4-72 and his absorption in Public Sector Undertaking is prior to 8-11-66. There is merit in the plea taken by the Respondents.

4. The other Office Memorandum on which the applicant placed reliance is dt.3-1-95. The respondents have indicated in the written statement that since no orders of government of India for payment of pro-rata pensionary benefits in the situation obtaining in the present case have been issued.

5. The learned counsel for the respondents has invited my attention to the decision of the Hon'ble Supreme Court of India rendered in Union of India & Another Vs. V.R.Chadha (S.L.P. (Civil) No.697/1995) rendered on 2-5-96, a photostatic copy of which is Annexure R-I. The Hon'ble Supreme Court of India analysed the provisions of Rule-37 of Central Civil Services (Pension Rules, 1972). It held in the said case that since there was no declaration of the Government that the absorption of the Government Servant (V.R.Chadha i.e. the respondent before the Supreme Court) in Bokaro Steel Plant is ~~not~~ in public interest. In the instant case also the applicant on his own volition preferred an application seeking appointment on the post of Accounts Officer in the National Projects Construction Corporation Ltd., (NPCC for short) and had tendered resignation. His absorption has not been shown ~~as~~ made in public interest. I am therefore convinced that Rule-37

B.S.

would not apply to support the claim made by the applicant.

The question involved in the present O.A. is squarely covered by the decision of the Hon'ble Apex Court in Union of India & another Vs. V.R.Chadha (Supra).

6. In the above circumstances, the O.A. is dismissed.

No order as to costs.

*B.C. Saksena*

(B.C.SAKSENA)  
Vice-Chairman

Dated: 4th September, 1996.  
Dictated in Open Court.

*For the  
Registrar*

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OA.1356/95.

Copy to:-

1. The Comptroller and Auditor General of India, New Delhi.
2. Accountant General(A&E), Andhra Pradesh, Hyd.
3. One copy to Sri. H.F.Chandramouli, advocate, CAT, Hyd.
4. One copy to Sri. G.Parmeswar~~Reddy~~, SC for AG, CAT, Hyd.
5. One copy to ~~XXX~~ Library, CAT, Hyd.
6. One spare copy.

Rsm/-

3/10/96

1356/95

Typed By  
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THE CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH HYDERABAD

Justice B. C. Saxena vs

THE HON'BLE SHRI R. RANGARAJAN: M(A)

DATED: 4/9/96

ORDER/JUDGEMENT ✓  
R.A/C.P./M.A.NO.

O.A.NO. 1356/95

ADMITTED AND INTERIM DIRECTIONS ISSUED  
ALLOWED  
DISPOSED OF WITH DIRECTIONS  
DISMISSED  
DISMISSED AS WITHDRAWN  
ORDERED/REJECTED  
NO ORDER AS TO COSTS.

YLKR

II COURT

केन्द्रीय प्रशासनिक अधिकरण  
Central Administrative Tribunal  
ब्रेषण/DESPATCH  
- 1 OCT 1996  
हैदराबाद ब्याचपीठ  
HYDERABAD BENCH