

(90)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH AT HYDERABAD

O.A.NO. 893/96.

Date of Order: 30-7-96

Between:

S.R. Ram Chander.

.. Applicant

and

1. Union of India rep. by its
Scientific Advisor to Raksha Mantri
and Director General Research
and Development, Directorate of Personnel
(RD-7) B-Wing, Sena Bhavan,
DHQ PO, New Delhi-11.
2. The Director,
Defence Electronics Research Laboratory (DLRL)
B Chandrayanagutta Lines,
Hyderabad-5.

Respondents.

For the Applicant :- Mr. V. Jogayya Sarma, Advocate

For the Respondents: Mr. V. Rajeswar Rao,
Sx./Add. CGSC

CORAM:

THE HON'BLE MR. JUSTICE M.G. CHAUDHRI : VICE-CHAIRMAN

THE HON'BLE MR. H. RAJENDRAPRASAD : MEMBER (ADMN)

(50)

O.A.No.893/96

Dt. of order:30-7-1996

MINUTES

Mr. V. Jogayya Sharma for the applicant, and
Mr. V. Rajeshwar Rao for the respondents. Further
heard.

2. The learned Standing Counsel is not in a
position to state anything further at this stage
except pointing the order of stay issued by the
Supreme Court in O.A.286/91 of this Bench.

3. The learned counsel for the applicant is well
justified in praying for interim stay relying upon
the decision of the Bombay Bench of the CAT in T.A.
No.521/86, ^{and} the decision of the Bangalore Bench of
CAT in O.A.297/90. The decision of the Bangalore
Bench has noted that the Supreme Court has been pleased
to stay the implementation of the Bombay judgement and
SLP against that judgement is pending. However,
taking the view that the interim order is not declara-
tion of law under Art.141, the Bench proceeded to grant
relief to the applicant in that case. The learned
counsel, therefore, submits that we may also adopt
the same course. He submits that as the said Benches
have struck down the proviso at the end of Para-1
of the O.A., dated 24-12-85 the instant case is a
fit case where to direct stay of retirement and to
continue the applicant till he attains the age of
60 years.

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4. Had the matter ^{reverted} suggested in that shape possibly we may have had to consider the request for stay earnestly. However, identical view was taken relying upon the judgement of the Bombay Bench in T.A. No.521/86 by this Bench itself in O.A.No.286/91 decided on 21-6-91 (A. Rama Rao v. UOI) and another). An appeal preferred against that decision is however pending in the Supreme Court being C.A.No.4186/91. In that appeal the Supreme Court was pleased to issue an order ~~dt.21-6-91~~ dt.11-10-91 directing that during pendency of the appeal the operation of the judgement of this Tribunal shall remain stayed. It is not therefore possible to follow the earlier decision of this Tribunal in the instant case so long as the stay is in operation. It clearly appears that the first judgement of the Bombay Bench as well as the decision of this Bench in O.A.286/91 ~~are~~ subject matter of pending appeals in the Supreme Court and there is stay of operation of the decision of this Bench. The principle laid down by the decisions relied upon cannot therefore be said to be conclusive at this stage. Propriety and judicial decorum therefore would demand that we abide by the order of stay granted by the Supreme Court in the earlier case for which we would be unable to grant relief on the basis of the earlier decision. ^{It is true that it} It would still be open to us as held by the Bangalore Bench to proceed

in the instant O.A. and pass ^{the} ~~the~~ following order.

That, however, ^{will be an idle} ~~ideal~~ formality having regard to the fact that the earlier decision has been stayed by the Supreme Court ^{and this may also be stayed}. In these circumstances, we decline to grant interim relief. We now direct the respondents to file their reply on merits ^{to} ~~and~~ the O.A. within a period of eight (8) weeks. The O.A. is already admitted.

5. Pending the hearing and disposal of the O.A.

we however ~~inclined to~~ pass the following order.

(1) The retirement of the applicant on ³¹⁻⁷⁻¹⁹⁹⁶ ~~30-7-1996~~ by reason of the impugned proviso will be subject to the final order in the instant O.A.

(2) In the event of the applicant ~~having~~ ^{OA being} decided ~~in~~ ^{before the applicant} reaches the age of 60 years, it will be open to him to seek a direction for reinstatement.

(3) In the event of applicant's succeeding in the O.A. he will be entitled to claim all benefits including monetary benefit for the period from 31-7-96 till the date ~~on~~ ^{at} which he reaches the age of 60 years.

(4) Without prejudice to the pending O.A. the applicant will be at liberty to receive the pensionary benefits as may be available to him on the basis of his retirement on 31-7-96. In that connection we direct the respondents that the post-retirement benefits should not be delayed and should be made available to the applicant within 3 months provided he fills the necessary forms and completes the formalities.

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(5) The applicant will be at liberty to claim the additional pensionary benefits to which he may be found entitled in the event ^{of his} he succeeding in the O.A. and his age of retirement being determined as 60 years.

7. Next Hearing of the O.A. is expedited. Liberty to apply for fixed date of hearing after the pleadings are complete.

Orders to be issued early.

HHRP
M(A)

HMGCC, J
VC

Deputy Registrar

O.A.893/96.

To

1. The Scientific Advisor to Raksha Mantri &
Director General, Research and Development,
Directorate of Personnel (RD-7)
B-Wing, Sena Bhavan, DHQ PO, New Delhi-11.
2. The Director, Defence Electronics Research
Laboratory (DLRL) Chandrayanagutta Lines,
Hyderabad-5.
3. One copy to Mr.V.Jogayya Sarma, Advocate, CAT.Hyd.
4. One copy to Mr. V.Rajeswar Rao, Addl.CGSC.CAT.Hyd.
5. One copy to Library CAT.Hyd.
6. One spare copy.

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR. JUSTICE M.G. CHAUDHARI
VICE-CHAIRMAN

AND

THE HON'BLE MR. H. RAJENDRA PRASAD: M(A)

Dated: 30-7-1996

ORDER/JUDGMENT

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

in

O.A.No. ~~595/96~~ 893/96

T.A.No. (W.P.)

Admitted and Interim Directions
issued.

Allowed.

Disposed of with directions

Dismissed

Dismissed as withdrawn

Dismissed for Default.

Ordered/Rejected.

No order as to costs.

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| केन्द्रीय प्रशासनिक अधिकरण Central Administrative Tribunal द्वेषण/DESPATCH 2 AUG 1996 हैदराबाद न्यायपीठ HYDERABAD BENCH |
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