

37

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH  
AT HYDERABAD

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O.A.No.589/99.

Date of Decision: 4 January, 2000

K.Sk.Ahmed

.. Applicant.

Vs

1. The Union of India, rep. by Secretary, Min. of Finance, (Dept. of Expenditure), Secretariat, New Delhi.
2. The Union of India, rep. by the Secretary, (Personnel), Public Grievances & Pension, Department of Personnel & Training, Sansad marg, Dak Bhavan, New Delhi.
3. The Union of India, rep. by Director General, Dept. of Posts, Dak Bhavan, Sansad marg, New Delhi.
4. The Chief Postmaster General, Dak Sadan, Abids, AP Circle, Hyderabad.
5. The Superintendent of R.M.S., Tirupathi Division, Tirupathi.

.. Respondents.

Counsel for the applicant : Mr.Krishna Devan

Counsel for the respondents : Mr.J.R.Gopala Rao, Addl.CGSC.

CORAM:-

THE HON'BLE SHRI JUSTICE D. H. NASIR: VICE CHAIRMAN

THE HON'BLE SHRI R. RANGARAJAN : MEMBER (ADMN.)

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ORDER

ORAL ORDER (PER HON'BLE SHRI R. RANGARAJAN : MEMBER (ADMN.))

None for the applicant. Heard Mrs. Sakthi for Mr.J.R.Gopala Rao, learned counsel for the respondents.

2. The applicant in this OA belongs to Group-C cadre and worked as Head Mail Guard (BCR), Gudur RMS Tirupathi Division and retired from service on

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30-04-1998. The applicant relying on the Memorandum No.23-93/98-PE-I(PCC)S.R. dated 18-05-1998 (Annexure R-II Page-10 to the reply) submits that in view of the above mentioned circular he should be allowed to continue up to the age of 60 years and his retirement at the age of 58 years on 30-04-1998 is irregular and that he should be reinstated into service and continued till he attained the age of 60 years.

3. The contention of the applicant is that the superannuation age was fixed as 60 years in view of the recommendation of the 5<sup>th</sup> Pay Commission. That recommendation was submitted before his retirement that is 30-04-1998 and hence decision taken by the memorandum referred to above will hold good in his case also.

4. The next contention of the applicant is that the applicant is similarly placed ~~by~~ by those who were continued in Group-C at the age of 60 years. Hence his case cannot be discriminated. He also relies on the pension and pay fixation rule, which is applicable to those with retrospective effect and those circulars equally applies <sup>RT. Cx. 1</sup> ~~the~~ applicant herein. His representations dated 5-2-99 and 9-2-99 on the above subject was rejected by the order No.B-28/3 dated 2-3-99 (Annexure-I page-10 to the OA) on the ground that past cases need not be reopened regarding extension of retirement age.

5. This OA is filed praying for a declaration that the applicant is entitled to continue in service up to the age of 60 years by holding that the action of the respondents in excluding the applicant from application of the Circular in O.M.No.25012/2/97-Estt. (A) dated 13-05-98 issued by the 2<sup>nd</sup> respondent is arbitrary, discriminatory, malafide being violation of Articles 14, 15, 16 & 21 of the Constitution of India and for a consequential direction to the respondents to reinstate the applicant into duty and to continue him till he attains the age of 60 years by making necessary provision in the said circular.

6. A reply has been filed in this OA. The comparison of his case with that of payment of pension and other pay fixation cases wherein which were given retrospective effect is no reason to give retrospective effect to the circular dated 13-05-98. The Government cannot be forced to accept the recommendation at one stretch. Even though the 5<sup>th</sup> Pay Commission had recommended the age of superannuation <sup>as</sup> 60 years earlier to 30-04-98 that will not give any right that the applicant to continue up to the age of 60

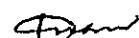
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years. The recommendation of the 5<sup>th</sup> Pay Commission were accepted stage by stage on the basis of considering various recommendation\case by case. Initially the Government of India had rejected the recommendation of the 5<sup>th</sup> Pay Commission for increasing the age of superannuation to 60 years. But subsequently the rejection was reconsidered and the date of superannuation was fixed at 60 years by the order dated 13-05-1998. Such orders cannot have any retrospective effect, it can have only prospective effect. Those who retired after 13-05-98 ~~or up to 30-05-98~~ have the claim to be retired after the attaining the age of 60 years. Those who retired earlier to that date have no case to continue them up to the date of 60 years. The applicant having retired on 30-04-1998 much earlier to the date of the circular dated 13-05-98 cannot claim for the relief of continuing him up to the age of 60 years on the basis of the circular dated 13-05-1998.

7. In view of what is stated above we find no merits in this OA and hence the OA is dismissed. No costs.

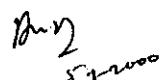


(R. RANGARAJAN)  
MEMBER(ADMN.)



(D. H. NASIR)  
VICE CHAIRMAN

Dated: The 4<sup>th</sup> January, 2000.  
(Dictated in the Open Court)



Jan 4  
2000

SPR

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH : HYDERABAD.

~~1ST AND 2ND COURT~~

1/2/2000

COPY TO :

1. HON. J.
2. HON. M. (ADMN.)
3. HON. M. (JUDL.)
4. D.R. A (ADMN.)
5. SPARE ✓
6. ADVOCATE
7. STANDING COUNSEL

TYPED BY  
COMPIRED BY

CHECKED BY  
APPROVED BY

THE HON'BLE MR. JUSTICE O.H. NASIR  
VICE CHAIRMAN

THE HON'BLE MR. R. RANGARAJAN  
MEMBER (ADMN.)

THE HON'BLE MR. B. B. JAI PARAMESWAR  
MEMBER (JUDL.)

\* \* \*

DATE OF ORDER: 4/1/2000

MA/RA/CP.NO.

IN

OA. NO. 569/99

ADMITTED AND INTERIM DIRECTIONS  
ISSUED

ALLOWED

CP CLOSED

RA. CLOSED

DISPOSED OF WITH DIRECTIONS

DISMISSED

(9 copies)

DISMISSED AS WITHDRAWN

ORDER/REJECTED

NO ORDER AS TO COSTS

केन्द्रीय प्रशासनिक व्यविकरण  
Central Administrative Tribunal  
प्रेषण / DESPATCH

11 JAN 2000

హైదరాబాద్ ప్రాపణిట  
HYDERABAD BENCH