

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:

AT HYDERABAD

O.A.No.729 OF 1999.

DATE OF ORDER:9-6-1999.

BETWEEN:

R.Bhasker Rao.

.....Applicant

and

Survey of India, represented by its
Director for South-South Eastern Circle
and Appointing Authority, UPPAL,
Hyderabad.

.....Respondents

COUNSEL FOR THE APPLICANT :: Mr.N.V.S.Sarma

COUNSEL FOR THE RESPONDENT :: Mr.V.Vinod Kumar

CORAM:

THE HON'BLE SRI R.RANGARAJAN, MEMBER(ADMN)

A N D

THE HON'BLE SRI B.S.JAI PARAMESHWAR, MEMBER(JUDL)

: O R D E R :

ORAL ORDER (PER HON'BLE SRI R.RANGARAJAN, MEMBER(A))

Heard Mr.V.Suryanarayana Sastry for Mr.N.V.S.Sarma,
learned Counsel for the Applicant and Mr.V.Vinod Kumar,
learned Standing Counsel for the Respondent.

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2. The applicant while working as Air Survey Draughtsman/Grade-II, was sent to the Gandhi Hospital to examine him by a Medical Board and the opinion for his fitness for the field survey work, vide letter No.C-049/39-A(fd)/50P, dated:9-12-1998, (Annexure.A-2, ^{Annexure} page.9 to the OA). It is stated, that ^{was} was necessitated because of the Medical Certificate supplied by him from one Sri Dr.P.G.Reddy dated:24-11-1998, (Annexure.A-1, page.8 to the OA). Accordingly, on the basis of the letter dated:9-12-1998, the Gandhi Hospital examined him and submitted the report to the sole respondent, vide letter No.MRD/GH/99/486, dated:10-3-1999, (Annexure.A.3, page.10 to the OA). It is stated that the applicant is permanently incapacitated for further service of any kind. Due to that medical opinion, the applicant was issued with the impugned Order proposing to retire him from service on invalid pension in accordance with the provisions of Rule 38(1) of CCS(Pension) Rules,1972, vice Order No.C-140/3.A.121/SSEC, dated:19-4-1999, (Annexure.A.4, page.12 to the OA). The applicant submitted a petition for review of the decision to retire him on invalid pension by his representation dated:28-4-1999.

3. This OA is filed for setting aside the impugned Order No.C-140/3.A.121/SSEC, dated:19-4-1999, in respect of the applicant and for a consequential direction to the respondent to continue him in service till his age of superannuation i.e., till 60 years.

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4. In the impugned Order dated:19-4-1999, it has been stated that, for a review medical examination the applicant should give Prima Facie evidence to the effect that good grounds exist for doing so. The learned Counsel for the Respondent submits that there was no Prima Facie evidence. When we questioned him the meaning for the word Prima Facie evidence and what Certificate he should produce to come to the conclusion that Prima Facie evidence is available, the learned Counsel for the Respondent could not satisfactorily give any answer. Normally, when an employee is to be retired on medical grounds, an opportunity should be given to him to protest ^{the aggrieved} ~~and also asked~~ ^{only} ~~when~~ ^{for} the same and also asked for a review medical board. In our opinion there is no need for the applicant to produce any Prima Facie evidence. Principles of Natural Justice has to be applied.

5. Hence, we feel that the review petition of the applicant dated:28-4-1999, should be examined in full and he should be sent for a review medical examination in accordance with the rules. On the basis of that a final decision should be conveyed to the applicant. Till such time a final decision is conveyed, the Interim Order dated:12-5-1999, ^{shall} ~~will~~ be in force. The applicant should without hesitation attend the review medical board when fixed and advised to him.

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6. With the above direction, the OA is disposed of at the admission stage itself. No costs.


(B.S. JAI PARAMESHWAR)
MEMBER (JUDL)
9.6.99


(R. RANGARAJAN)
MEMBER (ADMN)

DATED: this the 9th day of June, 1999

Dictated to steno in the Open Court

DSN

Amr.
Tape.

COPY TO:-
1. HDHND
2. HHRP M(A)
3. HSSDP M(J)
4. D.R.(A)
5. SPARE

1ST AND 2ND COURT

TYPED BY : CHECKED BY
COMPARED BY APPROVED BY

THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH : HYDERABAD.

THE HON'BLE MR. JUSTICE D.H.NASIR
VICE - CHAIRMAN

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

THE HON'BLE MR.R.RANGARAJAN :
MEMBER (A)

THE HON'BLE MR.B.S.JAI PARAMESWAR :
MEMBER (J)

ORDER: 9.6.99

ORDER / JUDGEMENT

MA./RA./CP. No.

in
OA. No. 729/59

ADMITTED AND INTERIM DIRECTIONS
ISSUED.

ALLOWED.

C.P. CLOSED.

R.A. CLOSED.

D.A. CLOSED.

DISPOSED OF WITH D.R. HYDERABAD BENCH

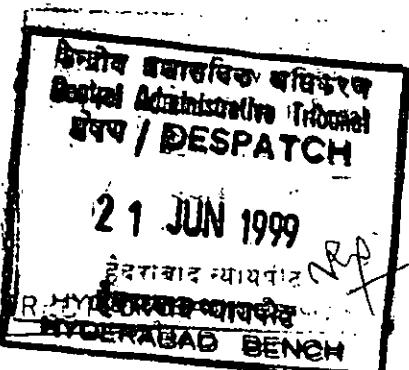
DISMISSED.

DISMISSED AS WITHDRAWN.

ORDERED / REJECTED.

NO ORDER AS TO COSTS.

SRR



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