



**Central Administrative Tribunal
Principal Bench, New Delhi**

O.A. No. 427/2021

Order Reserved on 05.05.2021

Order pronounced on: 14.06.2021

(Through Video Conferencing)

**Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Mr. Tarun Shridhar, Member (A)**

Sunil Kumar
S/o Late Shri Ram Prit Ram,
Aged about 57 Years,
R/o H. No. 2843, Sector-23
Gurgoan, Haryana- 122017

..... Applicant

(By Advocate: Sh. Sakesh Kumar and
Ms. Geetanjali Sharma)

Versus

1. Union of India
Through the Secretary
Govt. of India
Ministry of Commerce & Industries
Department of Promotion of Industry
and Internal Trade
Room No. 157
Udyog Bhawan, New Delhi- 110011

2. Director General
National Productivity Council
"Utpadakta Bhawan"
5-6, Institutional Area,
Lodhi Road, New Delhi- 110003

...Respondents

(By Advocate: Sh. Ashok Sharma for R-1
Sh. Gigi C. George for R-2)



ORDER

Hon'ble Mr. Tarun Shridhar, Member (A):

The applicant joined the service of National Productivity Council (NPC), the respondents herein in the year 1990, as a Trainee. He was appointed as Assistant Director on 14.11.1992 and was promoted to the post of Deputy Director (Junior) and Deputy Director Grade-II in 1997 and 2015 respectively. He was further promoted to the Director Grade-I on 06.06.2019. The next promotion is to the post of the Deputy Director General. The appointing authority of the applicant passed an order dated 04.01.2021, retiring him before the date of his superannuation by exercising the power under Fundamental Rule 56 (j). This OA is filed challenging the said order.

2. The applicant contends that his three decades of service is without blemish or with adverse remarks and there was absolutely no basis for the respondents to pass the impugned order. He contends that FR 56 (j) does not apply to the respondents' Organization, and even otherwise



the provision was invoked in his case without any basis. He contended that the Head of the Organization who is outside the respondents was a bit inimical to him. It is stated that the appeal preferred against the order of premature retirement is still pending with the authorities.

3. On behalf of the respondents, a detailed counter affidavit is filed. It is stated that the DOPT issued instructions in the year 2020, for all the departments and the subsidiary organizations to review the cases of officers, who have crossed the age of 50 years or to exercise the power under 56 (j), in case, it is found that any officer under review is found to be lacking Integrity or lot of burden to the department. According to the respondents, the High Power Committee was instructed, and the committee in turn examined the case of the applicant since he crossed the age of 50 years. It is stated that on the recommendations of the committee, the impugned order was passed. They raised an objection to the maintainability of the OA on the ground that the applicant has received all the payment benefits aggregating to about 1.1 Crore without any demur and that he is precluded from challenging the order of premature retirement. They admit



that the appeal preferred by the applicant is pending consideration.

4. We heard extensive arguments advanced by Sh. Sakesh Kumar and Ms. Geetanjali Sharma, learned counsel for the Applicant and Sh. Ashok Sharma, learned counsel for Respondent No.1 and Sh. Gigi C. George, learned counsel for Respondent No.2.

5. The applicant served the respondent- Organization for about 30 years in various capacities. An order of premature retirement is passed against him duly extending the relevant benefits. The scope of interference of the order of premature retirement is very limited. At the same time, the authority, who passed the order of premature retirement, fails to show the basis for invoking the power under FR 56 (j), the Tribunal would not hesitate to interfere.

6. In the instant case, we would have certainly examined the circumstances under which the order of premature retirement was passed against the applicant, and would have decided the legality of the impugned order. But, for the fact that an appeal preferred by the applicant is still pending, which was filed on 15.01.2021 and shortly



thereafter the OA was filed, obviously because the OA was pending, the appellate authority did not take up the matter. We are of the view, it would be in the interest of the applicant that the appellate authority be directed to dispose of the appeal. In a way, the OA is not maintainable once the appeal is pending.

7. We, therefore, dispose of the OA directing the first respondent to pass orders on the appeal presented on 15.01.2021, within a period of six weeks from the date of receipt of a copy of this order. There shall be no order as to costs.

(Tarun Shridhar)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

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