

(1994) 03 AP CK 0036

In the Andhra Pradesh High Court

Case No : Writ Petition No. 15949 of 1991

C. Ramalinga Reddy

APPELLANT

Vs

Non-Conventional Energy Development Corporation of A.P.
Ltd.

RESPONDENT

Date of Decision : 11-03-1994

Acts Referred:

Citation : (1994) 2 ALT 422

Hon'ble Judges : P.L. Narasimha Sarma, J

Bench : Single Bench

Judgement

P.L. Narasimha Sarma, J.—This Writ Petition has been filed seeking a declaration that the continuance of the disciplinary proceedings against the petitioner after retirement is bad.

2. The relevant facts are as follows :-

The Petitioner was working as Manager (Finance and Accounts) as on 30th November 1991 in the respondent-organisation. According to the service conditions applicable to the petitioner, he had to retire on attaining the age of superannuation on 30th November, 1991. On the said date, the following order was passed by the respondent :-

"Sri C. Ramalinga Reddy, Manager (Finance & Accounts) NEDCAP Ltd. is due to retire from services on superannuation with effect from 30th November, 1991 A. N.

Therefore, it is ordered that Sri C. Ramalinga Reddy is hereby retired from the service on attaining the age of superannuation with effect from 30th November, 1991 A. N. Subject to outcome of the enquiry instituted against him.

The Corporation reserves power to take such action as deemed fit based on the enquiry report to be furnished by the Enquiry Officer.

Further, Sri C. Ramalinga Reddy is directed to hand over the charge to Sri S. M.

Basha, Assistant Manager (Fin & Accts.) NEDCAP."

Pursuant to the said order the petitioner was retired from service by the respondent and was directed to hand over charge of the post held by him to Sri S. M. Basha, Assistant Manager (Finance and Accounts) at 4.50 P.M. on 30.11.1991. Since the terminal benefits have not been paid to the petitioner, this writ petition has been filed.

3. The petitioner contends that the respondent having permitted him to retire cannot take any disciplinary proceedings against him and on that pretext, cannot withhold the terminal benefits due to him. According to the learned Counsel for the petitioner, the petitioner ceases to be an employee of the respondent-Organisation and that there is no relationship of master and servant between the two and, therefore, the respondent has no jurisdiction whatsoever to conduct any disciplinary proceedings against the petitioner.

4. The learned Counsel appearing for the Corporation drew my attention to the later portion of the office order dated 30.11.1991 stating that the petitioner was allowed to retire subject to the outcome of the enquiry instituted against him and contended that he was allowed to retire subject to the disciplinary proceedings only and, therefore, the respondent has jurisdiction to proceed with the disciplinary proceedings. The learned Counsel for the respondent has not placed before me any regulation or rule framed by the respondent-Organisation governing the situation. The language of the office order dated 30.11.1991 is in clear terms and it is to the effect that the petitioner shall be retired from the service on attaining the age of superannuation with effect from 30th November, 1991. The later of the order that the retirement is subject to the enquiry instituted against the petitioner will have no effect whatsoever on his retirement. The day the petitioner was allowed to retire, the relationship of master and servant comes to an end and the respondent cannot proceed with the enquiry against a person who ceased to be its employee. The learned Counsel for the petitioner also cited a judgment of the Supreme Court in *State of Assam and Others Vs. Padma Ram Borah*, for the proposition that when once an employment comes to an end when once an employment comes to an end the authorities have no power to proceed with departmental enquiry.

5. For the reasons mentioned above, I am clearly of the opinion that the petitioner, who was permitted to retire on attaining the age of superannuation by the respondent, cannot be proceeded against by way of disciplinary proceeding. If that is so, the respondent is not entitled to withhold the terminal benefits which are legitimately due to the petitioner including payment of gratuity, Employees Provident Fund and also the salary during the period of his suspension with effect from 13.12.1988 to 16.1.1990, minus the amount paid towards subsistence allowance. If any amounts are paid to the petitioner on account of the above accounts, they will be given credit to in calculating the amount due to him. The petitioner shall be paid the amount due to him as indicated above within a period of one month from the dated of receipt of copy of this order.

6. The writ petition is accordingly allowed. No order as to costs.