THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO
AND
THE HON'BLE MRS. JUSTICE ANIS

WRIT APPEAL No. 706 OF 2015

J U D G M E N T: ***(per Hon'ble Sri Justice Nooty Ramamohana Rao)***

The appellant herein is the petitioner. He calls in question the order passed by the learned Single Judge of this Court in Writ Petition No. 20465 of 2015.

It is apt to notice that the petitioner is an employee of the Bharat Dynamics limited (for short, 'BDL'), Ministry of Defence, Government of India Enterprise. He prayed: "for issuance of a writ of mandamus for declaring the action of the respondent –BDL as illegal, arbitrary, unconstitutional and contravention of Articles 14, 15 and 21 of the Constitution of India to consider the certificate issued by the Mandal Revenue Officer, Patancheru Mandal, Medak District, the retirement age of the petitioner should have been 31.12.2027 and also not to retire the petitioner on 31.07.2015 and consequently, direct the respondent to give special benefits under the backward class community in the interest of justice."

We are simply not able to fathom what exactly the petitioner sought for from this Court from the inappropriately articulated prayer. What we could understand is that the petitioner is seriously aggrieved of the intended action of the BDL in seeking to retire him from service with effect from 31.07.2015 instead of seeking to retire him at the end of July 2027 which is nearly a dozen years away from today.

On the previous occasion, we have requested Ms. Uma, learned Standing Counsel for BDL to secure instructions and help us to understand the controversy. Today, thankfully, the learned Standing Counsel has placed before us a copy of the order of the punishment imposed on 12.09.2013 on the appellant. The BDL has proceeded against the appellant on the count of breach of trust and dishonestly seeking to derive an undue benefit by disclosing a different date of birth half way through his employment than the one which he has

produced at the time of his employment. The disciplinary authority, who appointed an Enquiry Officer to conduct a detailed enquiry, has found that the petitioner/appellant herein has produced necessary material vouching for his date of birth as 13.07.1955. Half way through his employment, he has declared his date of birth as 20.12.1967, which was erroneously carried in various records/communications. In view of the discrepancy with regard to the date of birth, which has come to be noticed, disciplinary proceedings have been initiated by issuing a charge sheet in that respect on 09.11.2011. Ultimately, the disciplinary authority has found that the appellant has produced his employment registration card, wherein his date of birth was recorded as 13.07.1955 at the time of his initial engagement as Helper during 1990. Therefore, the disciplinary authority has concluded the proceedings by imposing the punishment of reduction of basic pay by four increments with cumulative effect. Ms. Uma would contend that this order of punishment has been served on the appellant on 13.09.2013 and he has accepted the same by not challenging it before any forum or by preferring any appeal there against as per the Standing Orders of the company.

In that view of the matter, particularly, when there is no specific challenge mounted to the order of punishment in the Writ Petition, a vaguely-worded declaration that the appellant is entitled to continue in the service of BDL till the end of July 2027 is impermissible. His service record now stands recording his date of birth as 13.07.1955. In that view of the matter, the relief prayed for is incapable of being granted by this Court in the above setting and hence, we see no merit in this Appeal and it is accordingly, dismissed at the admission stage. No costs.

We have taken on record the copy of the order dated 12.09.2013 imposing the punishment on the appellant, as supplied by the learned Standing Counsel.

Consequently, the miscellaneous applications, if any shall also

stand dismissed.

NOOTY RAMAMOHANA RAO, J

ANIS, J

28th July 2015

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