U.S. Department of Labor

Administrative Review Board
200 Constitution Avenue, N.W.
Washington, D.C. 20210

In the Matter of:

MANSOUR GUITY,

COMPLAINANT,

v.

TENNESSEE VALLEY AUTHORITY,

RESPONDENT.

ARB CASE NO. 96-180

ALJ CASE NO. 90-ERA-10

DATE: September 27, 1996

BEFORE: THE ADMINISTRATIVE REVIEW BOARD[1/]

ORDER APPROVING SETTLEMENT AND DISMISSING COMPLAINT WITH PREJUDICE

This case arises under the employee protection provision of the Energy Reorganization Act of 1974 (ERA), as amended, 42 U.S.C. § 5851 (1988 and Supp. IV 1992). The Complainant filed a second complaint against Respondent, docketed as Case No. 95-ERA-34. Although the cases were not consolidated in the matter before us, the parties are desirous that the settlement be considered in that case as well. For the sake of administrative economy we will do so.

The parties have requested dismissal of the complaint(s) with prejudice and submitted additional information as required by the Board's Order dated August 28, 1996. On August 15, 1996, the presiding Administrative Law Judge recommended that the settlement be approved and the complaint(s) dismissed based on the parties' Joint Motion for Dismissal and a Memorandum of Understanding and Agreement in support of such request.

[1/] On April 17, 1996, Secretary's Order 2-96 was signed delegating jurisdiction to issue final agency decisions under the environmental whistleblower statutes and the regulations at 29 C.F.R. Part 24, to the newly created Administrative Review Board. 61 Fed. Reg. 19978 (May 3, 1996). Secretary's order 2-96 contains a comprehensive list of the statutes, executive order and regulations under which this board now issues final agency decisions. Final procedural revisions to the regulations (61 Fed. Reg. 19982), implementing this reorganization, were also published on that date.

Since the request for approval of the settlement is based on an agreement entered into by the parties, we must review it to determine whether the terms are a fair, adequate and reasonable settlement of the complaint. 42 U.S.C. § 5851(b)(2)(A)(1988). *Macktal v. Secretary of Labor*, 923 F.2d 1150, 1153-54 (5th Cir. 1991); *Fuchko and Yunker v. Georgia Power Co.,* Case Nos. 89-ERA-9, 89-ERA-10, Sec. Order, Mar. 23, 1989, slip op. at 1-2.

The agreement appears to encompass the settlement of matters arising under various laws, only one of which is the ERA. *See* Paragraphs 3 and 4. For the reasons set forth in slip op. at 2, we have limited our review of the agreement to determining whether its terms are a fair, adequate and reasonable settlement of the Complainant's allegations that Respondent violated the ERA.

We find that the agreement, as here construed, is a fair, adequate and reasonable settlement of the complaint(s). Accordingly, we APPROVE the agreement and DISMISS THE COMPLAINT(S) WITH PREJUDICE.

SO ORDERED.

DAVID A. O'BRIEN
Chair

KARL J. SANDSTROM
Member

JOYCE D. MILLER
Alternate Member