U.S. Department of Labor

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

IN THE MATTER OF

ROBERT NIMETZ

COMPLAINANT,

v.

CDI POWER SYSTEMS GROUP, INC.

and

TENNESSEE VALLEY AUTHORITY,

RESPONDENTS.

CASE NOS. 94-ERA-43
94-ERA-44

DATE: May 30, 1996

BEFORE: THE ADMINISTRATIVE REVIEW BOARD[1/]

FINAL ORDER APPROVING SETTLEMENT
AND DISMISSING COMPLAINT

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 parties submitted a Memorandum of Understanding and Agreement seeking approval of the settlement and dismissal of the captioned complaints. The Administrative Law Judge (ALJ) issued a decision on November 29, 1995, recommending that the settlement be approved.

The request for approval is based on an agreement entered into by the parties, therefore, we must review it to determine whether the terms are a fair, adequate and reasonable settlement of the complaints. 42 U.S.C. § 5851(b)(2)(A) (1988). *Macktal v. Secretary of Labor*, 923 F.2d

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[1/] On April 17, 1996, a Secretary's Order was signed delegating jurisdiction to issue final agency decisions under this statute to the newly created Administrative Review Board. 61 Fed. Reg. 19978 (May 3, 1996)(copy attached).

Secretary's Order 2-96 contains a comprehensive list of the statutes, executive order, and regulations under which the Administrative Review Board now issues final agency decisions. A copy of the final procedural revisions to the regulations (61 Fed. Reg. 19982), implementing this reorganization is also attached.

1150, 1153-54 (5th Cir. 1991); *Thompson v. U.S. Dep't of Labor*, 885 F.2d 551, 556 (9th Cir. 1989); *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* ¶¶ 1 and 5. For the reasons set forth in *Poulos v. Ambassador Fuel Oil Co., Inc.*, Case No. 86-CAA-1, Sec. Order, Nov. 2, 1987, 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 Respondents violated the ERA.

Paragraph 8 provides that the Complainant is not prohibited from reporting any suspected nuclear safety concern to the proper governmental authority, or from participating in any proceeding or investigation pertaining thereto, or in restricting any disclosure by him where required by law.

We find that the agreement, as here construed, is a fair, adequate and reasonable settlement of the complaints.

Accordingly, we APPROVE the agreement and DISMISS THE COMPLAINTS WITH PREJUDICE. *See* ¶ 5.

SO ORDERED.

KARL J. SANDSTROM
Presiding Member

JOYCE D. MILLER
Alternate Member