

Central Administrative Tribunal, Principal Bench

R.A.No.77/97 in
O.A.No.2498/94

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Hon'ble Shri R.K.Ahooja, Member(A)

New Delhi, this 28th day of June, 1997

1. Union of India through
The Chairman
Commission for Scientific & Technical Terminology
Ministry of Human Resources Development West Block-VII
R.K.Puram
New Delhi.
2. Ministry of Finance through
Chief Controller (Pension)
Ministry of Finance, Deptt. of Expenditure
Central Pension Accounting Office
Bhikaji Cama Place
New Delhi. Review Applicants

(By Shri M.K.Gupta, Advocate)
vs.

Mrs. Anila Garg
w/o Late Shri Ashok Garg
r/o B-316, Sarojini Nagar
New Delhi. Review Respondent

(By Shri S.K.Bisaria, Advocate)

O R D E R

The issue in OA No.2498/94 was whether the applicant, who was in employment, was entitled to Dearness Allowance on the family pension being received on account of her late husband. The respondents had relied on the judgment of Hon'ble Supreme Court in Union of India & Others Vs. G.Vasudevan Pillay & Others, 1995(29)ATC Page 180 wherein, in the case of re-employment of Ex-servicemen, the Dearness relief portion of the pension was held to be non-admissible. After considering the case law it was however, held that in the impugned order disposing of the OA No.2498/94 that the ratio of G.Vasudevan Pillay (Supra) did not apply as the husband of the applicant in this case was not an Ex-serviceman.

2. The Review petitioners (originally respondents) now submit that the Jaipur Bench of this Tribunal in OA No.217/93 (Mrs. Uma Sharma Vs. Union of India & Others) had also allowed payment of Dearness Allowance in respect of family pension where a deceased government employee was not an ex-serviceman. A SLP was filed against that order which was allowed (SLP (C) No.17477/94) and the said order of the Jaipur Bench was set-aside. It is prayed by the review petitioners that in view of the law laid-down by the Hon'ble Supreme Court there has been a patent error in the impugned order which ought to be reviewed.

3. Notice was issued to the respondents(original applicant). I also heard the counsel on both sides. In OA No.217/93, Mrs. Uma Sharma Vs. Union of India & Others before the Jaipur Bench of this Tribunal the facts of the case were that the husband of the applicant who was a LDC in the office of Deputy Director General of Geological Survey of India expired on 5.12.1983. The applicant obtained compassionate appointment on 15.6.1984. Upon her securing employment the Dearness Relief on the family pension paid to her on account of her late husband was withheld. The Tribunal in its order dated 11.2.1994 however concluded that the applicant was entitled to the Dearness Relief portion. When the matter came up before the Supreme Court the SLP was allowed with the following order:

"In view of the law laid down by this Court in Union of India and Others Vs. G.Vasudevan Pillay and Others etc. (1995 (1) Scale 9), this appeal has to be allowed. We order accordingly. We set aside the impugned judgment of the Tribunal and dismiss the application filed the respondent before the Tribunal. No costs."

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4. It is clear from above that as clarified by the Hon'ble Supreme Court, the ratio of G.Vasudevan Pillay (supra) applies even in cases where the deceased government servant was not an ex-serviceman. There was thus a patent error in the impugned order passed by this Tribunal in OA No.2498/94 distinguishing the ratio of G.Vasudevan Pillay (Supra) in respect of cases other than those of Ex-serviceman.

5. In view of the above position, the impugned order dated 8.8.1996 is recalled. In view of the law laid-down by the Hon'ble Supreme Court in G.Vasudevan Pillay, Hence, OA 2498/94 is dismissed.

6. MA No.815/97 for stay of the operation of the decision accordingly also stands disposed of as it becomes infructuous.

R.K.Ahooja
(R.K.AHOOJA)
MEMBER(A)

/rao/