

CENTRAL ADMINISTRATIVE TRIBUNAL PRINCIPAL BENCH

NEW DELHI.

O.A. No.92/1997

(9)

New Delhi: this the 27th day of April, 1998

HON'BLE MR. S. R. ADIGE, VICE CHAIRMAN (A)

Mrs. Arati Das Gupta,
W/o Late Sub Jyotirmay Das Gupta,
R/o B-75, Raksha Vikas Apartments,
Vikaspuri, Bodhella,
New Delhi,
Employed as LDC in HQ Technical
Group SME, Delhi Cantt.

..... Applicant.

(By Advocate: Shri H.K. Gangwani)

VERSUS

Union of India through
Secretary,
Ministry of Defence,
New Delhi.

2. Controller General of Defence,
Accounts, R.K.Puram,
New Delhi.

3. Chief Controller of Defence Accounts,
(Pensions)
Allahabad.

4. Defence Pension Disbursing Officer-I,
Red Fort,
Delhi-6

..... Respondents.

(By Advocate: Shri R. V. Sinha)

ORDER(ORAL)

HON'BLE MR. S. R. ADIGE, VICE CHAIRMAN (A)

Applicant prays for restoration of payment
of dearness relief on family pension from the
date it was discontinued i.e. April, 1996.

2. I have heard Shri H.K. Gangwani for the
applicant and Shri R. V. Sinha for the respondents.

3. Shri Sinha invited my attention to

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Hon'ble Supreme Court's judgment dated 8.12.94 in Civil Appeal No.3543-46 of 1990 UOI Vs. G. Vasudevan Pillay & Ors. wherein it has been held that denial of dearness relief on family pension in cases of dependents of ex-servicemen who got employment in their places is legal and just. It is not denied that upon unfortunate demise of applicant's husband Late Subedar Jyotirmay Das Gupta on 4.12.83, applicant was granted compassionate appointment as LDC by Respondents and is drawing dearness relief on her salary as LDC. Manifestly therefore the ratio of the judgment in Vasudevan Pillay's case (Supra) is fully applicable to the facts and circumstances of the present case and applicant cannot draw dearness relief on family pension as well as dearness relief on her salary as LDC, and applicant's prayer for continuance of dearness relief on family pension is therefore rejected.

4. From the respondents' letter dated 17.10.95 (Annexure-A1), it appears that the applicant has been overpaid dearness relief to the extent of Rs.18,346/- prior to its discontinuance, and recovery of aforesaid amount has been ordered by Respondents. The Tribunal by its interim order dated 15.1.97 had stayed further recovery. Admittedly, the applicant is a Govt. servant who was granted compassionate appointment on the unfortunate demise of her husband. The recovery of such a large amount for no apparent fault on her part would cause

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great hardship to her. In Civil Appeal No.11984/96 and connected cases UOI & Ors. Vs. V.P. Ayyapan & another decided by the Hon'ble Supreme Court on 9.9.96, relying upon the judgment in Vasudevan Pillay's case (Supra), the Hon'ble Supreme Court had directed that no recoveries would be made of the amounts already disbursed, and in the present case, Respondents' counsel Shri Sinha also does not seriously oppose the stay of further recoveries from the applicant. ^{interim} In the result, the order dated 15.1.97 is made absolute.

5. The OA stands disposed of in terms of paras 3 and 4 above. No costs.

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(S. R. ANTAGE)
Vice Chairman (A)

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