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(13)

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

Date of decision: 4.8.1993.

(1) OA No.1678/90

Shri Mohan Lal Madan ... Petitioner

vs.
Union of India & anr. .. Respondents

(2) OA No.2552/90

Shri K.L.Dua ... Petitioner

vs.
Union of India .. Respondents

CORAM:

THE HON'BLE MR.JUSTICE V.S.MALIMATH, CHAIRMAN
THE HON'BLE MR.JUSTICE S.K.DHAON, VICE-CHAIRMAN(J)
THE HON'BLE MR.B.N.DHOUNDIYAL, MEMBER(A)

For the Petitioners .. Sh.R.Doraiswami, Counsel.

For the Respondents .. Sh.N.S.Mehta, Senior Counsel
&
Sh.P.H.Ramchandani,
Senior Counsel.

JUDGEMENT(ORAL)

(BY HON'BLE MR.JUSTICE V.S.MALIMATH, CHAIRMAN)

These cases have been referred to the Full Bench by the Bench consisting of Hon'ble Shri P.K.Kartha, the then Vice-Chairman(J) and Hon'ble Shri D.K.Chakravorty, the then Member(A) expressing their disagreement with the view taken by the Chandigarh Bench of the Central Administrative Tribunal in OA No.538-HR/87 on 19.8.1988. That was the case in which the Chandigarh Bench took the view that a retired Government servant was entitled to the refund of two months emoluments which was deducted towards contribution for Liberalised Family Pension Scheme. Consequently, the said Bench directed / refund of the said amount. That decision, we are informed was taken in appeal to the Supreme Court in Civil Appeal No.1076/89 and that the same was dismissed expressly

observing that the question of law involved in the case is left open. Subsequently, the Chandigarh Bench in OA No.773/CH/90 following its earlier decision in OA No.538-HR/87 directed the refund of two months' emoluments deducted as contribution towards Liberalised Family Pension Scheme. That decision was again taken up in appeal in the Supreme Court by the Union of India whereupon special leave has been granted and it is now treated as Civil Appeal No.1799/92. We are informed by the learned counsel appearing on behalf of the respondents that no stay has been granted in that case and the said appeal is pending before the Supreme Court.

2. In view of the facts and circumstances, it is clear that the Supreme Court is seized of the matter and that final expression of opinion would come from the Supreme Court in the said appeal pending before them in Civil Appeal No.1799/92. In the circumstances, we are inclined to follow the judgement of the Chandigarh Bench of the Tribunal subject to the condition that the petitioners would be liable to refund the amount received by them in the event of the Supreme Court reversing the decision of the Chandigarh Bench of the Tribunal in Civil Appeal No.1799/92. This, in our opinion, is a just and equitable course to be adopted having regard to the fact that the petitioners are old retired persons and they cannot afford to wait till long for the final decision. Hence, without expressing any opinion on the question referred to us, we are disposing of these cases with the following

directions.

The respondents shall refund Rs. 2700/- to Shri Mohan Lal Madan, petitioner in OA No.1678/90 and Rs.1050/- to Shri K.L.Dua, petitioner in OA No.2552/90 within a period of three months from the date of receipt of a copy of this judgement subject to the condition that in the event of the Supreme Court allowing Civil Appeal No.1799/92 and reversing the judgement of the Chandigarh Bench of the Tribunal, the petitioners shall be liable to refund the said amount to the respondents. Parties shall bear their respective costs.

(B.N.DHOUDIYAL) (S.K.DHAON) (V.S.MALIMATH)
MEMBER(A) VICE-CHAIRMAN(J) CHAIRMAN

SNS

After Issued
J. Suresh Kumar
2/2/53
Court Officer
Central Administrative Tribunal
Principal Bench, New Delhi
Rashtrapati House,
Copernicus Marg.
New Delhi-110001