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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI.

O. A. No. 1065/93

NEW DELHI, this the 23rd day of November, 1993.

HON'BLE Mr. B.N.DHOUNDIYAL; MEMBER(A).

Smt. Manisha Khatwani,
W/o Lt. Shri B.C. Khatwani,
r/o G-First/46-47, Lajpat Nagar-I,
New Delhi; presently working as
Lower Division Clerk, Department
of Culture, Ministry of Human Resources
Development, Shastri Bhawan, New Delhi.

... Applicant.

(by M.K. Gupta, Advocate)

vs.

1. Union of India
through
The Secretary,
Department of Culture,
Ministry of Human Resources Development,
Shastri Bhawan,
New Delhi.
2. Pay & Accounts Officer,
Department of Culture,
2nd Floor, National Archives (Annexe),
Janpath, New Delhi. ... Respondents.

(by Mr P.P. Khurana with Mr George Parkin, Advocates).

ORDER (oral)

B.N.DHOUNDIYAL, MEMBER(A)

This application has been filed by
Smt. Manisha Khatwani, W/O late Shri B.C. Khatwani,
challenging the action of the respondents in
with-holding dearness relief on her family pension
w.e.f. 21.2.1991.

2. The main averments made in the O.A. are these.
That the applicant's husband late Shri B.C. Khatwani
was working as Librarian Gr-II in the Department of
Culture, Ministry of Human Resources Development and
died in harness on 21.10.1990. Vide letter dated
5.12.1990, the second respondent informed her that
her family pension has been fixed at Rs. 880/- p.m. upto
2.10.1977 and from 3.10.97, the same would be fixed
at Rs. 450/- p.m. In addition to this, the applicant

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was allowed the relief on pension @ 43% on Rs.880/- which comes to Rs.379/- p.m. Vide order dated 21.2.1991, the applicant was appointed as L.D.C. on compassionate grounds and was posted in the Department of Culture. It is from this date that the respondents have discontinued paying the dearness relief on the family pension.

3. In the counter filed by the respondents, they have stated that as per Ministry of Finance O.M. dated 13.2.1976 and 6.4.1976, the payment of Dearness Relief on Family pension is suspended when a person in receipt of family pension is employed in a Department/Office of the Central Govt./State Government. This action of the Pay and Accounts Officer in withholding the payment of Dearness Relief vide letter dated 17.2.1993 was consistent with the rules on the subject.

4. I have gone through the record and also heard the learned counsel for the parties.

5. The learned counsel for the applicant has relied on the decision of the Madras Bench of this Tribunal dated 13.1.1992 in O.A.No.801/91 in case of Mrs Meena Subramanian and others vs. Union of India and others. In that case also, the applicants were the widows of persons who were employed in the Geological Survey of India and were in receipt of family pension. They had also been given employment on compassionate grounds and they had also come to the Tribunal when the dearness relief on the pension was stopped. Examining the nature of dearness relief in terms of Rule 55-A of CCS (Pension) Rules and relevant instructions issued from time to time, the Tribunal held that the dearness relief is meant to compensate for the rise
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in the cost of living. In other words, they have the effect of off-setting the eroding value of the rupee and preventing the fall in the pension in the real terms. Pension and dearness Relief are not, as contended by the respondents, two separate components which can be disassociated and treated differently. Dearness relief forms part and parcel of the pension. Dearness Relief is meant to restore the pension to its original value. The Tribunal directed the respondents to continue to pay the dearness relief to the applicant.

5. The learned counsel for the respondents stated that the Geological Survey of India has filed S.L.P. against this decision of the Madras Bench of this Tribunal, which has been admitted on 11.9.1993. He also argued that in many cases recovery of government dues has been allowed from the dearness relief..

6. Till such time either a stay is granted by the Supreme Court or the Judgment of the Madras Bench of this Tribunal dated 13.1.1992 is set aside by the Supreme Court I see no reason not to abide by the views expressed therein. However, the learned counsel for the applicant fairly conceded that a mechanism has to be provided for recovery of any amounts paid under the proposed directions to the applicant in case a different view is taken by the Hon'ble Supreme Court and the aforementioned judgment is set aside. He undertakes to advise his clients to submit to his disbursing authority an undertaking to the effect that a like amount would be deducted from her pay and deposited in her provident fund account till this case is finally settled and till that time no withdrawal shall be made from this account to the extent of the amount deposited in the account. In case the Tribunal's judgment is set aside

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and this becomes recoverable, the same will be duly paid to the authorities. Subject to this undertaking being given by the applicant, the respondents are directed to continue to pay the dearness relief on the pension to the applicant. The application is allowed. No costs.

23rd Nov., 1993.
(MS)

B.N. Dhoundiyal
(B.N. Dhoundiyal)
Member(A).