

CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

O.A.NO. 16 OF 1989

~~EX-1000~~

DATE OF DECISION 4.9.1997

Gurdayal Singh & Ors.

Petitioner s

Mr. Shailesh Brahmbhatt,

Advocate for the Petitioner [s]

Versus

Union of India & Ors.

Respondent s

Mr. Akil Kureshi

Advocate for the Respondent [s]

CORAM

The Hon'ble Mr. V. Ramakrishnan, Vice Chairman

The Hon'ble Mr. T.N. Bhat, Judicial Member.

JUDGMENT

1. Whether Reporters of Local papers may be allowed to see the Judgment ? ✓
2. To be referred to the Reporter or not ? ✓
3. Whether their Lerdships wish to see the fair copy of the Judgment ?
4. Whether it needs to be circulated to other Benches of the Tribunal ? ✓

1. Gurdhayal Singh
Communication Assistant,
Telecommunication Wing,
Customs and Central Excise,
Ahmedabad Collectorate,
Ahmedabad.
2. Harduman Singh
Communication Assistant,
Customs and Central Excise,
Rajkot Collectorate, Rajkot.
3. Gurbachan Singh
Driver,
Customs and Central Excise,
Rajkot Collectorate, Rajkot.

.... Applicants

(Advocate: Mr. Shailesh Brahmbhatt)

versus

1. Union of India,
(Notice to be served through
The Secretary, Ministry of
Finance, Department of Revenue,
New Delhi)
2. Union of India,
(Notice to be served through
The Secretary, Ministry of
Personnel, P.G. & Pensions
Department of Personnel and
Training, New Delhi)
3. The Collector of Customs
and Central Excise,
Ahmedabad Collectorate,
Opp: High Court of Gujarat,
Ahmedabad.
4. The Collector of Customs
and Central Excise
Rajkot Collectorate,
Rajkot.

.... Respondents

(Advocate: Mr. Akil Kureshi)

ORAL ORDER

O.A.NO. 16 OF 1989

Date: 4.9.1997.

Per: Hon'ble Mr. V. Ramakrishnan, Vice Chairman.

(6)

Heard Mr. Shailesh Brahmbhatt for the applicants
and Mr. Akil Kureshi for the respondents.

2. The applicants, who are ex. servicemen have prayed for a direction to quash the Ministry of personnel's Office memorandum dated 11th September, 1987 which lays down 1.1.1986 as a cut off date for refixing the pay to person re-employed in Government in Civil post ~~and~~ directed recovering of any excess payment on the basis of such refixation in civil posts. The Tribunal in its order dated 1.5.89 has stayed the implementation of the O.M. restraining the Department from recovering any amount from the applicants in the present O.A. in terms of that O.M.

3. We find that this ^{is no longer} ~~is~~ res *integra* as the Hon'ble Supreme Court had already gone into the question in the case of Union of India & Ors. v/s. G. Vasudevan Pillay & Ors., 1995(1) SC SLJ 211. In para 15 of the judgment the Supreme Court has observed

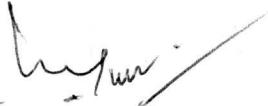
"15. Despite the aforesaid decision being of no aid in the present cases, we find no logic and basis for classifying the re-employment persons on the basis of their being on employment on 1.1.86. Indeed, no justification has been canvassed before us. The decision which held the field before the impugned Memorandum in not taking note of pension while fixing pay of the ex-servicemen on re-employment, which was based on good reasons, had no good reason for its reversal, as enhanced pension was not confined to those who were in employment on 1.1.86. The impugned decision is, therefore, arbitrary and is hit by Articles 14 & 16 of the Constitution. We, therefore, declare the same as void".

We also notice following the Supreme Court decision, the Full Bench had also gone into ^{an} such identical issue

in O.A. 194/88 disposed of on 18th April, 1995 where it had noted the direction of the Supreme Court quashing the office Memorandum dated 11.9.87.

4. In view of this position, we direct the respondents to act in terms of the above orders and keeping in view the fact that the O.M. dated 11.9.87 has been quashed. The stay granted by the Tribunal vide its order dated 1.5.89 is made absolute and if any other benefits are available to the applicants by quashing of the O.M. dated 11.9.87 it should be extended to them by the respondents.

5. The O.A. is disposed of finally as above. No order as to costs.


(T.N. Bhat)
Member (J)


(V. Ramakrishnan)
Vice Chairman

vtc.