

CENTRAL ADMINISTRATIVE TRIBUNAL

AHMEDABAD BENCH

~~xxxxxxx~~ CA/19/95 in OA/665/94

~~O.A. NO.~~

~~T.A. NO.~~

DATE OF DECISION 25.4.95

Smt. Gulabgauri P. Pandya Petitioner

Mr. K. C. Bhatt Advocate for the Petitioner (s)

Versus

Union of India & Ors. Respondent

Mr. Akil Kureshi Advocate for the Respondent (s)

CORAM

The Hon'ble Mr. V. Radhakrishnan : Member (A)

The Hon'ble Mr. Dr. R. K. Saxena : Member (J)

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 Lordships wish to see the fair copy of the Judgment ?
4. Whether it needs to be circulated to other Benches of the Tribunal ?

: 2 :

Smt. Gulabgauri P. Pandya,
Group 'D' Post Office,
UNA (Sorath)

..... Applicant

(Advocate : Mr. K. C. Bhatt)

Versus

- 1) Union of India ,through
Shri P. P. Soni,
or whoever is holding the charge
of The Supdt. of Post Offices,
Junagadh Dn. JUNAGADH 362 001.
- 2) Shri G. M. Upadhyay,
or Whoever is holding the charge of
The Postmaster,
VERAVAL 362 265.

(Advocate : Mr. Akil Kureshi)

O R A L O R D E R

In

Date : 25.4.1995.


CA/19/95 OA/665/94

Per : Hon'ble Shri V. Radhakrishnan : Member (A)

Heard Mr. K. C. Bhatt and Mr. Akil Kureshi, learned
advocates for the applicant and Respondents respectively.

Mr. Akil Kureshi states that the judgment will be
implemented within two weeks, and payment may be made
within that time, subject to any order of the Supreme Court
which may be passed. In view of this, Mr. K. C. Bhatt
seeks permission to withdraw the Contempt Application.
Permission granted. Contempt Application stands disposed of
as withdrawn. Notice discharged.


(Dr. R. K. Saxena)
Member (J)


(V. Radhakrishnan)
Member (A)

CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

Application No. 04/19/95 in 04/665/93 of
Transfer Application No. _____ of

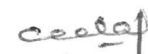
CERTIFICATE

Certified that no further action is required to be taken and
the case is fit for consignment to the Record Room (Decided).

Dated : 09.05.95

Countersign :


Section Officer.


Signature of the Dealing
Assistant

AT AHMEDABAD BENCH

INDEX - SHEET

CAUSE TITLE CA/19/95 in 04/665/93

NAME OF THE PARTIES Mrs. G. P. Pandya

VERSUS

U. O. 1. 2 000.

[illegible]

CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAL BENCH, AHMEDABAD

CAT/JUDICIAL SECTION

Submitted:

Original petition No. CA/19/95

of _____

Miscellaneous petition No. _____

of _____

~~Shri~~ Arundabhai P. Pandya Petitioner(s)

Versus

Union of India & ors Respondent (s)

This application has been submitted to the Tribunal by

Shri K.C. Bhatt, Advocate

Under Section 19 of the Administrative Tribunal Act, 1985. It has been scrutinised with reference to the points mentioned in the check list in the light of the provisions contained in the Administrative Tribunal Act, 1985, and Central Administrative Tribunals (Procedure) Rules 1985.

The application has been found in order and may be given to concerned for fixation of date.

The application has not been found in order for the reasons indicated in the check list. The applicant advocate may be asked to rectify the same within 14 days/ draft letter is placed below for signature.

Asstt.

S.O. (J) [Signature]

E.R. (J) 25-1-95

[Signature]
28/1/95

*K/28/10/94

✓
Filed by Mr. J. C. Bhatt
Dated 13/11/95
Two
not served

13/11/95
S
K

CA 10
13/11/95

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

AHMEDABAD BENCH.

CONTEMPT PETITION(CIVIL)No. 19 of 1995.

in

Original Application No. 665 of 1993.

Smt. Gulabgauri P.Pandya ... Petitioner.

v/s.

Union of India and others. ... Respondents.

Subject :- Contempt Petition(Civil).

Sl.No.	Annexure	Particulars.	Page No.
01.	-	Petition Memo.	1 to 8
02.	A-01	Notice dated 3-10-94.	9 to 10
03.	A-02	Judgement dated 31-3-1994.	11 to 15

* 30/11/95
(G.P.Pandya)

Date. 7.11.95

Signature of petitioner.

Junagadh.

Identified by me;

Ratmal
(Advocate)

Keshav
K. C. BHATT
B.A. LL.B. ADVOCATE

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

AHMEDABAD BENCH.

CONTEMPT PETITION (CIVIL) No. 19 of 1995

in

Original Application No.665 of 1993.

Smt. Gulabgauri P. Pandya

... Petitioner.

v/s.

(1) Union of India Through

Shri P.P.Soni,

or whoever is holding the charge of

The Supdt. of Post offices,

Junagadh Dn., Junagadh-362 001.

(2) Shri G.M.Upadhyay,

or whoever is holding the charge of

The Postmaster Veraval-362 265.

(3) Particulars of the order against which petition

is made :-

Non-implementation of Judgement dated 31-3-1994

in OA/665/93 given by the Honourable C.A.T. Ahmedabad.

4) Jurisdiction of the Tribunal:-

The petitioner declares that the subject matter of the order against which she wants redressal is within the jurisdiction of the Tribunal.

5) Limitation:-

The petitioner declares that the petition is within the limitation.

6) Facts of the case :-

I state on solemn affirmation as under:-

That the petitioner was granted Pension + Dearness relief from 5-3-1980 as a widow of late Shri P.K.Pandya Group 'D' Una (5) who expired on 4-3-1980.

She was appointed on compassionate ground as Group 'D' in the Department w.e.f. 14-6-1984.

She was paid dearness relief on family pension for the period from 5-9-1980 to 13-6-1984 and dearness relief on family pension is discontinued to be paid w.e.f. 14-6-1984.

Being aggrieved by and feeling dissatisfied

; 3:

with the aforesaid action, the petitioner had preferred application Under Sec.19 under OA/665/93.

The Honourable Tribunal by its judgement dated 31-3-1994 given in Original Application No.665/93 as under :-

O R D E R

The application is allowed.

The orders issued by Postmaster Veraval dated 20-4-1993 Annexure A-2 and Supdt. of Post offices, Junagadh dated 25-5-93, Annexure A-4 are quashed and set a side.

The respondents are directed to draw dearness relief on family pension payable to the applicant from the current month onwards as per rules.

However, as the applicant has approached the Tribunal only on 8-11-1993, the arrears of dearness relief will be payable to the applicant only from 8-11-1992 i.e. from one year prior to the date of application.

This shall be done within a period of eight weeks from the date of receipt of this order.

Application is disposed of with no order as to costs.

7) Details of remedies exhausted :-

The petitioner had approached before the respondent authority immediately on receipt of a copy of the Judgement and also notice of contempt of Court was issued by Regd. A.D. on 3-10-94.

8) Matter not pending with any other Court
etc.

The petitioner further declares that the matter regarding which the petition has been made is not pending before any Court of Law.

9) Relief(s) sought:

In the circumstances as narrated herein above, the petitioner prays for the following relief:-

- i) The respondents be directed to implement the judgement dated 31-3-94 in OA/665/993 given by the Hon'ble C.A.T. Ahmedabad immediately.
- ii) The respondent authority be directed to pay the interest at the rate of 12 per cent from the

:5:

date, payable becomes due as per judgement till the date of actual payment.

- iii) The respondent authority be punished as the action regarding ~~non~~ non-implementation of the Judgement, by willful action and showed disobedient for non-implementation of the Honourable Tribunal's judgement.
- iv) The respondent authority be directed to pay the cost of this petition.
- v) Any other suitable relief may please be granted.

Date. 7-1-95

Junagadh.

ગુલાબગૌરી પંડ્યા

(G.P.Pandya)

Signature of petitioner.

Identified by me;



(Advocate)

A F F I D A V I T

I, Gulabgauri P. Pandya Group D Una (S)

Post office, resident of Una (s), age adult, do

hereby state on oath and solemn affirmation that

:6:

that what is stated hereinabove is true to my
personal knowledge, information and belief and
I believe the same to be true and correct.

Solemnly affirmed at Junagadh on the day

of 7 January, 1995.

X 5611421192 48.41
(G.P. Pandya)

Identified by me;

Signature of petitioner.

P. A. Patmar

(advocate)

Solemnly affirmed before me by
Shri. *Prabhuji P. Pandya* of
who is identified by Advocate
Shri. *P. A. Patmar* of
whom I knew personally.
Dt. 7-1-95.

[Signature]
Clerk of the Court,
Civil Judge J.D. & JMFO
Court, UNA.



Keshav
K. C. BHATT
B.A. LL.B. ADVOCATE

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DRAFT CHARGES

- 1) Judgement dated 31-3-1994 in OA/665/93 as under.

O R D E R

The application is allowed.

The orders issued by Postmaster Veraval dated 20-4-1993 Annexure A-2 and Supdt. of Post Offices, Junagadh dated 25-5-93, Ann. A-4 are quashed and set aside.

The respondents are directed to draw dearness relief on family pension payable to the applicant from the current month onwards as per rules.

However, as the applicant has approached the Tribunal only ~~on~~ on 8-11-1993, the arrears of dearness relief will be payable to the applicant only from 8-11-1992 i.e. from one year prior to the date of application.

This shall be done within a period of eight weeks from the date of receipt of this order.

Application is disposed of with no order as to costs.

:2:

(2) The respondents have not implemented
the above judgement till today.

It is willful action of the respondents
and thereby causing heavy loss.

Date. 7-1-95

Junagadh.

ગુજરાતી સંસ્થાના અધ્યક્ષ

(G.P. Pandya)

Signature of Petitioner.

Identified by me;

(Rubmar)

(Advocate)

Kashyap
K. C. BHATT
B.A. LL.B. ADVOCATE

Charge.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

AHMEDABAD BENCH.

We,

Members constituting the Bench of the Ahmedabad Central

Administrative Tribunal hereby charge you Shri P.P. Soni
Supdt. of Post offices Junagadh and Shri G.M. Upadhyay
Postmaster General
as under.

That you Shri P.P. Soni Supdt. of Post offices Junagadh
and Shri G.M. Upadhyay Postmaster General
have failed to implement the judgement dated given

by this Tribunal in OA 665/1993 and thereby
committed the contempt of this Tribunal punishable under
section 21 of the Contempt of Courts Act, 1971 within our
cognizance.

Signature of the Honourable Members.

The charge was read over and explained to the alleged
contemner and he was asked as under.

1) Do you plead guilty to the charge ?

Answer.

2) Do you have anything else to say ?

Answer.

Signature of the
alleged contemner.

Signature of the Hon'ble
Members Presiding over
the Bench.

Drafted by

K. C. BHATT

K. C. BHATT
B.A. LL.B. ADVOCATE

A-1

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From: Smt. Gulabgauri. P. Pandya
Group 'D' Una-S.

3-10-94

To : (1) Shri G.M. Upadhyay
Postmaster
Veraval Head Post Office

(2) Shri R.J. Parmar
Supdt of Post Offices
Junagadh Division
Junagadh 362 001

Subject:- Notice for Contempt of court Act-1971

.-.-.-.

Respected Sir,

I, Smt Gulabgauri. P. Pandya Group 'D' Una-s office hereby give you first and formost final notice as under.

2. I had filed application under section 19 of the Administrative Tribunal Act, 1985 which was registered as O.A. 665 of 1993 regarding non drawal of Dearness relief alongwith my family pension, on account of my appointment on compassionate ground as group 'D' in the department.

3. After hearing the parties and going through the facts of the case and considering the arguements made at the time of final hearing by the learned counsel appearing for both sides, Honourable Tribunal had given Judgement on 31/3/94 31-3-1994.

4. The important and operative part of the judgement is produced herebelow.

O R D E R

The application is allowed. The orders issued by the Postmaster Veraval dated 20-4-93, Annexure A-2 and Supdt of Post Offices, Junagadh dated 25-5-93 Annexure A-4 are quashed and set aside. The respondents are directed to draw dearness relief on family pension payable to the applicant from the current month onwards as per rules, However, as the applicant has approached the Tribunal only on 8-11-93, the arrears of dearness relief will be payable to the applicant only from 8-11-1992 i.e. from one year prior to the date of application. This shall be done within a period of eight weeks from the date of receipt of this order. Application is dismissed of with no order as to costs.

5.

The judgement was pronounced in the open court

6.

As per the Hon'ble Tribunal's above referred direction, you are required to draw and pay me the dearness relief on my family pension from the month of ^{May}~~August~~ 1994 and arrears of dearness relief were to be paid latest on 1-8-1994 i.e. within the time limit given by the Honourable Tribunal in the above referred order dated 31-3-1994.

7.

I submit that I had approached before your honour, but you have not taken any action to implement the Judgement dated 31-3-94 referred to above.

8.

Therefore, I ultimately give you final notice and inform you that if you will fail to make suitable action to draw and pay me the dearness relief from the month of November 94 on my family pension payable on 31-10-1994 and to pay the arrears from 8-11-92 within 10 days from the date of receipt of this notice.

I shall be compelled to bring you before the Hon'ble Tribunal for wilful and disobedient and non implimentation of the Tribunal's direction at your own risk and responsibility. I shall pray before the Hon'ble Tribunal to punish you and held personally liable under the contempt of Courts Act, for wilful and disobedient of Tribunal's direction.

Yours Faithfully

G.P. Pandya
(G.P.PANDYA)

TRUE COPY
Keshav
K. C. BHATT
B.A. LL.B. ADVOCATE

CENTRAL ADMINISTRATIVE TRIBUNAL

PRINCIPAL BENCH, DELHI

AHMEDABAD BENCH

O.A No. 665 OF 1993 198
~~Tax No~~

DATE OF DECISION 31-3-1994.

Smt. Gulabgauri P. Pandya, Petitioner

Mr. K.C. Bhatt, Advocate for the Petitioner (s)

Versus

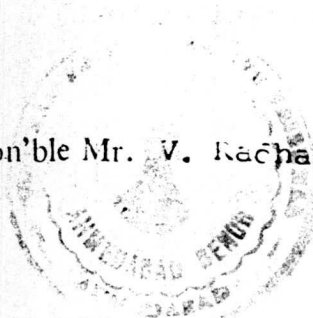
The Union of India & Ors. Respondent s

Mr. Variava for Mr. Akil Kureshi, Advocate for the Respondent(s)

CORAM .

The Hon'ble Mr. V. Raghavakrishnan, Adm. Member.

The Hon'ble Mr.



Smt. Gulabgauri P. Pandya,
Group 'D' Post Office
Una (Sorath).

..... Applicant.

(Advocate: Mr. K.C. Bhatt)

Versus.

1. The Union of India, through
The Director-General
Department of Posts
Ministry of Communication
New Delhi - 110 001
2. The Postmaster General
Rajkot Region
Rajkot 360 001
3. The supt of Post Offices,
Junagadh Division
Junagadh 362 001
4. The Postmaster
Veraval.

..... Respondents

(Advocate: Mr. Variava for
Mr. Akil Kureshi)

J U D G M E N T

D.A.No. 665 OF 1993

Date: 31-3-1994.



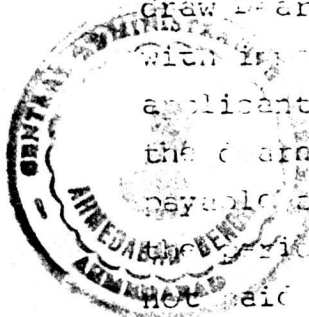
Per: Honble Mr. V. Radhakrishnan, Admn. Member.

Heard Mr. K.C. Bhatt, learned advocate for the
applicant and Mr. Variava for Mr. Akil Kureshi, learned
advocate for the respondents.

2. The applicant is the widow of late Shri P.K.
Pandya, Group 'D' Una(s) Post Office, who expired on
4-3-1980. She was granted family pension along with
dearness relief from 5-3-80 to 13-6-1984. She was
appointed on compassionate ground as Group 'D' staff
at Una(s) Post Office. She joined the department with

effect from 14-6-1981. The dearness relief was discontinued thereafter. The applicant represented to the Postmaster Varaval on 7-4-1993 against her stoppage of dearness relief. She received a reply from him dated 20.4.1993, Annexure A-2, that re-employed pensioners are not eligible to get dearness relief on pension/family pension. She preferred an appeal against this order to Supdt. of Post Offices, Junagadh, who rejected the appeal vide his letter dated 25-5-93, annexure A-4. Hence she has approached the Tribunal with this O.A and has asked for the following reliefs:

- "(i) The impugned order No.A/P.Pen/VRL/130 dated 22-4-93 issued by the Postmaster Varaval be quashed and set aside (Annexure A-2)
- (ii) The impugned order No. C2/Lisc/93-94 dated 25-5-93 issued by the Supdt of Post Offices Junagadh be quashed and set aside (Annexure A-4).
- (iii) The respondent authority be directed to draw dearness relief on family pension with immediate effect and be paid to the applicant, and be directed to calculate the dearness relief on family pension payable at the rate from time to time for which dearness relief is not paid to the applicant and all arrears to be paid within one month from the date of receipt of communication by the respondent authority.
- (iv) Any other suitable relief may please be granted."



[Handwritten signature]

3. The respondents have filed reply. They have taken shelter under provision of Rule 55-A of CCS (Pension) Rules, 1972 which is reproduced below:

"RULE 55-A DEARNESS RELIEF ON PENSION/FAMILY PENSION:

- (i) Relief against price rise may be granted to the pensioners and family pensioners in the form of dearness relief at such rates and subject to such conditions as the Central Govt. may specify from time to time.
- (ii) If a pensioner is re-employed under the Central or State Government or a corporation/ Company/Body/Bank under them in India or abroad including permanent absorption in such Corporation/ Company/Body/Bank, he shall not be eligible to draw dearness relief on pension/family pension during the period of such re-employment.
- (iii) The Central Government employees who get permanently absorbed in terms of Rule 37 and opt for lump sum payment in lieu of pro rata monthly pension in terms of rule 37 shall not be eligible for dearness relief."

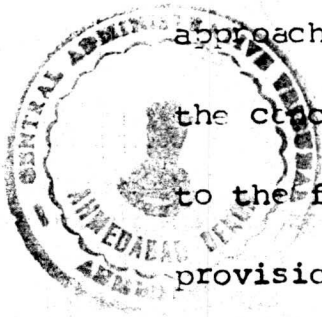


Accordingly it is their contention that as per the above Rule the applicant is not entitled to dearness relief on family pension. Further they have taken the objection that the application is barred by limitation and the delay in approaching the Tribunal is without any justification. They also state that Rule 55-A of said rules draws a reasonable classification as those family pensioners who were employed from a distinct and separate class from those who are not employed on compassionate ground on account of death of spouse in

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harness. They have therefore, contended that the discontinuation of dearness relief on family pension is just and proper and legal. They have denied that discontinuation of dearness relief is arbitrary or illegal.

4. Mr. K.C. Bhatt, learned counsel for the applicant has supported his arguments with the decision of C.A.T Ernakulam Bench, decided on 25-11-91, All India Service Law Journal, 1992(1)(CAT) page 589, and C.A.T. Madras Bench, decided on 13.1.1992, (1992) 20 ATC page 584). In the former case, the applicant was a widow of employee of the Southern Railway and she was working as clerk in the State Government of Kerala. After her husband died she was drawing family pension along with dearness relief. After more than 8 years after the death of her husband, the authorities had stopped payment of relief on pension. Representations were turned down and she approached the CAT Bench Ernakulam. The Bench came to the conclusion that the family pension would be payable to the family of deceased Government servant as per provisions of Rule 54 of CCS(Pension) Rules. As per provisions of this rules the quantum of family pension is dependent on the basic pay of the Government servant and the length of his service. It has absolutely no relation to number of dependent members of family and



Handwritten signature or initials.

the financial position of the family. Similarly there is nothing in the CCS (Pension) Rules which would suggest that, if a recipient of a family pension is employed there should be a reduction in the pension or in the relief on pension. The family pension payable to the family of a deceased Government servant has absolutely no bearing on the question whether the recipient for the family pension is employed or unemployed. Family pension is granted in consideration of service rendered by Govt. servant during the period while he was in service. It is therefore, the property earned by the recipient and deprival of such property without observing the due



process of law has to be struck down as unreasonable and unjust. It is well settled by now that relief of pension is an adjunct of pension, the fact that the recipient of the family pension is an employee under the Government receiving a regular salary can not be considered as a ground to deprive him of a portion of pension or the pension relief. In a case where one or more member's of the family in receipt of family pension is employed in private sector undertakings or in business and are earning substantial income the relief on pension is not suspended on account of they being so employed, but even if one member of the family who is a recipient of the family pension is employed either in the State Govt. or

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in the Central Government Company even though in the
lowest post the relief on family pension is to be
suspended during the period with the recipient of the
family pension is thus employed. Hence the Bench came to
the conclusion that this discrimination is highly
arbitrary and unreasonable. It also held the administra-
tive instructions can not be abridge the statutory benefit
conferred by Rule 54 of CCS (Pension) Rules and therefore,
the administrative instructions are unsustainable, hence
the Bench directed the respondents not to suspend the
relief on family pension with pension relief. In the
another case decided by C.A.T Madras Bench, the applicants
were widows of persons who were employed in Geological
Survey on compassionate grounds. They were getting family
pension along with dearness relief, but because of audit
objection the dearness relief on pension was stopped all
of a sudden. They contested the stopping of dearness
relief on pension on the ground the dearness relief has
part of the pension and family pension was paid in
consideration of service rendered by their husbands and
their subsequent employment in Govt. can not be cause ~~xxx~~
for the denial of dearness relief on their family pension.
The respondents in that case had relied on sub clause (ii)
of New Rule 55-A incorporated in the CCS (Pension) Rules,
1972 by way of amendment of Rule in 1991. That sub-
clause reads as follows:

10h

"If a pensioner is re-employed under the Central or State Government or a corporation/company/body/bank under them in India or abroad including permanent absorption in such corporation/company/body/bank, he shall not be eligible to draw dearness relief on pension/family pension during the period of such re-employment."

The Bench held that pension is a kind of compensation for the service rendered by a Government servant and is a valuable right, vesting in the Govt. servant. Regarding dearness relief on pension, the Bench referred to sub-clause (i) of Rule 55-A of the CCS (Pension) Rules, clause (ii), which reads as under:

"Relief against price rise may be granted to the pensioners and family pensioners in the form of dearness relief at such rates and subject to such conditions as the Central Govt. may specify from time to time."



Accordingly the dearness relief is meant to compensate for the rise of the cost of living. Dearness relief forms part and parcel of the pension. Dearness relief is meant to restore the pension to its original value.

It is not a bounty, but a right on par with pension of which it forms an inseparable part. So sub-clause (ii) of Rule 55-A is not sustainable since it is in contradiction with sub-clause (i) which defines the nature of the dearness relief. The Bench hence came to the conclusion that when pension is allowed to be drawn, dearness relief should be paid along with it, otherwise, there will be only a part payment of pension

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in real terms. Dearness relief on pension is to restore the pension to its original value, when it is eroded by the rise of the cost of living. If the dearness relief is not paid, the persons concerned will get a diminished pension in terms of real value and pension being a right cannot be diminished indirectly. Accordingly it held that sub-clause (i) of Rule 55-A which denies dearness relief on pension to a category of pensioners, namely, the re-employed is an unreasonable discrimination since the price rise is the same for all pensioners. So sub-clause (ii) of Rule 55-A is in violation of Article 14 of the Constitution and hence not enforceable. In the result, the respondents were directed to continue to pay the dearness relief on pension to the applicants. Mr. Akil Kurashi, learned advocate for the respondents stated that the Government of India has gone on appeal against the above two decisions, but no stay has been

granted.

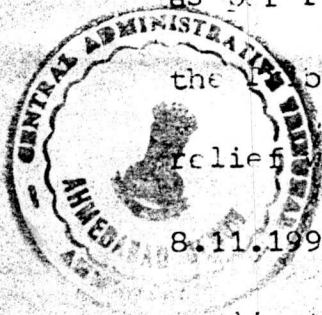
5. The present case is on all fours with the above mentioned case decided by the Madras Bench, I am in respectful agreement with the judgment of the Madras Bench which would fully apply in this case also.

Accordingly the applicant is entitled to draw dearness relief on family pension. In so far as the question of limitation raised by the learned advocate for the respondents is concerned, the cause of action viz.,

drawal of pension being a recurring right, it can not be sustained. Accordingly I pass the following order:

ORDER

The application is allowed. The orders issued by Postmaster Veraval dated 20-4-1993, Annexure A-2 and Superintendent of Post Offices, Junagadh dated 25.5.93, Annexure A-4 are quashed and set aside. The respondents are directed to draw dearness relief on family pension payable to the applicant from the current month onwards as per rules. However, as the applicant has approached the Tribunal only on 8.11.1993, the arrears of dearness relief will be payable to the applicant only from 8.11.1992 i.e., from one year prior to the date of application. This shall be done within a period of eight weeks from the date of receipt of this order. Application is disposed of with no order as to costs.

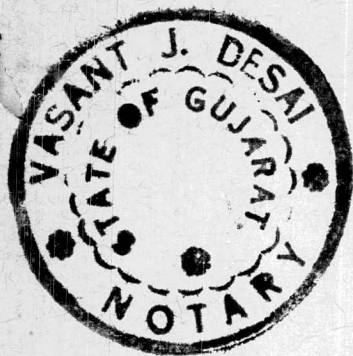


TRUE COPY
K. C. BHATT
B.A. LL.B. ADVOCATE

vtr.

Sd/-
(V. Radhakrishnan)
Member (A)
Prepared by: H.P. Gokshi
Compared by: [Signature]
TRUE COPY

[Signature]
Officer (i)
Central Administrative Tribunal
Ahmedabad Bench



BEFORE THE HON'BLE CENTRAL ADMINISTRATIVE
TRIBUNAL, AHMEDABAD BENCH AT AHMEDABAD

Contempt Application No.19 of 1995

in

Original Application No.665 of 1993

Smt. Gulabgauri P. Pandya

: Applicant

Versus

Union of India and others

: Respondents

Affidavit in Reply on behalf of the respondents.

nd I, V. J. Desai working as
Asst. Engineer with respondent No. _____ herein,
do hereby state in reply to the above application as under;

1. That I have read the contempt application. I am conversant with the facts of the case and I am authorised to file this reply on behalf of the respondents and therefore, I am competent to file this reply.

2. At the outset, I say and submit that no part of the application shall be deemed to have been admitted by the respondents unless specifically stated so herein. all the statements, averments and allegation contained in the application shall be deemed to have been denied by the respondents unless specifically admitted by me herein.

Filed by
Mr. M. K. Kulkarni
in Court II

[Signature]

3. I say that the contents of the contempt application are not correct. The respondents always hold this Hon'ble Tribunal in highest regard and have not violated any writ, order or direction. I further say and submit that the respondents have not committed any contempt as alleged by the applicant. I say that the respondents have not flouted any writ order or direction issued by this Hon'ble Tribunal and that the contempt application being devoid of merits deserves to be dismissed and the notice is required to be discharged.

4. I say that this Hon'ble Tribunal by its judgment dated 31/3/1994 passed in O.A.665 of 1993 was pleased to allow the application by quashing the impugned orders. The Tribunal was further pleased to direct the respondents to draw dearness relief on family pension payable to the applicant as per the rules. The effect of the judgment however was confined to one year prior to filing of the Original Application in so far as the arrears of dearness relief is concerned.

5. The original application involved the question whether a re-employed family pensioner can continue to get dearness relief on the pension even after being employed in the Central Government, State Government etc. The rule 55A of CCS(Pension) Rules 1972 provides that if a pensioner is re-employed under the Central or State Government etc., he shall not be eligible to draw dearness relief on pension/family pension during the period of such re-employment. The Hon'ble Tribunal in the abovementioned judgment, relying upon the decisions of C.A.T. Benches of Ernakulam and Madras Bench and

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especially the decision of Madras Bench of C.A.T. reported in (1992) 20 ATC page 584 in which the Hon'ble Tribunal was pleased to declare sub-clause(ii) of Rule 55-A of CCS(Pension) Rules 1972 ultra virus Art. 14 of Constitution of India was pleased to allow the original application as mentioned above. It is submitted that the department has filed S.L.P. before the Hon'ble Supreme Court of India and the said S.L.P. is admitted and pending before the Hon'ble Supreme Court and the Hon'ble Supreme Court has also stayed the decision of the Tribunal and in number of other matters of similar nature decided by various Tribunals, also been appealed against and in many matters S.L.P.'s are admitted and stay is granted. Enclosed herewith at Annexure-R1 are copies of the stay orders granted by the Hon'ble Supreme Court. It is submitted that in the present matter also the department has filed S.L.P. on 10/6/1994 and the same is numbered as S.L.P. (C)/94-CC-27103/94. In view of the fact that the Hon'ble Supreme Court has admitted similar appeals and granted stay orders in several cases and also in view of the fact that the department has already filed appeal against the decision in question the Contempt Application is required to be dismissed.

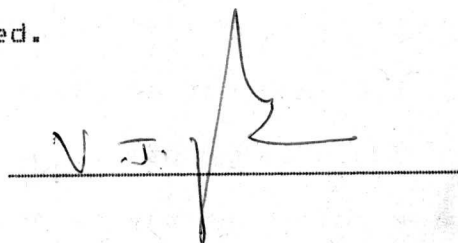
6. It is submitted that recently the Hon'ble Supreme Court of India has decided this issue finally and the appeal filed by the U.O.I. has been allowed and the decisions of various Courts have been set aside. The Supreme Court in the decision

of U.O.I. Vs. G.Vasudevan Pillay and ors. reported in Supreme Court Services Law Judgments 1995 (1) page 211 wherein identical issue was involved has ruled that denial of dearness relief on family pension on employment of dependence like widows of the ex-servicemen is justified and that the same can justly be denied. A copy of said judgment is produced at Annexure-R2.

7. In view of what has been stated above, I say and submit that the contempt application is totally misconceived, untenable and requires to be rejected.

Ahmedabad,

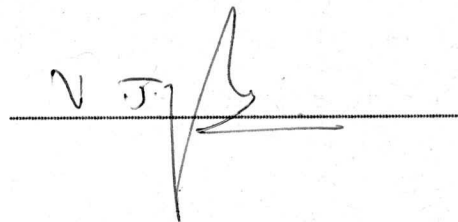
Dt:28/3/1995.




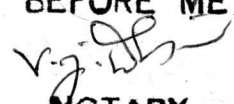
Affidavit

I, V. J. Upadhyay, Asst. Secy, Junagadh do hereby state on solemn affirmation that what is stated above is true to my knowledge, information and belief and I believe the same to be true.

Solemnly affirmed at Ahmedabad on this 28th day of March, 1995.



IDENTIFIED BY ME

ADVOCATE

S. NO. 2255/1995
SOLEMNLY AFFIRMED
BEFORE ME.

NOTARY
D/ 28-3-1995



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SUPREME COURT OF INDIA
RECORD OF PROCEEDINGS

18

Petition (s) for Special Leave to Appeal (Civil/Orig No. (s) 10927/94

(From the judgment and order dated 21.2.94

of the ~~High Court of~~ CAT,

Hyderabad in OA No. 177/94)

UOI and ors.

Petitioner (s)

Versus

M. Sarada

Respondent (s)

Date: 25.7.94

This/these petition (s) was/were called on for hearing today.

CORAM:

Hon'ble Mr. Justice
Hon'ble Mr. Justice
Hon'ble Mr. Justice

J.S. Verma
K.S. Paripoornan

For the petitioner (s)

Ms. Kitty Kumarmangalak, Adv.
Ms. Anil Katiyar, Adv.

For the respondent (s)

UPON hearing counsel the Court made the following
ORDER

Issue notice and list this matter after the
decision in S.L.P.(C)No.6290/89 and other connected
matters. Meanwhile, there shall be stay of the
operation of the impugned judgment.

(Madhu Arora)
Court Master.

(P.S. Chauhan)
Assistant Registrar

RKJ
24/7

3193-Punjab
26/10

26/7/8
27

SUPREME COURT OF INDIA

RECORD OF PROCEEDINGS

19

Petition(s) for Special Leave to Appeal (Civil)(X) No. (a)...../94 CC 25106

(From the judgment and order dated 12.5.93 of the High Court of Administrative Tribunal in C.A. Nos. 1921-23/92)

Secy. Ministry of Finance & Adv.

Petitioner (s)

Versus

A. Sakunthala & Ors.

Respondent (s)

(with I.A. Nos. 1-3 (appln. for c/d in filing SLP))

Date: 29.4.94

This/these petition (s) was/were called on for hearing today.

CORAM:

Hon'ble Mr. Justice

A.B. Alam

Hon'ble Mr. Justice

Yogeshwar Dayal

Hon'ble Mr. Justice

For the petitioner (s)

Ms. Indira Sawhney, Adv.

Ms. Anil Katiyar, Adv.

For the respondent (s)

UPON hearing counsel the Court made the following
ORDER

Delay condoned.

Special leave granted.

To be tagged along with Civil Appeal arising out
of Special leave petition No. 6290 of 1988.

Pending appeal there will be stay of the order of
Administrative Tribunal.

(S. Thapar)

PS to Registrar

Prem Lata Sharma
(Prem Lata Sharma)
Court Master

03/5/94
3/4

1591-Pen/94
26/5

SUPREME COURT OF INDIA
RECORD OF PROCEEDINGS

20

Petition(s) for Special Leave to Appeal (Civil) No(s)/94 CC 25211

(From the judgment and order dated 7.10.1993 of the High Court of
CAT at Bangalore in O.A.Nos. 240 & 286-297/93)

Chief General Manager (Posts) & Ors.

Petitioner (s)

Versus

A. Bhuvaneswari & Ors.

Respondent (s)

(with I.A.Nos. 1-13 (appln. for c/delay in filing SLP))

Date: 9.5.1994

These petition (s) was/were called on for hearing today.

CORAM:

Hon'ble Mr Justice

A.M. Ahmadi

Hon'ble Mr Justice

Yeshbhar Dayal

Hon'ble Mr Justice

For the petitioner (s)

Ms. Indira Sawhney, Adv.

Ms. Anil Katiyar, Adv.

For the respondent (s)

UPON hearing counsel the Court made the following
ORDER

Delay condoned.

Special Leave granted.

Issue notice on the application for stay. Pending ...
notice there will be stay of the order of the Administrative
Tribunal. Tag on with Civil Appeal @ out of SLP(C) No. 6290/88

(S. Thapar)
PS to Registrar

(Prem Lata Sharma)
Court Master

1691-Pen/94
2/6

01/5
11/5

ITEM No.

COURT No.

SECTION

24

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XII

SUPREME COURT OF INDIA
RECORD OF PROCEEDINGS

Petition (s) for Special Leave to Appeal (Civil) No. (s) / 94 CC 26162

(From the judgment and order dated
in OA No. 1449/92)

24.9.93

of the ^{CAT} High Court of Madras
XXXXXXXXXXXX

U.O.I. & Ors.

Petitioner (s)

Versus

M.L. Arunachalam

(With IA No. 1 (Appln. for c/d in filing SLP))

Respondent (s)

Date: 1.8.94 This/these petition (s) was/were called on for hearing today.

CORAM

Hon'ble Mr. Justice B.P. Jeevan Reddy
Hon'ble Mr. Justice S.C. Sen
Hon'ble Mr. Justice

For the petitioner (s) Mr. VC Mahajan, Sr. Adv.
Mrs. Anil Katiyar, adv.

For the respondent (s)

UPON hearing counsel the Court made the following
ORDER

Delay condoned.

Issue notice. Tag with C.A. 200/90 arising out of
SLP(C) No. 1171/90 entitled J.O.I. vs. P.C. Chavan.

Pending further orders there shall be stay of the
payment to the respondent herein by the petitioner in pursuant to
impugned
the order but no recovery shall be made of the amount already paid.

SW

3194-Penfan
26/10

(D.D. Jindal)
Court Master

Or/8 26/10

SUPREME COURT OF INDIA

RECORD OF PROCEEDINGS

Petition (s) for Special Leave to Appeal (Civil/~~CR~~ No. (s)/94 CC 26565

of the ~~Prison~~ Central

(From the judgment and order dated 10.2.94
Administrative Tribunal, Madras Bench in O.A.No.1098/93)

Petitioner (s)

U.O.I. & Anr.

Versus

Respondent (s)

M. Anthony

With I.A.No.1 (Appln(s) for c/delay in filing SLP)

Date 22.8.94

This/these petition (s) was/were called on for hearing today.

CORAM:

Hon'ble Mr. Justice
Hon'ble Mr. Justice
Hon'ble Mr. Justice

B.C. Agrawal
M.K. Mukherjee

For the petitioner (s)

Mrs. Anil Katiyar, Mr. A. Wasim Quadri, Adv.

For the respondent (s)

UPON hearing counsel the Court made the following
ORDER

Issue notice on the Special Leave Petition, application
for condonation of delay and stay application.

Tag this S.L.P. with S.L.P(C) Nos. 6290/88, 12975-77/88,
1564/89, 15777/89, 1758/90, 1236/90 and 5264/90.

Interim stay in the meanwhile.

Kusum

(S.B. Sharma)
Court Master

3195-Pen/94

26/10

5-8/88
24/8