

J u d g m e n t .

N. SENGUPTA: MEMBER (J) .

The facts lie in a short compass.

It is not necessary to state all the facts in detail. ^{For} ~~But~~ the purpose of this Judgment it would suffice to say that the three applicants on their own showing retired prior to the introduction of the pension scheme ~~for~~ the Railway Servants. Their claim is based on the recommendation of the 4th Central Pay Commission for grant of exgratia pension to all those persons who retired prior to the introduction of the pension scheme and also to the family of the deceased retirees falling ^{- that -} in ~~back~~ class. The applicants have claimed payment of Ex-gratia pension. They have also averred that the Government accepting the recommendation, in 1987 issued a circular, vide Annexure-4, for payment of exgratia pension to the widows and children of CPF retirees ~~and~~ Railway Employees.

2. The Railway's case is that ^{no doubt the 4th} ~~made out~~ 4th Pay Commission made a recommendation but a recommendation cannot form the foundation of ^a the claim, ~~so~~ long as it ~~is~~ has not been accepted.

3. The 4th Central Pay Commission was ^{dealing} ~~being~~ with the pay structure of the different categories of the Central Government Employees and also the pension and other retiral benefit to be paid to the Central Government servants on their retirement. As is well known, the pay Commission is an expert body which goes into different aspect of the emoluments etc. of the Government Servants

*Member Supt
30/10/91*

but it does not possess a power to direct payment of any particular scale of pay or amount to any class of Government employees. Mr. Ashoke Mohanti has contended that the Govt. has not accepted the part of the recommendation relating to the C.P.F. retirees. A recommendation by its very connotation is not a mandate, it will have a legal sanction only on acceptance by the concerned authority. In the instant case the Central Government has not accepted the recommendation of the 4th Central Pay Commission so far as payment of ex-gratia pension to C.P.F. retirees is concerned and this would be manifest from the copy of Government orders vide Annexure-3 to the application. There it was stated that on passing of orders for payment of ex-gratia pension, such payment would be made to persons not falling in a particular class i.e. those who opt to continue in the CPF Scheme after 1.1.1986, this clearly shows that the government had not passed any order accepting the recommendation of the 4th Central Pay Commission for payment of ex-gratia pension to the employees retiring prior to 1.1.1986.

4. Mr. Naik, learned counsel for the applicant has contended that the 1987 circular would show that the government accepted the recommendations of the 4th Central Pay Commission for payment of ex-gratia pension. Doubtless the government accepted the recommendation so far as the dependant children and widow of the deceased CPF retirees ^{was} concerned. This circular in itself is indicative of the fact that the Government

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after applying their mind have not yet decided to pay ex-gratia pension to the CPF retirees. It is not for the courts or Tribunal to seek for a reason for the decision of the Government to make payment ~~of~~ to a class but even if it would have been necessary and permissible, it can be said that the 1987 circular is meant for dependant children and widows who ordinarily are unable to sustain themselves and that is why they ^{deserve -} ~~dissolve~~ some consideration of kindness.

5. In view of this position, the applicants presently are not entitled to the reliefs ^{they have -} ~~which has~~ claimed. There shall be no order as to costs.



M. S. Gupta
Member (Judicial) 30.10.91

Central Administrative Tribunal,
Cuttack Bench, Cuttack. Hossain/
30.10.91.