

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

JODHPUR BENCH: JODHPUR

Date of order : August 06, 1999.

O.A. No. 364 of 1996

1. Smt. Pushpa Devi W/o. late Shri Shivratan, Peon.
2. Smt. Sushila W/o. late Shri Shyamsunder, Clerk.
3. Smt. Kamala W/o. late Shri Gulabchand, Frash.
4. Smt. Pushpadevi W/o. late Shri Jugalkishore, Frash.
5. Smt. Lalita W/o. late Shri Ramakishan, Frash.
6. Smt. Amrita W/o. late Shri Umeshkumar, Clerk.
7. Smt. Sohankanwar W/o. late Shri Ambachand, Clerk.
8. Smt. Vidhiya W/o. late Shri Ganpatlal, Frash.
9. Smt. Lalmanidevi W/o. late Shri Shivsharan Ram, Frash.
10. Smt. Vimladevi W/o. late Shri Champalal, Clerk.
11. Smt. Bela W/o. late Shri Bhanwarlal, Frash.
12. Smt. Kirankumari W/o. late Shri Jagdishlal, Frash.
13. Smt. Suraj W/o. late Shri Kishansingh, Frash.
14. Smt. Jwala Devi W/o. late Shri Ratanchand, Frash.
15. Smt. Urmila W/o. late Shri S.D. Sharma, Clerk.
16. Smt. Urmila Jhanwar W/o. late Shri Amarsingh Jhanwar, Teacher
17. Smt. Renu Sharma W/o. late Shri Kailashchand, Clerk.
18. Smt. Gayatri W/o. late Shri Prabhakar, Clerk.
19. Smt. Krishna Sharma W/o. late Shri P.K. Sharma, Clerk.
20. Smt. Dhankanwar W/o. late Shri Iswarlal, Peon.
21. Smt. Kamala W/o. late Shri Chhotu Singh, Peon.
22. Smt. Roopkaur W/o. late Shri Kalyandas Bohra, Clerk.
23. Smt. Madhuri Gupta W/o. late Shri S.P. Gupta, Peon.
24. Smt. Kamala W/o. late Shri Doongar Singh, Peon.

All the above applicants are posted at office of the
Divisional Railway Manager, Northern Railway, Jodhpur.

... Applicants.

v e r s u s

1. Union of India through Secretary, Department of Pension and Pensioners Welfare, Ministry of Personnel, Pension & Public Grievances, New Delhi - 110 001.
2. The Chairman, Railway Board, Rail Bhawan, Rafi Marg, New Delhi - 110 001.

Upadhyay

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3. General Manager, Northern Railway, Baroda House, New Delhi.
4. Financial Advisor and Chief Accounts Officer (F.A.A. & C.A.O), Northern Railway, New Delhi - 110 001.
5. Divisional Railway Manager, Northern Railway, Jodhpur.

... Respondents.

Mr. N.K. Vyas, Counsel for the applicants.

Mr. S.S. Vyas, Counsel for the respondents.

CORAM:

Hon'ble Mr. A.K. Misra, Judicial Member.

Hon'ble Mr. Gopal Singh, Administrative Member.

ORDER

(Per Hon'ble Mr. Gopal Singh)



In this application under Section 19 of the Administrative Tribunals Act, 1985, the applicants have prayed for a direction to the respondents to allow dearness relief on pension, which has been denied to them, from the date it was stopped alongwith interest @ 18% per annum.

2. All the applicants herein are widows of Ex-Railway employees, who died while in service, and the applicants have been appointed on compassionate grounds on different posts in the respondent-department as per their eligibility. All these applicants were granted family pension as applicable to them under the Pension Rules and were also granted dearness relief on family pension. Consequent to their appointment on compassionate grounds, the respondents had withdrawn the dearness relief on the ground that since they were getting dearness allowance on regular pay, the applicants were not entitled to dearness relief on family pension.

3. Notices were issued to the respondents and they have filed the reply. It has been submitted by the respondents that the family pensioners who have been appointed on compassionate grounds are not entitled to dearness relief on pension as they are getting dearness allowance on their regular pay. The respondents have also relied upon the judgement of Hon'ble the Supreme Court ^{dated 8.12.94} in Civil Appeal Nos. 3543-46 of 1990, Union of India & Others vs. G. Vasudevan Pillay and Others - reported in (1995) 29 ATC 180, and Review Petitions thereon decided on 9.9.96.

4. We have heard the learned counsel for the parties and perused the records of the case.


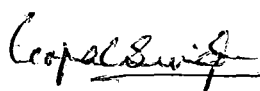
Gopal Singh


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5. The learned counsel for the applicant has relied on the order dated 13.1.92 of Madras Bench of the C.A.T. passed in OA No. 801 of 1991, Meena Subramanian (Mrs) & Ors., reported in ATR 1992 (2) C.A.T. 75 and the order dated 11.2.94 in O.A. No.217 of 1993 by Jaipur Bench of the C.A.T, reported in (1994) 27 ATC 1. In both these orders, the dearness relief on family pension to the persons appointed on compassionate grounds has been upheld. In these decisions, a distinction has been made between ^{the word} employed and reemployed and it has been held that the Government orders denying the dearness relief to the pensioner / family pensioner on reemployment cannot be made applicable to the persons employed on compassionate grounds as the word "employed" can include reemployment, but the word "reemployed" cannot include the employed. This controversy also came up before Hon'ble the Supreme Court in Civil Appeal Nos. 3543-46 of 1990 and it was held that the denial of dearness relief on pension / family pension in case of those Ex-Servicemen who got reemployment or whose dependants got employment is legal and just. The Review Petition No. 1002 of 1995 in this regard was also dismissed by Hon'ble the Supreme Court vide its judgement dated 9.9.96. As to the decisions of the Central Administrative Tribunal referred to above, we are of the opinion that the Government order denying the dearness relief to the pensioner / family pensioner during the period of reemployment is equally applicable to the family pensioners employed on compassionate grounds. In fact, in the order dated 11.2.94 in O.A. No. 217/93 of Jaipur Bench of the C.A.T, it was observed that "it is advisable that in clause (ii) of Rule 55-A, the word "employed" is used in place of the word "re-employed" to make it more reasonable, equitable and just. We have to interpret the rule as it is and for this reason, we are granting the relief to the petitioner." Moreover, with the judgements of Hon'ble the Supreme Court dated 8.12.94 and 9.9.96 (supra) the controversy with regard to grant of dearness relief to the pensioner / family pensioner during the period of their reemployment / employment stand settled.

6. We do not find any justification for deviating from the law laid down by Hon'ble the Supreme Court in this regard.

7. The Original Application is accordingly dismissed with no order as to costs.



(GOPAL SINGH)
Adm. Member


(A.K. MISRA)
Judl. Member

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9.5.57
11.9.57
2-10-57
N.C. 1405
(23/8/57)

Part II and III destroyed
in my presence on 14-2-56
under the supervision of
section officer (J) as per
order dated 15/5/56

Section officer (Record)

D-360/96
4/6/96

1/9/96
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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL BENCH AT
JODHPUR.

ORIGINAL APPLICATION NO. 364 OF 1996

Smt. Pushpa Devi & Others ... Applicants

V E R S U S

Union of India & Others ... Respondents

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From hereby undertaken.
that for sets for Res. No. 1 to 5
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may be Admission. N/K/A.


(N.K. Vyas)
Advocate,

Counsel for the Applicants.

