

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

ERNAKULAM BENCH

O. A. No. 433 of 1993.

DATE OF DECISION 23-04-1993

V.M.Purushothaman and _____ Applicant (s)
23 others

Mr.M.Rajagopalan _____ Advocate for the Applicant (s)

Versus .

Union of India represented _____ Respondent (s)
by Ministry of Defence and
80thers

Mr. P. S. Krishna Pillai, _____ Advocate for the Respondent (s)
ACGSC through proxy counsel (for R.1 to 7)

CORAM :

The Hon'ble Mr. A.V.Haridasan, Judicial Member

~~SECRETARY TO THE TRIBUNAL~~

1. Whether Reporters of local papers may be allowed to see the Judgement?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the Judgement?
4. To be circulated to all Benches of the Tribunal?

JUDGEMENT

The grievance of the applicants who are re-employed ex-servicemen is that in spite of the fact that the Larger Bench of the Tribunal had in T.A.K. 732/87 held that the re-employed ex-servicemen are entitled to receive relief on the ignorable part of their military pension during the currency of their re-employment, the respondents are refusing to give the applicants the relief on their military pension taking the stand that the decision of the Tribunal would apply only to the parties thereto. All the applicants are ex-serviceman who retired from the Defence Forces before attaining the age of 55 years holding posts lower than that of Commissioned Officers and re-employed after 25.1.83. Therefore, in fixing their pay in accordance with Govt. of India instructions

dated 8.2.83 their entire pension is liable to be ignored. A Larger Bench of this Tribunal in O.A.3/89 held that when pension is ignored whole or part, adhoc relief relatable to the ignorable part of the pension has also to be ignored. In T.A.K. 732/87, the Larger Bench held that during the currency of the re-employment the relief on the ignorable part of the military pension of re-employed ex-service-men is not liable to be withheld or suspended. Though the Govt. of India has filed Special Leave Petition against the decision of the Tribunal in the above two cases, the Hon'ble Supreme Court has not either set aside or modified the dictum of the decision. I am in full agreement with the dictum and feel bound to follow the same.

2. The learned counsel appearing for the respondents argued that since the decision in T.A.K. 732/87 is under challenge before the Hon'ble Supreme Court the ruling may not be followed. I cannot accept this argument. Since the Hon'ble Supreme Court has not set aside or modified the principles underlying the ruling, there is no bar in following the same.

3. Following the dictum laid down in T.A.K. 732/87 I find that the applicants re-employed ex-servicemen are entitled to get the relief and adhoc relief on the ignorable part of their military pension during the currency of their re-employment.

4. In the result the application is allowed. The respondents are directed to pay to the applicants the relief and adhoc relief on the ignorable part of their military pension and to refund to them whatever amount of relief has so far been withheld or recovered

from them within a period of three months from
the date of communication of a copy of this order.
There is no order as to costs.



(A.V. HARIDASAN)
JUDICIAL MEMBER
23.4.1993

ks.