

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.No.444/99

Tuesday this the 7th day of September, 1999

CORAM

HON'BLE MR. A.V. HARIDASAN, VICE CHAIRMAN

C. Vijayamma
W/o late S.Chandran
Peon, Commercial Branch
Divisional Office,
Southern Railway,
Trivandrum.4.

...Applicant

(By Advocate Mr. M. Rajagopalan)

Vs.

1. The Branch Manager,
State Bank of Travancore,
Anchal Branch, P.O. Anchal,
Dt.Kollam, Kerala.
2. The Divisional Personnel Officer,
Southern Railway,
Southern Divisional Office,
Trivandrum.14.
3. Union of India represented by
the Secretary, Ministry of Railways,
New Delhi. ...Respondents
4. Addl.respondent
The Divisional Accounts Officer,
Southern Railway,
Trivandrum.

(By Advocate Mrs. Sumati Dandapani (rep.) for R2&3

The application having been heard on 7.9.99, the Tribunal on the same day delivered the following:

O R D E R

HON'BLE MR. A.V. HARIDASAN, VICE CHAIRMAN

The applicant is aggrieved on account of the fact that she is employed, the respondents Railways are recovering from her pay the relief on family pension which was already paid to her. The applicant has filed this application for a direction to the respondents not to recover the relief on

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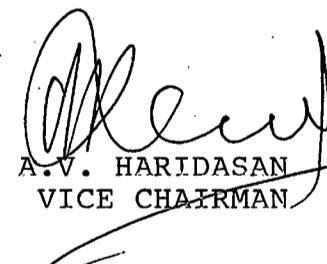
family pension already paid to her and to refund the entire amount already recovered from her pay and allowances.

2. Though the respondents have filed a reply statement, counsel for respondents 2&3 has filed a Memo on 30.8.99 enclosing a copy of the communication from State Bank of Travancore dated 19.8.99. In the Memo it is stated that the entire amount recovered from the pay and allowances of the applicant towards arrears of family pension already paid to her has since been refunded and that there is no proposal to recover any amount on account of payment of relief on family pension earlier.

3. In the light of the above statement made by the learned counsel for respondents 2&3 no further direction need be issued in this case excepting that the respondents should adhere to the statement made.

4. Making the above observation, the application is closed as withdrawn without any order as to costs.

Dated the 7th day of September, 1999


A.V. HARIDASAN
VICE CHAIRMAN

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Date: 8-12-99

Present: Mrs Sumathi Dandapani
Mr M.Rajagopalan

MA 1322/99 in OA 444/99

Respondents 2 and 3 in the OA have filed this MA seeking a clarification of the judgement by deleting paragraphs 2 and 3 of the judgement and by making it clear that in view of the Annexure R-5 of the above MA the respondents in the OA are entitled to get the refund of the relief on family pension paid to the first respondent in the MA (applicant in the OA) prior to 18-7-1997. The original application was filed by the first respondent in the MA aggrieved by the fact that the miscellaneous applicants were recovering from the applicant's pay the relief on family pension which had already been paid to her. The application was filed seeking a direction to the respondents not to recover the relief on family pension already paid to her and to refund the entire amount already recovered from the applicant's pay and allowances. In reply to the original application, respondents 2 and 3 (miscellaneous applicants here) had filed a reply statement on 1st July 1999. Several contentions including non-joinder of necessary parties and the applicant's non-entitlement to question Railway's liberty to recover from the applicant's salary were raised. However, it was stated in the reply statement that in compliance with the interim order issued, the Bank Authorities had been advised not to recover the relief on family pension from the applicant's pay and to pay back the amount recovered from 19-4-99. However, when the original application came up for hearing again, learned counsel for the miscellaneous applicants (respondents 2 & 3 in the OA) filed a statement which reads as follows:

"It is humbly submitted that on 11.8.99 this Hon'ble Tribunal had granted 2 weeks' further time for filing of statement by the Senior Divisional Accounts Officer, the additional 4th respondent in the original application. As per the communication received from the Bank Authorities dated 19.8.99, the entire amount recovered from the applicant's pension has been refunded and no recovery has been made from July 1999 onwards. A true copy of the letter of Bank Authorities dated 19.8.99 is produced herewith.

2. In view of the above communication, the Original Application has become infructuous. Hence it is not necessary for the Senior Divisional Accounts Officer to file a statement as the Original Application can be closed as having become infructuous. Dated this the 30th day of August, 1999."

In view of the above statement, as there was nothing left to be adjudicated, the Original Application was closed as withdrawn observing:

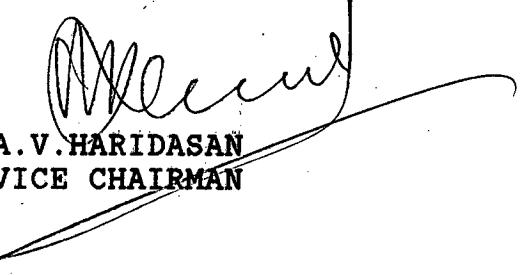
"In the light of the above statement made by learned counsel for respondents 2 & 3 no further direction need be issued in this case excepting that the respondents should adhere to the statement made."

Alleging that after the disposal of the OA the respondents received Annexure R-5 letter dated 5-8-99 of the Railway Board circulating therewith the office memorandum dated 2-7-99 of Government of India, Ministry of Personnel, Public Grievances and Pensions, Department of Pension & Pensioners' Welfare, conveying the Government of India's decision that all family pensioners would be eligible to draw dearness relief as applicable from time to time on the amount of family pension with effect from July 1997, the miscellaneous applicants have sought deletion of paragraphs 2 and 3 of the judgement making it clear that in view of Annexure R-5, the respondents in the Original Application would be entitled to get the refund of the relief paid to the first respondent (applicant in the OA).

Going through the Miscellaenous Application, the proceedings in the Original Application No.444/99 and the order made on the basis of the memorandum filed by the

counsel of the miscellaneous applicants, I find that the Miscellaneous Application is misconceived and unsustainable. The final order in the OA dated 7th September 1999 was passed wholly in accordance with the memorandum filed on behalf of the miscellaneous applicants. Merely because on the basis of the Annexure R-5 the miscellaneous applicants later thought that they would be entitled to recover something from the applicant, the order passed by this Tribunal, which is abundantly clear and unambiguous, would not become ambiguous warranting a clarification. The Miscellaneous Application, therefore, is dismissed.

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A.V.HARIDASAN
VICE CHAIRMAN