

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

ERNAKULAM BENCH

O. A. No. 446 1993.

DATE OF DECISION 29.3.93

P. John Raju Applicant (s)

Mr. Abraham Vakkanal Advocate for the Applicant (s)

Versus

Union of India represented by Respondent (s)
Secretary to Government, Ministry of Defence,
New Delhi and others

Mr. M. Gopalan, ACGSC Advocate for the Respondent (s)

CORAM :

The Hon'ble Mr. N. DHARMADAN JUDICIAL MEMBER

The Hon'ble Mr. R. RANGANATHAN ADMINISTRATIVE MEMBER

1. Whether Reporters of local papers may be allowed to see the Judgement? Y
2. To be referred to the Reporter or not? no
3. Whether their Lordships wish to see the fair copy of the Judgement? no
4. To be circulated to all Benches of the Tribunal? no

JUDGEMENT

MR. N. DHARMADAN JUDICIAL MEMBER

Admittedly this case is covered by the Full Bench decision of this Tribunal in TAK 732/87 and connected cases.

2. Applicant is a ex-service man re-employed in the Telecommunication Department. He is aggrieved by the denial of relief on military pension.

3. Applicant retired from military service on 23.9.79 and got re-employment as group-D staff in the Telecom. Department on 17.6.83. He was denied relief on military pension since 17.6.83 from the office of the third respondent. He submitted that since he is a ex-serviceman who retired before getting promotion as Commissioned Officer,

his case is covered by the orders issued in this behalf ^{for} ignoring the pension drawn by the applicant in the matter of fixation of pay in the re-employed post. Applicant also filed Annexure-I representation dated 8.9.92 in this behalf but that has not been considered and answered by the respondents. Under these circumstances, he has filed this application with the following reliefs:

- "i) declare that the applicant is entitled to relief on pension which is ignored for the purpose of fixation of pay and that he is entitled to get the full pension ignored and relief on that paid with effect from his date of re-employment and direct the respondents to disburse the relief on pension due to the applicant including arrears thereof.
- ii) grant such other reliefs as may be prayed for and the Tribunal may deem fit to grant
- iii) grant cost of this O.A."

4. When the case was admitted, we directed respondents to file reply, if any, before 29.3.93.

5. Today when the case was taken up for final hearing, learned counsel for respondents prayed that he may be given six weeks time for filing reply. But he has no case that the case of the applicant is distinguishable and is not covered by the Full Bench decision of the Tribunal in TAK 732/87 and connected case. But he submitted that an SLP has been filed against the Full Bench decision of the Tribunal and the Supreme Court has stayed that decision.

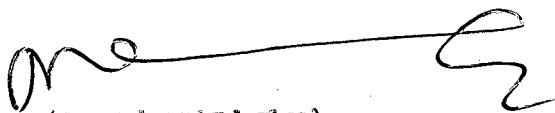
6. We have considered similar contentions in a number of cases and allowed such cases following the judgment of the Full Bench of this Tribunal in TAK 732/87. Respondents have no case that the judgment of this Tribunal has either been reversed or set aside by the Supreme Court so far. Similar question was considered in O.A. 270/92 and it was held as follows:

"In those cases the issue before the Full Bench was whether the judgment delivered by another Full Bench in Rasila Ram's case about the jurisdiction of the Tribunal which had been stayed by the Supreme Court in an SLP filed

by the Govt. remains valid as a binding precedent or whether the interim order passed by the Supreme Court nullified the judgment of the Full Bench or its effect was to be confined only in respect of the judgment pronounced in the case of Rasilaram. The Full Bench observed that the interim order passed by the Supreme Court in the SLP in Rasilaram's case not being a speaking order does not make any declaration of law and "consequently, it is not a binding order under Article 141 of the Constitution." The Full Bench further observed that until the decision of the Full Bench in Rasilaram's case is set aside, reversed or modified by the Supreme court, it remains effective. In view of the unambiguous finding of the Full Bench of the Tribunal we have no hesitation in following the dicta of the Full Bench judgments of this Bench in this case also so long as those judgments are not set aside, modified or reversed by the Hon'ble Supreme Court."

7. In this view of the matter, we see no justification in granting further time to the respondent for filing reply. It is only to delay the matter, We are satisfied that the interest of justice will be met if we follow the Full Bench decision of this Tribunal and dispose of the application. Accordingly, we declare that the applicant is entitled to relief on his military pension during the period of his re-employment. We also declare that the same should be restored to him during the period of re-employment and the amount withheld/suspended should be paid back to him within a period of three months from the date of communication of this judgment.

8. There shall be no order as to costs.



(R. RANGARAJAN)
ADMINISTRATIVE MEMBER



29.3.93

(N. DHARMADAN)
JUDICIAL MEMBER

29.3.93

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