

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

D. A. No. 52 of 1992
T. A. No.

DATE OF DECISION 20-10-1992

Mr PR Velayudhan & 2 others Applicant (s)

Mr M Rajagopalan Advocate for the Applicant (s)

Versus

Defence Pension Disbursing Officer & 3 others Respondent (s)

Mr Mathews J Nedumpara, ACGSC Advocate for the Respondent (s)

CORAM :

The Hon'ble Mr. AV HARIDASAN, JUDICIAL MEMBER

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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 applicants are Ex-Servicemen re-employed under the was 4th respondent. The first applicant/reemployed on 23.12.1989, and the third the second/applicants on 26.11.1986. After rendering Defence

Service and earning Defence service pension, they retired before attaining the age of 55 years and got reemployed.

According to the O.M.No.2(1)/83/D(CIV-1) dated 6.2.1983 of the Ministry of Defence, the entire pension and other retirement benefits of Ex-servicemen below the rank of commissioned officers getting re-employed after 25.1.1983 is to be ignored for their pay fixation. Since the applicants got reemployed long after 25.1.1983, their pay was not fixed with reference to the service

pension earned by them. But respondents 1-3 have suspended the relief on their service pension with effect from the date of their reemployment on the ground that the applicants are reemployed in the service of the Government of India. Coming to know that a Full Bench of the Tribunal has in TAK-732/87 held that relief on pension of the Ex-Servicemen on the ignorable part of their service pension shall not be suspended or withheld during the period of their reemployment, the applicants have filed this application for a declaration that the relief on their pension is not liable to be suspended during their reemployment and for a direction to the respondents not to recover the pension relief already paid to them and to pay them back the entire relief on pension so far suspended.

Since the pay of the applicants was not fixed taking into account any part of their service pension and even if the pay is to be fixed taking into account of the service pension, since the entire pension of the applicants being ex-non-commissioned officers is liable to be ignored following the the Full Bench ruling of dictum in this Tribunal in TAK-732/87, it has to be declared that the relief on pension of the applicants which has not been taken into account in fixing their pay cannot be withheld, suspended or recovered during the period of their reemployment.

2. In the result the application is allowed. It is declared that the relief on the Defence Service pension of the applicants are not liable to be suspended during the period of their reemployment. The respondents 1-3 are directed to pay to the applicants the relief on their Defence Service pension

and to refund to them the amount of relief on pension already recovered or suspended so far, within a period of three months from the date of communication of this order. There is no order as to costs.



AV HARIDASAN)
JUDICIAL MEMBER
20-10-1992

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