

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.No.60/98

Monday this the 7th day of December, 1998.

CORAM

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

P.V.Rajamohan,
Chelat House,
Manithara, Avanur,
Mundoor, Trissur Dist.

...Applicant

(By Advocate Mr. O.V.Radhakrishnan)

Vs.

1. The Deputy Director of Postal Accounts,
Kerala Circle, Thiruvananthapuram.
2. The Accounts Officer (Pension)
Postal Accounts,
Thiruvananthapuram.10.
3. Union of India represented by its
Secretary,
Ministry of Communications,
New Delhi.

(By Advocate Mr. Sunil Jose, ACGSC)

The application having been heard on 7.12.1998 the
Tribunal on the same day delivered the following:

O R D E R

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

The applicant prsently working as a
Sorting Assistant, R.M.S. EK Division, Trichur is
receipient of a family pension on the death of his
wife late Smt. C.Malathi while in harness holding the
post of Postal Assistant.

2. In the pension payment order it was stated
in para 2 of the note at page 5 that relief on family
pension was not admissible as the pensioner is
reemployed. Coming to know that pursuant to the

...2




orders of the Tribunal in OAs 282/92 and 721/93 reemployed pensioners were receiving relief on family pension, the applicant submitted a representation requesting for grant of relief on family pension to him. In reply to the above representation the applicant was told by letter dated 4.4.97 (A.4) that no relief on family pension is payable to employed pensioners/family pensioners in accordance with the judgment of the Hon'ble Supreme Court in Civil Appeal Nos.3542-46/90 dated 8.12.94 circulated under G.O.I Ministry of Communications, Department of Posts letter No.4-11/95-Pen dated 28.4.95 and No.42-3/94-P&PW(G) Ministry of Personnel, P.G & P, Dept. of Pension & PW dated 14.3.95. Aggrieved by this as also by the denial of relief on family pension the applicant has filed this application challenging the A4 order as also the order dated 14.3.95 mentioned therein (A5) for a declaration that the applicant is entitled to get relief on family pension from the date of his entitlement and for a direction to respondents to disburse the arrears of dearness relief on family pension to him with effect from 3.2.94. It has been alleged in the application that the impugned orders contain a decision taken on a misinterpretation of the judgment of the Hon'ble Supreme Court because the court only held that the category of pensioners who got themselves reemployed can be treated differently from those who do not get reemployed and the differential treatment metted out against those pensioners who got themselves reemployed after retirement could be legitimatised on the basis of a valid classification but the court did not mean that it would be legal to

deny relief on family pension to persons who were already in employment under the Government while became eligible to receive family pension. It is also alleged that though this Tribunal had rejected an identical Original Application No.923/97 under Section 19(3) of the Administrative Tribunals Act as the Hon'ble High Court of Kerala has admitted OP.18056/97 against the order of the Tribunal in O.A.923/97 this application has to be admitted and the relief granted.

3. On a perusal of the averments in the application and the materials placed on record I am satisfied that the facts and circumstances in O.A.923/97 were identical to that of the present original application barring the name, the date of employment, the date of pension payment order etc. Following the decision of the Hon'ble Supreme Court in **Union of India Vs. Vasudevan Pillai and others** reported in 1995(2) SCC 32 it was held that the denial of relief on family pension to persons employed under^{the} Government is sustainable. I therefore, do not find nothing in this case which required further deliberation as the question involved in this case is covered by the ruling of the Division Bench of this Tribunal in O.A.923/97 following the ruling of the Hon'ble Supreme Court in **Union of India Vs. Vasudevan Pillai and others**. The fact that the Hon'ble High Court has admitted and issued notice to the respondents in O.P.18056/97 is no reason for taking a different view of the matter.

4. This application therefore is rejected under Section 19(3) of the Administrative Tribunals Act. No order as to costs.

Dated the 7th day of December, 1998.


A.V. HARI DASAN
VICE CHAIRMAN

LIST OF ANNEXURES

1. Annexure A4:6 True copy of the letter No.J/110 dated 4.4.97 communicated to the applicant by the Senior Superintendent of RMS 'EK' Division, Kochi.
2. Annexure A5: True copy of the letter No.42/3/94-P & PW (C) dated 14.3.95 of the Deputy Secretary to the Government of India.

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