

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.No. 600 of 1998

Tuesday, this the 2nd day of January, 2001

CORAM

HON'BLE MR A.M. SIVADAS, JUDICIAL MEMBER
HON'BLE MR T.N.T. NAYAR, ADMINISTRATIVE MEMBER

A. Yessoda, W/o Late K. Gangadharan,
L.D.C., MES No. 109947,
Office of the Garrison Engineer (P),
Fort Kochi, Kochi-1 (Dronacharya).

Applicant

By Advocate Mr P.C. Chacko.

Vs.

1. Union of India rep. by the Secretary, Ministry of Defence, New Delhi.
2. The Chief Engineer (Navy). Kataribag, Naval Base, Cochin.
3. Chief Controller of Defence Accounts (Pension), Allahabad.
4. Defence Pension Disbursing Officer, Kozhikode.

Respondents

By Advocate Mr Govindh K. Bharathan, Sr. CGSC.

The application having been heard on 2.1.2001, the Tribunal on the same day delivered the following:

O R D E R

HON'BLE MR. A.M. SIVADAS, JUDICIAL MEMBER

Applicant seeks to direct the respondents not to recover the Dearness Relief of Family Pension already paid to her and to direct the respondents not to recover the arrears of Family Pension Relief due to her consequent on the Fifth Pay Commission.

2. Applicant is a Family Pensioner. Respondents 3 and 4 suspended the relief on Family Pension on the basis of certain orders of the first respondent. Aggrieved by the same, she approached this Bench of the Tribunal challenging the same. The O.A. filed by her was allowed. The first respondent took

up the matter before the Apex Court. The Apex Court allowed the S.L.P. along with the Pension Relief cases of Ex-Servicemen re-employed. On the basis of the Apex Court judgment, the 4th respondent again suspended the Pension Relief of those who are employed. Over and above that, respondents started recovering the Family Pension Relief already paid to the applicant earlier. Apex Court has specifically directed in the S.L.Ps (C) No.6248-50 of 1995 that the amount already paid to the respondents under the Head of Dearness Relief on Family Pension would not be recovered from them. In spite of that, respondents insist on the recovery.

3. Respondents resist the O.A. contending that there is no such officer as Pension Disbursing Officer located at Kozhikode, that it shows that the applicant herself does not know the Defence Pension Disbursing Officer, that the Department is legally bound to effectuate the policies and decisions as have been directed to be carried out by the Government, and that the Pay Commission Recommendation in this regard is still under consideration of the Government and a decision is yet to be taken.

4. Respondents in the reply statement say that there is no such Officer as Defence Pension Disbursing Office at Kozhikode and it shows that the applicant herself does not know the Defence Pension Disbursing Officer. At the same time we are very much afraid whether the respondents themselves do know whether there is such an officer for the reason that in the reply statement it is stated thus:

"I am filing this Reply Statement for and on behalf of the Respondents in the above Original Application, as I am duly authorized for the same."

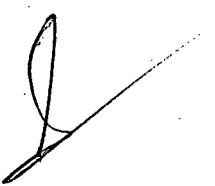


The Defence Pension Disbursing Officer, Kozhikode is the 4th respondent. If the 4th respondent is an imaginary or fictitious Officer, it is not known how the reply statement is filed on behalf of that imaginary or fictitious officer and that too under his authorization. Pleadings should be specific and not something fictitious or imaginary.

5. The first relief sought is to direct the respondents not to recover the Dearness Relief of Family Pension already paid to the applicant. There is no case for the respondents that the applicant is in any way responsible for making the erroneous payment. Even if the payment was erroneous so long as the applicant is not responsible for the same, the respondents are not entitled to recover the Dearness Relief on Family Pension already paid to the applicant.

6. The second relief sought is to direct the respondents not to recover the arrears of Family Pension Relief due to the applicant consequent of Fifth Pay Commission.

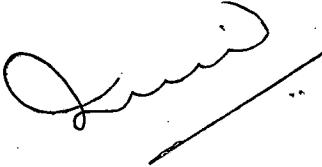
7. From the wordings contained in the second relief it is to be understood that arrears consequent on the Fifth Pay Commission Recommendation the respondents have paid to the applicant. In para 4 of the O.A. it is stated that by virtue of the Fifth Central Pay Commission, the Government had granted the Relief on Family Pension due to the applicant and the amount is yet to be disbursed. It seems that the applicant is not sure whether it is disbursed or yet to be disbursed. Whatever be that, in pursuance of the O.M. of the Government of India, Ministry of Personnel, Public Grievances & Pensions, Department of Pension & Pensioners Welfare, New Delhi, bearing



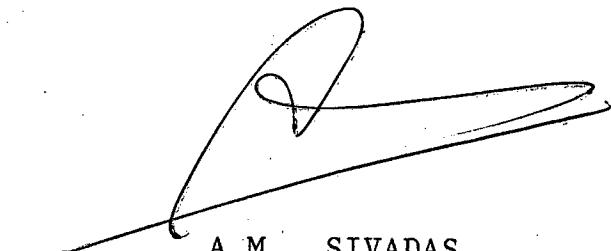
No.45/73/97- P&PW(G) dated 2nd July, 1999, necessary orders in respect of re-employed Defence Pensioners and Family Pensioners have been issued by the Ministry of Defence.

8. Accordingly, the O.A. is disposed of directing the respondents not to recover the Dearness Relief on Family Pension already paid to the applicant. No costs.

Tuesday, this the 2nd day of January, 2001.



T.N.T. NAYAR
ADMINISTRATIVE MEMBER



A.M. SIVADAS
JUDICIAL MEMBER

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