

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA 76/98

Wednesday the 1st day of September 1999.

CORAM

HON'BLE MR A.V.HARIDASAN, VICE CHAIRMAN
HON'BLE MR G.RAMAKRISHNAN, ADMINISTRATIVE MEMBER

K.R.Appu
S/o K.M.Ravunny
Kunjueettil House
Near Crown Homeo Dispensary
Cherai P.O. 683 514
Ernakulam District.

...Applicant

(By advocate Mr Thomas Mathew)

Versus

1. Union of India
represented by the Secretary
Ministry of Defence
New Delhi.
2. Chief Controller of Defence
Accounts (Pension)
Allahabad.
3. Defence Pension Disbursing
Officer, Ernakulam.

...Respondents.

(By advocate Mr M.H.J.David J., ACGSC)

The application having been heard on 1st September 1999, the Tribunal on the same day delivered the following:

ORDER

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

Applicant is an ex-serviceman who was re-employed in the Command Transport Workshop, Naval Base, Kochi, as an L.D.C. When the relief on defence pension was suspended by the respondents on the ground that the applicant was re-employed, he alongwith 24 others filed OA No.180/93 before this Tribunal and the Tribunal by its order dated 30.3.93 allowed the OA and directed the respondents to continue to pay relief on military pension during the currency of his re-employment. The above order had become final as the respondents did not file any appeal against that. The applicant retired from the service of the respondents after re-employment on 28.2.95.

M

The present grievance of the applicant is that after the pronouncement of the judgement of Hon'ble Supreme Court in Union of India and others Vs. G. Vasudevan Pillay and others reported in 1995 (2) SCC 32, respondents not only stopped payment of pension relief but started recovery of pension relief already paid to the applicant in monthly instalment of Rs. 679/- from applicant's pension with effect from 1.1.1996 without any intimation to him. Applicant has therefore filed this application for a direction to the respondents not to recover the pension relief already paid to the applicant and to pay back the amount of pension relief already recovered from applicant's pension.

2. Respondents seek to justify the impugned action on the ground that the denial of dearness relief on pension to the re-employed ex-servicemen and employed family pensioners is legal and just, as held by the Supreme Court in Vasudevan Pillay's case.

3. We have heard the learned counsel on either side. An identical issue as involved in this case came up for hearing before this Bench. That also was a case in which the applicant therein was paid relief on defence pension during the currency of his re-employment on the basis of the order of this Tribunal in OA 433/93 which had become final as no appeal was filed against it. Similar to this case when the respondents started recovering relief on military pension already paid to the applicant therein, that applicant filed OA 1114/97 and the Tribunal in its order dated 6th January 1999 observed as follows:

"The impugned action, applicant states, is based on the ruling of the Hon'ble Supreme Court in Union of India and others Vs. G. Vasudevan Pillai and others (1995 (2) SCC 32) but the applicant contends that as there had been no direction in the judgement of the Hon'ble Supreme Court

to recover the relief on pension already paid to the pensioners, the action of the respondents in recovering the relief on pension already paid to him is illegal and unjustified. Applicant has, therefore, filed this application for a declaration that the amount of relief on pension already paid to the applicant is not liable to be returned and for a direction to the respondents not to recover the amount of relief on pension already paid to him. The applicant has also prayed for a direction to the respondents to refund the amount recovered from the applicant towards the recovery of relief on pension already paid to him."

4. We are in respectful agreement with the view taken in that case. As in OA 1114/97, here also the applicant was paid relief of military pension during the currency of his re-employment on the basis of the order of the Tribunal in OA 180/93. There is no case for the respondents that any appeal had been filed against this order. Therefore the order had become final and binding between the parties. On the basis of the declaration of law by the Apex Court in Vasudevan Pillai's case, it was perfectly legal for the respondents to deny the relief on defence pension to re-employed ex-servicemen during the currency of their re-employment prospectively but it does not entitle the respondents to recover the relief on pension already paid to the applicant in this case as the order in OA 180/93 had become final and binding between the parties.

5. In the light of what is stated above, we allow this application and direct the respondents not to recover the pension relief already paid to the applicant and also to pay back to the applicant the amount of pension relief already recovered from the applicant's pension within a period of two months from the date of communication of this order.

Dated 1st September 1999.


G. RAMAKRISHNAN
ADMINISTRATIVE MEMBER


A.V. HARIDASAN
VICE CHAIRMAN