

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.No.139/1996

Thursday this the 1st day of April, 1999

CORAM:

HON'BLE MR.JUSTICE K.M.AGARWAL, CHAIRMAN

HON'BLE SHRI B.N.BAHADUR, MEMBER(A)

1. K.Kumaran,
Branch Post Master, Konganore P.O.
(Via) Atholi,
residing at Jyothy House, Konganore-673 315.
2. C.T.Damodhara Kurup,
Branch Post Master, Kalpathur,
P.O.Kalpathur (Via) Meppayur-673 524,
residing at Mamballu House, P.O. Kalpathur.

(By Advocate Mr.M.R.Rajendran Nair)

vs.

1. The Post Master, Quilandy.
2. The Senior Superintendent of Post Offices,
Quilandy.
3. Union of India represented by Secretary to
Government, Department of Posts, New Delhi.

..Respondents

(By Advocate Shri James Kurian, ACGSC)

The application having been heard on 31.3.99, the Tribunal on
1.4.99 pronounced the following:

O R D E R

HON'BLE SHRI JUSTICE K.M.AGARWAL, CHAIRMAN:

In this Original Application, the applicant has first made a prayer for quashing the order dated Nil, Annexure A.2, and then sought a direction to the respondents to pay them Dearness Allowance(in short,"D.A."), on their basic allowances as Extra Departmental Branch Post Master,(in short, the "EDBPM").

2. Briefly stated, the applicants were Ex-servicemen. They were re-employed as EDBPM. As they were denied D.A. on their basic allowance for the post of EDBPM on the ground that they

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were getting D.A. on the amounts of their pensions from the Army, they filed O.A.No.610/88 along with 7 others, which was allowed by this Tribunal on 31.8.1989, (Annexure A-1). Subsequently in Union of India and others vs. G.Vasudevan Pillay and others, (1995) 2 SCC 32, the Supreme Court held that the denial of D.A. to Ex-servicemen on their re-employment in civil posts was just and legal. On that basis, payment of D.A. was stopped to the applicants pursuant to the impugned order of the first respondent. Hence this O.A. has been filed for the said reliefs. The O.A. is opposed by the respondents.

3. After hearing the learned counsel for the parties and perusing the record, we find that in similar circumstances on similar grounds, one of the applicants in O.A.No.610/88, dated 31.8.1989, i.e, V.K.Kunjumon had filed O.A.No.1471/95 which was allowed by this Tribunal on 4.3.1997. It was held in paragraph 8 of the judgment that :

"... question whether the applicant in this case is entitled to get the Dearness Allowance both on the military pension as also on the basic allowance as an Extra Departmental Agent was fully considered and adjudicated in O.A.610/88 in favour of the applicants. The SLP filed against that decision has been dismissed, therefore, the rulings of the Tribunal in O.A.K.610/88 has become final. Any decision entered in any other case in which the applicant is not a party cannot be binding on the applicant, in the light of a final judgment on the issue between the parties. Therefore, the stand taken by the respondents to justify the impugned order that the orders of Civil Appeal No.3543-46/90 is applicable to the applicant also is untenable."

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We see no reason to take a contrary view for creating unnecessary confusion even if we might have been inclined to take a contrary view if the judgment of the Tribunal in O.A.No.1471/95 had not been in existence.

4. For the foregoing reasons, this O.A. succeeds and it is hereby allowed. The impugned order dated Nil, Annexure A-2, is quashed and the respondents are directed to continue to pay to the applicants D.A. on their basic allowances as EDBPM pursuant to order dated 31.8.1989 in O.A.No.610/88. No costs.

Dated the 1st day of April, 1999



B.N.BAHADUR
MEMBER(A)



K.M.AGARWAL
CHAIRMAN

List of Annexures referred to in the Order:

Annexure.A1: True copy of the order dated 31.8.1989 in O.A.K.610/98 of this Hon'ble Tribunal.

Annexure.A2: True copy of the letter dated nil issued by the 1st respondent to the applicant.

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