

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

ERNAKULAM BENCH

O. A. No. 153 199 3.

DATE OF DECISION 1.3.93

B. Vijayamma and others Applicant (s)

Mr. R. Krishnan Nair Advocate for the Applicant (s)

Versus

Union of India represented by
Secretary, Ministry of Defence, Respondent (s)
New Delhi and others

Mr. M.V.S. Nampoothiry, ACGSC Advocate for the Respondent (s)

CORAM :

The Hon'ble Mr. N. DHARMADAN JUDICIAL MEMBER

The Hon'ble Mr.

1. Whether Reporters of local papers may be allowed to see the Judgement? Yes
2. To be referred to the Reporter or not? No
3. Whether their Lordships wish to see the fair copy of the Judgement? No
4. To be circulated to all Benches of the Tribunal? No

JUDGEMENT

MR. N. DHARMADAN JUDICIAL MEMBER

Learned counsel for applicant submitted that this case is squarely covered by the judgment of this Tribunal in O.A. 801/91, O.A. 1034/92, etc. Hence, this case can be disposed of following the earlier judgments of this Tribunal in O.A. 1034/92 etc.

2. The application was admitted on 22.1.93. We granted four weeks' time to file reply with a copy to learned counsel for applicant and posted today for final hearing. Respondents have not filed any reply as per earlier directions. Hence, the case was taken up for final hearing today.

3. Applicants are widows. Their husbands were employed in various capacities in the Defence Ministry. Applicants were given compassionate appointment taking into consideration the death of their husbands while in service. The details of the service particulars are furnished by the applicants in Annexure A-1 statement. The applicants were granted family pension with relief on pension but by subsequent orders, relief portion of the family pension was suspended. Hence, they have filed ^{11/12} application with M.P. 153/93 seeking permission to prosecute the matter jointly with the following reliefs:

- "a) to issue a direction to the respondents not to deduct the D.A. portion in the family pension of the applicants.
- b) to issue an interim direction to disburse the D.A. portion of the applicant's family pension w.e.f. the date of death of their husbands as mentioned in Annexure B-1 and
- c) to issue such other ~~orders~~/direction as this Hon'ble Tribunal may pleased to deem fit and proper in the circumstances of the case."

4. M.P.153/93 was heard and allowed as per the order of this Tribunal dated 22.1.93.

5. Learned counsel for applicants submitted that similar issue was considered by this Tribunal and ~~allowed~~ ⁴ in O.A. 1034/92. ~~The~~ relevant portion in the judgment is extracted below:

"The Supreme Court has held in Deokinandan Prasad V. State of Bihar AIR 1971 SC 1409, that "pension is not a bounty payable on the sweet will and pleasure of the Government and that on the other hand the right to pension is a valuable right vesting in a Government servant." In that case Tribunal struck down the sub clause (ii) of the same rule which denies dearness relief on pension to a category of pensioners, namely the re-employed is an unreasonable discrimination since the price rise is the same for all pensioners. So sub clause (ii) of Rule 55-A is violative of Article 14 of the Constitution and hence not enforceable.

In the result, the respondents are directed to continue to pay dearness relief on pension to the applicants. The application is allowed. No costs."

X

X

X


Having regard to the facts and circumstances of the case we are of the view that the decision

referred to by the learned counsel for applicants squarely apply to the facts of this case and we allow the application and direct the respondents not to deduct the D.A. portion of the family pension payable to the applicants. They may also disburse to the applicants the D.A. portion of the family pension already deducted from them."

6. I have gone through the judgment and I am satisfied that the facts in the case are identical to the facts in O.A. 1034/92 and this application can be allowed following the judgment in that case.

7. Accordingly, I follow the judgment in O.A. 1034/92 and allow the application and direct the respondents not to deduct dearness allowance portion of the family pension payable to the applicants. They may also disburse to the applicants the dearness allowance portion of the family pension already deducted from them.

8. There shall be no order as to costs.


(N. Dharmadan)
Judicial Member
1.3.93

kmm