

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

ERNAKULAM BENCH

O. A. No. 171 1993.

DATE OF DECISION 1.3.93

C.K. Madanan and others Applicant (s)

Mr. M. Rajagopalan Advocate for the Applicant (s)

Versus

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

Mr. V. V. Sidharthan, 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

Counsel on both sides submitted that this case is covered by the Full Bench decision of this Tribunal in TAK 732/87 and hence the case can be disposed of following the judgment in the aforesaid case.

2. Applicants are re-employed ex-servicemen. The complaint of the applicants is that while fixing their pay on re-employed post, their pension was never taken into account except in the case of applicant No. 6. The sixth applicant was getting pension less than Rs. 125/- and his pay ~~xxx~~ fixed in the re-employed post was not in accordance with ~~orders~~ issued by the Govt. ignoring the entire pension. According to them, all of them are entitled to relief on

pension during the period of their re-employment as laid down in this Tribunal in TAK 732/87. They further submitted that respondents have suspended relief on pension on the sole ground that they are reemployed. This is not a valid reason to be sustained. In fact this question was considered by the Full Bench of the Tribunal in TAK 732/87 and held as follows:

"Where pension is ignored in part or in its entirety for consideration in fixing the Pay of re-employed ex-servicemen who retired from military service before attaining the age of 55 years the relief including adhoc relief, relatable to the ignorable part of the pension cannot be suspended withheld or recovered, so long as the dearness allowance received by such re-employed pensioner has been determined on the basis of pay which has been reckoned without consideration of the ignorable part of the pension. The impugned orders viz. O.M.No. F.22(87)EV(A)/75 dated 13.2.76 O.M.No.F 10(26)-B (TR)/76 dated 29.12.76 O.M.No. F 13(8)EV(A)/76 dated 11.2.77 and O.M. No.M-23013/152/7/MF/CGA VI (Pt/1118 dated 26.3.84 for suspension and recovery of relief and adhoc relief on pension will standmodified and interpreted on the above lines..."

3. Since the respondents have not filed any reply denying the facts stated by the applicants, it is treated that the facts in this case are not distinguishable from the facts in TAK 732/87.

4. Having regard to the facts and circumstances of the case, I follow the judgment in TAK 732/87 and allow this application declaring that the applicants are entitled to ~~xxxxxx~~ relief on military pension. I also declare that applicants are entitled to pension relief withheld from the date of their re-employment. I further direct the respondents to disburse all the pension relief recovered from them. This shall be done within a period of three months from the date of receipt of a copy of this judgment.

5. The application is allowed as indicated above.

6. There shall be no order as to costs.


(N.DHARMADAN)
JUDICIAL MEMBER
1.3.93

kmn