

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

Original Application No. 177/05

Thursday, this the 24th day of November, 2005.

C O R A M :

HON'BLE MR. K.V. SACHIDANANDAN, JUDICIAL MEMBER

1. C.P. Ramachandran,
S/o. G. Parameswaran Pillai,
Pushpavilasam, Kaitha Vana P.O.,
Alleppey.
 2. N. Gopinathan Pillai,
S/o. K.N. Padmanabha Pillai,
Indira Mandiram,
Fort, Mavelikara.
 3. C.Yesodhara Ammal,
W/o. K. Parameswaran Pillai (late),
Suresh Mandiram,
Krishnapuram.
 4. Deenamma K.P.,
W/o. Chacko Mathew (late),
(Senior Scientist, CPCRI, Kayamkulam
Retired on 30.4.1994),
Kallumood, Kayamkulam.
 5. C.J. Annie Amma,
W/o. Late Thomas Joseph,
(Scientist – Retired on 31.7.1994),
Puthoor, Jose Villa,
Changanacherry P.O.,
Via. Edathuva, Allapuzha Distt.
- ... Applicants.

(By Advocate Mr. P.V. Mohanan)

V e r s u s



1. Union of India represented by
Secretary, Ministry of Personnel,
Public Grievances and Pension,
New Delhi.
2. The Secretary,
Indian Council of Agricultural Research,
Krishi Bhawan,
Dr. Rajendra Prasad Road,
New Delhi.
3. The Joint Director,
Central Plantation Crops Research Institute,
Regional Station, Kayamkulam. ... Respondents.

(By Advocates Mr. P.M. Saji for R-1 and Mr. C.N. Radhakrishnan for R-2 & 3)

The application having been heard on 24.11.2005, the Tribunal on the same day delivered the following :

ORDER (Oral)
HON'BLE MR. K.V. SACHIDANANDAN, JUDICIAL MEMBER

The applicants in the above O.A are Central Government Pensioners retired on various dates prior to 01.04.1995 from Central Plantation Crops Research Institute / Indian Council of Agricultural Research and aggrieved by rejection of their claims to grant the benefits of inclusion of DA existed on their effective dates of retirement for the purpose of computing emoluments for grant of DCRG in terms of O.M dated 14.07.1995, they have filed the present O.A. As per the said O.M dated 14.07.1995 issued by Department of Personnel, Public Grievances and Pension declaring the Dearness Allowance shall be merged with pay and shall be treated as Dearness Pay for the purpose of Death Gratuity and Retirement Gratuity at 97% of the Basic Pay upto Rs.3500/- under the CCS (Pension) Rules, 1972 in the case of those Central Government employees who retired on or after 1st April, 1995. The grievance of the applicants was that the

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benefit of such merger was not allowed to them and that there was no nexus or rational consideration in fixing the cut off date as 01.04.1995 by the Government. The various Benches of C.A.T have passed different orders on this issue and finally, the Full Bench (Mumbai) of this Tribunal had considered the matter in detail in the case of Shri Baburao Shanker Dhuri & Ors. Etc. etc. vs. Union of India and Ors., 2001 (3) ATJ 436, in which the cut off date that has been fixed by the Government was held to be discriminatory and the benefit was also granted to those who retired between 01.07.1993 to 31.03.1995. Thereafter, the matter was taken before various High Courts including the Hon'ble High Court of Kerala and went upto the Hon'ble Supreme Court.

2. Learned counsel for the respondents resisted the claim of the applicants contending that it is prerogative of the respondents to fix the cut off date and the applicants have no right to challenge the same. However, it is brought to my notice that now the matter has attained finality by the judgment of Hon'ble Supreme Court in C.A No.129 of 2003, State of Punjab & Ors Versus Amar Nath Goyal and Ors., reported in 2005 (2) SC (SLJ) 177. In the said case, Hon'ble Supreme Court has held that "fixing of a cut off date for giving the benefit of enhanced gratuity after considering the financial constraints cannot be said to be discriminatory, irrational or violative of Article 14 of the Constitution." In the said judgment, Hon'ble Supreme Court has also considered the Full Bench decision of this Tribunal cited supra and set aside the said order alongwith other orders passed by various Benches of the Tribunal as well as the High Courts on this aspect.

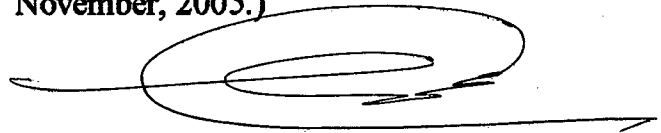
3. As held by Hon'ble Supreme Court in Union of India Vs. All India Services Pensioners Association and another, reported in AIR 1988 SC 501, an order passed by the Hon'ble Supreme Court on merit has become the law of land and has a binding effect over all other Courts under Article 141 of the Constitution of



India. Therefore, I am of the view that the judgment dated 11.08.2005 in C.A.No.129 of 2003 (supra) was a declaration of law and as such binding on the Tribunal.

4. In the light of the decision of Hon'ble Supreme Court referred to above, I find no merit in the Original Application and it is accordingly dismissed. There will be no order as to costs.

(Dated, the 24th November, 2005.)



K.V.SACHIDANANDAN
JUDICIAL MEMBER

cvr.