

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

ERNAKULAM BENCH

O. A. No. 180 of 1993.

DATE OF DECISION 30-3-1993

Rajan .P and 24 others Applicant (s)

Mr M Rajagopal Advocate for the Applicant (s)

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

Mr Tomy Sebastian, ACGSC Advocate for the Respondent (s) 1-6

CORAM :

The Hon'ble Mr. AV Haridasan, Judicial Member
and

The Hon'ble Mr. R Rangarajan, Administrative Member

1. Whether Reporters of local papers may be allowed to see the Judgement
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the Judgement
4. To be circulated to all Benches of the Tribunal?

JUDGEMENT

Mr R Rangarajan, A.M

Admittedly this case is covered by the Full Bench decision of this Tribunal in TAK 732/87 and connected cases.

2 Applicants numbering twentyfive are all re-employed ex-servicemen in various departments viz; Central Excise & Customs, Naval Base, Tele-communications, Railways, Accountant General Office and P&T Department etc. They are aggrieved by the denial of relief on military pension.

3 All the applicants have been retired from military service on various dates and get re-employment in various departments after 25.1.83. They were all working below the rank of commissioned

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officers in military service and retired before attaining the age of 55. They were denied relief on military pension from the date of their re-employment. They submit that since they are all ex-ser vicemen who retired before ^{they} got promotion as Commissioned Officers, the case is covered by the orders issued in this behalf for ignoring the pension drawn by the applicants in the matter of fixation of pay in the re-employed post as per Annexure A1 order. As the relief on the ignorable part of pension was not paid to them, they approached this Tribunal by filing this D.A. under Section 19 of the Administrative Tribunals Act of 1985 seeking the following reliefs:-

- "A) To direct the respondents to pay the pension relief of the applicants during the period of their re-employment.
- B) To declare that the applicants are entitled to get the pension relief alongwith their pension during the period of their re-employment.
- C) To direct the respondents to return their pension relief suspended so far."

4 When the case was admitted, we directed the respondents to file reply statement, if any, before 16.3.93. Extension of time was also given and thus the case has come up before us for final hearing to-day.

5 Accordingly, when the case was taken up for final hearing to-day, learned counsel for the respondents prayed that he may be given further time to file reply statement. But he has no case that the case of the applicant is distinguishable and is not covered by the Full Bench decision of the Tribunal in TAK 732/82 and connected cases.

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However, he submitted that an SLP has been filed against the Full Bench decision of the Tribunal and the Supreme Court has stayed that decision. The learned counsel for the respondents submitted that as identical questions are considered in similar cases he may be allowed to argue on the same line though reply statement was not filed. The contention of the respondents is that as the re-employed ex-servicemen are already getting relief in their re-employment pay, to grant them relief on pension will result in double benefit which is not intended and that is why instructions are issued by the Government not to pay relief on the ignorable part of the pension. Similar question came up for consideration in the larger bench of the Tribunal in TAK 732/87 and the Tribunal held that if pension is ignored wholly or in part the relief on pension which is an adjunct part of that pension should also be ignored for all purposes. It was therefore held that re-employed ex-servicemen are entitled to receive the relief on their ignorable part of the military pension during re-employment.

6. We have considered similar contentions in a number of cases and allowed such cases following the judgement of the Full Bench of this Tribunal in TAK 732/87. Respondents have no case that the judgement of this Tribunal has either been reversed or set aside by the Supreme Court so far. Similar question was considered in OA 270/92 and held as follows:

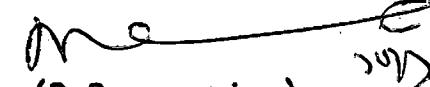
"In those cases the issue before the Full Bench was whether the judgement delivered by another Full Bench in Rasila Ram's case about the jurisdiction of the Tribunal which had been stayed by the Supreme Court in an SLP filed by the Govt. remains valid as a binding precedent or whether the interim order passed by the Supreme Court nullified the judgement of the Full Bench or its effect was to be confined only in respect of the judgement pronounced in the case of Rasila Ram.

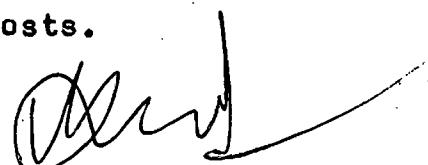
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The Full Bench observed that the interim order passed by the Supreme Court in the SLP in Rasila Ram's case not being a speaking order does not make any declaration of law and "consequently, it is not a binding order under Article 141 of the Constitution". The Full Bench further observed that until the decision of the Full Bench in Rasila Ram's case is set aside, reversed or modified by the Supreme Court, it remains effective. In view of the unambiguous finding of the Full Bench of the Tribunal, we have no hesitation in following the dicta of the Full Bench judgement of this Bench in this case also so long as those judgements are not set aside, modified or reversed by the Hon'ble Supreme Court."

7. We are satisfied that interest of justice will be met if we follow the Full Bench decision of this Tribunal in this case also. Accordingly, we declare that the applicants are entitled to relief on the ignorable part of the military pension during the period of their re-employment. We also declare that the same should be restored to them during the period of their re-employment and the amount withheld/suspended should be paid back to them within a period of three months from the date of communication of this judgement.

8. There will be no order as to costs.


(R. Rangarajan)
Administrative Member


(A.V. Haridasan)
Judicial Member

30.3.93

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

ERNAKULAM BENCH

R.A.No.85/93 in O.A.No.180/93.

Date of decision: 24.8.1993

Review Applicants:

1. Union of India, Secretary, Min. of Defence, New Delhi.
2. Controller of Defence Accounts (Pensions), Allahabad.
3. Defence Pension Disbursing Officer, Ernakulam.
4. Defence Pension Disbursing Officer, Quilon.
5. Defence Pension Disbursing Officer, Kottayam.
6. Defence Pension Disbursing Officer, Trivandrum.
7. Sub Treasury Officer, Calicut.
8. Sub Treasury Officer, Manjeri, Malappuram Distt.

Advocate for Review Applicants:

Shri Mathews J. Nedumpara, ACGSC.

Respondents:

1. P. Rajan, Peedikaparambil House, Poothotta, Ernakulam(PO) Ernakulam.
2. Abdulkarim, Shanti Manzil, Kakkanad.
3. CM Sreedharan, Chakkirikattil House, Piravom, Ernakulam.
4. C Muhammad Ali, Chemmayathu House, Alangad (PO).
5. K. Periaswamy, Lig House, No.778, Panampilly Nagar, Cochin--15.
6. KR Appu, Kunjuveetttil House, Cherai, Ernakulam.
7. PA Baby Kutty, Paravala, Puthenveedu, Kottarakara.
8. R Chellappan, Kadivikal Thekkethil House, Eravichira, Quilon.
9. J Bhaskaran Pillai, Ananda Vilasom, Ayroor, Quilon.
10. KR Krishnan Nair, Anand House, Naduvattom North, Calicut-15.
11. P Antoney, Vilayilazhikam House, Kumbalam, Quilon.
12. Subash BV Kunnuvila Madam, Perinad, Quilon.
13. Ramachandra Panicker PG, Padma Sadan, Tiruvalla.

contd....



14. PK Soman Nair, Janaky Mandiram, Thalayolaparambu.
15. EK Gopalakrishna Pillai, House No.101, CE Quarters, Kakkad.
16. R. Radhakrishna Karnavar, Pariprathu, Haripad.
17. MP Somasekharan Nair, Jubevihar, Ponkunnam.
18. PV Joseph, Puthoopally Kapichadu, Kallara, Kottayam.
19. Ravindran Nair, RK Nilayam, Valiyarathala, Trivandrum.
20. S Ramachandran Nair, Aswathy, Nariminmoodus (PO), Trivandrum.
21. BR Rajagopal, Thekkaperumthitta Veedu, Trivandrum.
22. D Krishnan Nair, Lakshmi Nivas, Anayara, Trivandrum.
23. S Krishnan Kutty, Nithya, Kalamachal, Trivandrum.
24. K. Sadanandan, Kelappanveetttil, Arakanar, Calicut.
25. VR Krishnankutty, Sarovaram, Manjeri.

Advocate for respondents:

Shri M Rajagopalan.

C O R A M

The Hon'ble Mr AV Haridasan, Judicial Member,
and

The Hon'ble Mr R Rangarajan, Administrative
Member.

J U D G E M E N T

R. Rangarajan, AM.

R.A.No.85/93 in O.A.No.180/93 was considered by us through circulation.

2. All the grounds stated in this Review Application were fully considered by us and no new grounds which have not been gone into by us in our order dated 30.3.1993 in the O.A., have been raised in the R.A. We are fully convinced that this RA is filed just to postpone the relief already granted to the applicants. No error apparent on the face of it.

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records has been pointed out in our judgement and hence, we see no reason for reviewing the judgement in the said O.A.

3. The Review Application is rejected by circulation.

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(R. RANGARAJAN)
Administrative Member



(AV HARIDASAN)
Judicial Member

24.8.1993.

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