

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

ERNAKULAM BENCH

O. A. No. 194 of 1993.

DATE OF DECISION 16-4-1993

P Raveendran and others Applicant (s)

Mr P Sivan Pillai Advocate for the Applicant (s)

Union of India through the
Secretary, Ministry of Personnel
Public Grievances & Pension,
New Delhi and others. Respondent (s)

Mr Mathew G. Vadakkal, ACGSC Advocate for the Respondent (s) 1-3
Mr TPM Ibrahim Khan Respondent -4

CORAM :

The Hon'ble Mr. N Dharmadan, Judicial Member
and

The Hon'ble Mr. R Rangarajan, Administrative Member

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

Shri N Dharmadan, J.M.

All the applicants are Ex-servicemen re-employed in the Indian Railways. They were all working below the rank of Commissioned Officers in military service and retired before attaining the age of 55. After their re-employment, they are not granted ~~granted~~ relief on the ignorable part of military pension and the applicants are aggrieved by the denial of the same. Hence, they approached this Tribunal by filing this O.A. under Section 19 of the Administrative Tribunals Act of 1985 seeking the following reliefs:-

1. (a) To declare that the applicants are entitled to receive relief/adhoc relief on the ignorable part of their military pension from the date of their employment in the Railways/Department.

(b) To direct the respondents to refund the dearness relief/ adhoc relief so withheld/ recovered so far from their date of re-employment and to continue payment of the dearness relief/ adhoc relief etc. on the ignorable part of the pension."

2 Learned counsel for the applicants submitted that the case of the applicants is squarely covered by the Full Bench judgment rendered in TAK 732/87 and connected cases and this case can be allowed following the judgment in the aforesaid case. He further submitted that a number of similar cases have been allowed by this Tribunal following the Full Bench judgment in TAK 732/87.

3 Learned counsel for the respondents, however, submitted that the Government have filed an SLP against the Full Bench judgment in TAK 732/87 and the Supreme Court has stayed the same and hence this G.A. is liable to be dismissed. A reply has been filed on behalf of Respondent-4 also.

4 Having heard the counsel on both sides, we are of the view that this application can be allowed following the judgment in TAK 732/87. Respondents have no case that the judgment of the Full Bench 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:

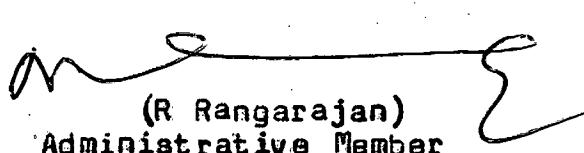
" In those cases the issue before the Full Bench was whether the judgment delivered by another Full Bench in Rasila Ram's case about the jurisdiction of the Tribunal which had been stayed by the Supreme Court in an SLP filed by the Govt. remains valid as a binding precedent or whether the interim order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

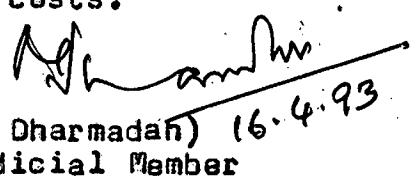
case not being a speaking order does not make any declaration of law and "consequently, it is not a binding order under Article 141 of the Constitution." The Full Bench further observed that until the decision of the Full Bench in Rasilaram's case is set aside, reversed or modified by the Supreme Court, 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 judgments of this Bench in this case also so long as these judgments are not set aside, modified or reserved by the Hon'ble Supreme Court."

5 In a number of similar cases, we have taken the view that the pendency of SLP and the stay of the judgment in TAK 732/87 does not suspend the binding effect of the judgment of this Tribunal. We have already held that so long as the Full Bench judgment in TAK 732/87 is set aside, reversed or modified, this Tribunal is bound to follow the law laid down by the Full Bench.

6 In this view of the matter, we allow the application and 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 judgment.

7 There will be no order as to costs.


(R. Rangarajan)
Administrative Member


(N. Dharmadah) 16.4.93
Judicial Member