

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A. No. 197 of 2005

Friday, this the 21st day of October, 2005.

C O R A M :

**HON'BLE MR. K.V. SACHIDANANDAN, JUDICIAL MEMBER
HON'BLE MR. N. RAMAKRISHNAN, ADMINISTRATIVE MEMBER**

1. P. Thupran,
S/o. Late Raman,
Retired Mail Driver, Erode,
Southern Railway, Palghat,
Residing at Palankavil House,
Kadalundi Village,
P.O. Chaliyam, Kozhikode.
2. R. Chandrasekharan,
S/o. Late K. Raman Nair,
Retired Mail Driver, Erode,
Southern Railway, Palghat,
Residing at "Lakshmiram",
Kannakara P.O., Chelannur Via,
Calicut : 673 616.
3. P. Rajan,
S/o. Koran,
Retired Bridge Mate, Calicut,
Residing at Padijarayil House,
P.O. Chaliyam, Kadalundi,
Calicut : 673 301.
4. P. Cheiro,
S/o. Dr. Palmo,
Retired Enquiry & Reservation Supervisor,
Calicut, Residing at Blue Lark,
Cheruvannur, Feroke, Calicut.



5. C. Gopalan
 S/o. M. Kuttan,
 Retired Diesel Assistant,
 Southern Railway, Calicut,
 Residing at 'Edakkithattu House',
 P.O. Eravallur, Chelannur,
 Via. Calicut : 673 616

... Applicants

(By Advocate Mr. Shafik M.A.)

Versus

1. Union of India represented by
 Secretary to the Govt. of India,
 Ministry of Railways,
 Rail Bhavan, New Delhi.
2. The Additional Secretary (Pensions),
 Ministry of Pension & Pensioner's Welfare,
 Lok Nayak Bhavan, Khan market,
 New Delhi : 110 003.
3. The General Manager,
 Southern Railways,
 Headquarters Office,
 Chennai : 3.
4. The Senior Divisional Personnel Officer,
 Southern Railways, Palghat Division,
 Palghat.

.... Respondents.

(By Advocate Mrs. Sumathi Dandapani)

O R D E R
HON'BLE MR. K.V. SACHIDANANDAN, JUDICIAL MEMBER

A batch of cases (OA No. 174/05 with 41 identical cases) involving the similar issue came to be decided by this Tribunal on 17th October, 2005, therefore, this case is also being decided on the same line.

2. The applicants, who were retired on various dates prior to 1.4.95



from the Palghat Division of Southern Railway, aggrieved by rejection of their claims to grant the benefit 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 14.7.1995, have filed the present OA. As per the said O.M dated 14.7.95 issued by the Department of Personnel, Public Grievances and Pension, 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 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 1.4.95 by the Government for giving the said benefit. 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., reported in 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 of such merger was also granted to those who retired between 1.7.93 to 31.3.95. Thereafter, the matter has taken up before various High Courts including the Hon'ble High Court of Kerala and went upto the Hon'ble Supreme Court.

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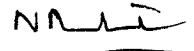
3. The respondents resisted the claim of the applicants contending that it is prerogative of the respondents to fix the cut off date and the applicants have no right to challenge the same. However, it is submitted that now the matter has attained finality by the judgement of Hon'ble Supreme Court in C.A No. 129 of 2003, State of Punjab and Ors. vs. Amarnath 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 that judgement, Hon'ble Supreme Court 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 Hon'ble High Courts on this aspect.

4. As held by Hon'ble Supreme Court in The 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, we are of the view that the judgement dated 11.8.2005 rendered in C.A. No. 129 of 2003 (supra) was a declaration of law and as such binding on the Tribunal.

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5. In the light of the aforesaid decision of Hon'ble Supreme Court, we hold that the present Original Application fails and is accordingly dismissed being bereft of any merit. In the circumstances, no order as to costs.

(Dated, 21st October, 2005)


N. RAMAKRISHNAN
ADMINISTRATIVE MEMBER


K.V. SACHIDANANDAN
JUDICIAL MEMBER

CVR.