

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

ERNAKULAM BENCH

O. A. No. 215 1992.

DATE OF DECISION 3.2.93

K. Peethambaran _____ Applicant (s)

Mr. P.V. Mohanan _____ Advocate for the Applicant (s)

Versus

Union of India represented by Respondent (s)
Secretary, Ministry of Finance, New Delhi and another

Smt. K. B. Subhagamani, ACGSC Advocate for the Respondent (s) No. 1
Mr. D. Sreekumar GP for R-2

CORAM :

The Hon'ble Mr. N. DHARMADAN, JUDICIAL MEMBER

Temporary MR.

1. Whether Reporters of local papers may be allowed to see the Judgement? *Y*
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

The reliefs claimed in this application is covered by the judgment of this Tribunal in T.A. 732/87 and connected cases (1990 Vol. 13 ATC 815). Hence, learned counsel for applicant submitted that this case can be disposed of following the law laid down in the aforesaid judgment.

2. The applicant is a re-employed ex-serviceman. He retired from military service in April, 1974 at the age of 29. After retirement from the Indian Army, he was re-employed as Jeep Driver on a scale of Rs. 260-350 in the C.T.C.R.I. Trivandrum w.e.f. 31.5.76. Later, he was transferred to C.P.C.R.I. in 1983. While discharged from the Army Service he was holding the rank of a non-commissioned officer and he is getting military pension w.e.f. 1.5.83. His basic pension was Rs. 79/- plus 70% relief on pension w.e.f. 1.5.83.

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His basic pension was stepped upto Rs. 375/- plus allowance and adhoc allowances on pension. On re-employment, his pay was fixed in the minimum of the scale without granting 11 increments reckoning the regular military service as per the govt. decision. In spite of the full bench decision of this Tribunal in O.A. 3/89 and 288/89, no steps were taken to fix his minimum pay at a higher stage in the light of law laid down by the Tribunal. He was also denied 'relief' on military pension. As per Annexure-I order, applicant was paid pension w.e.f. 1.2.88 @ Rs. 405/- but from 15.4.88 therelief on pension was suspended reducing the pension to a sum of Rs. 375/- as basic pension. The same position continues even now. Hence, the applicant filed representation and finally approached this Tribunal for grant of the following reliefs:

- "i) to declare that the applicant is entitled to get reliefs and adhoc relief on pension without any deduction.
- ii) to direct the respondents to pay the pension including reliefs and adhoc reliefs on pension with retrospective effect from 1.4.88
- iii) Any other appropriate order or direction as this Hon'ble Tribunal deem fit in the interest of justice."

3. In spite of more than half a dozen postings, the first respondent has not filed any reply. A reply has been filed by the second respondent. In the reply filed by the second respondent there is no indication as to whether the applicant can be denied xxxx, the/ dictum laid down by the Full Bench in the case referred to above.

4. I have heard learned counsel for both parties. Learned counsel for R-1 was unable to distinguish the facts of the case from the facts of the Full Bench judgment referred to above. The law declared by the Tribunal is extracted below:

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"Where pension is ignored in part or in its entirety for consideration in fixing the pay of re-employed ex-servicemen who retired from

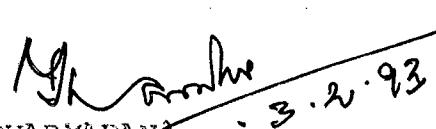
military service before attaining the age of 55 years, the reliefs including adhoc reliefs relatable to the ignorable part of the pension cannot be suspended, withheld or recovered.

The impugned order namely 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, OM No.F.13(8)E.V.(A)/76 dated 11.2.77 and O.M.No. M.23013/152/79/MM/GH/6(PT)/1118 dated 26.3.84 for suspension and recovery of reliefs and adhoc reliefs on pension will stand modified."

5. Having regard to the facts and circumstances of the case, the Full Bench decision of the Tribunal applies to the facts of this case and this case can be disposed of applying the law laid down by the Tribunal. Accordingly, I declare that the applicant is entitled to get relief and adhoc relief on pension along with pension as was granted to the applicant in terms of Annexure-I originally w.e.f. 1.2.88. I further direct the respondents to disburse to the applicant the relief and adhoc relief on pension which was suspended from 1.4.88. This shall be done within a period of three months from the date of receipt of a copy of this judgment.

6. The application is allowed.

7. There shall be no order as to costs.


(N. DHARMADANY)
JUDICIAL MEMBER
3.2.93

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