

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

ERNAKULAM BENCH

O. A. No. 219 1993.

DATE OF DECISION 23.3.93

N. Vinayachandran & others Applicant (s)

Mr. P. Sivan Pillai Advocate for the Applicant (s)

Versus

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

Mr. Thomas Mathew Nellimoottil Advocate for the Respondent (s) NO.5

CORAM :

The Hon'ble Mr. N. DHARMADAN JUDICIAL MEMBER

The Hon'ble Mr.

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. N. DHARMADAN JUDICIAL MEMBER

The counsel on both sides agreed that this case is covered by the judgment of this Tribunal in TAK 732/87 and can be disposed of following the judgment in that case.

2. Applicants are Ex-servicemen re-employed in the Indian Railways at present working in various capacities in the Trivandrum Division of the Southern Railway. They are aggrieved by the denial of relief on pension which is ignorable in the orders issued by the Government from time to time. They submitted that they are entitled to fixation of pay in the re-employed post by ignoring the relief portion of the pension in the light of the O.M. dated 8.2.83. The legality of the O.M. came up for consideration before this

Tribunal in TAK 732/87 and this Tribunal considered the issue and held as follows:

"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 relief including adhoc relief, relatable to the ignorable part of the pension cannot be suspended withheld or recovered, as long as the dearness allowance received by such re-employed pensioner has been determined on the basis of pay which has been reckoned without consideration of the ignorable part of the pension. The impugned order viz. OM F-22(87)EV(A)/75 dated 13.2.76 OM F 10(26) D(TR)/76 dated 20.12.76, OM P-13(P)-EV(A)/76 dated 11.2.77 and OM No. 23013/132/70/NR/CCA/VI(Pt)/1118 dated 26.3.84 for suspension and recovery of relief and adhoc relief on pension will stand modified and interpreted on the above lines.."

3. Respondents have not filed any reply in spite of granting sufficient time for filing reply. They have no case that the facts in this case are distinguishable. Hence under these circumstances, I follow the judgment in TAK 732/87 and allow this application. Accordingly, I declare that the applicants are entitled to relief and adhoc relief ~~to figure 4~~ on their military pension which were ignored for fixation of their pay in the re-employed post, from the date of their re-employment and pay them full service pension including dearness allowance and relief admissible in accordance with law. I also direct the respondents to disburse the dearness relief/adhoc relief withheld/suspended/recovered so far from the applicants without any delay.

4. The application is allowed as indicated above.

5. There shall be no order as to costs.


(N. DHARMADAN)
JUDICIAL MEMBER
23.3.93

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