

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA No. 219 of 1996

Monday, this the 14th day of July, 1997

CORAM

HON'BLE MR. A.M. SIVADAS, JUDICIAL MEMBER

1. P. Ramankutty, T.S.No. 2955,
Office Assistant, Head Post Office,
Divisional Office, Tirur.
2. K. Radhakrishnan, T.S.No. 4157,
Postal Assistant,
Valancheri Post Office, Valancheri.
3. P.V. Subramanian, T.S.No. 2760,
Postal Assistant,
Kanhiramukku Post Office, Kanhiramukku.
4. K. Govindan, T.S.No. 22792,
Postal Assistant,
Head Post Office, Ponnani.
5. K.R. Purushothaman Nair, T.S.No. 6472,
Sub Postmaster,
Kadampuzha Post Office, Kadampuzha.
6. C.R. Sreenarayanan, T.S.No. 4921,
Postal Assistant,
Kuttipuram Post Office, Kuttipuram. .. Applicants

By Advocate Mr. TA Rajan

Versus

1. Union of India represented by the
Secretary, Ministry of Finance,
Central Secretariat, New Delhi.
2. The Chief Postmaster General,
Kerala Circle,
Thiruvananthapuram.
3. The Chief Controller of Defence
Accounts (Pension), Allahabad.
4. District Pension Distribution Officer,
Trissur.
5. Sub Treasury Officer,
Valanchery. .. Respondents

By Advocate Mr. PR Ramachandra Menon, ACGSC (rep.)(R1-4)

contd...2.

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The application having been heard on 14.7.1997, the Tribunal on the same day delivered the following:

O R D E R

Applicants seek to quash A-2 order dated 2.11.1995 directing recovery of the amount already received by the applicants as dearness relief on pension.

2. The applicants are working in the Postal Department. Prior to their appointment in the Postal Department, they were employed in the Defence Force. The applicants were receiving pension and dearness relief from the respondents besides their salary fixed in accordance with F.R.22. The applicants say that since pension carries with it corresponding relief the applicants are entitled to retain with them the relief corresponding to the ignorable amount of pension as relief is granted only to compensate the erosion of money value of the pension amount. Applicants approached this Bench of the Tribunal by filing OA No. 1239/91 and OA No. 773/93. Both the applications were allowed and they have been given the arrears of recoveries made from their pension. Government of India took up the matter in appeal before the Apex Court. On the basis of the judgment in appeal reported in Union of India & Others Vs. G. Vasudevan Pillay & Others, (1995) 2 SCC 32, reversing the judgment of this Bench of the Tribunal, the respondents have taken action for recovery of over payment of dearness relief on pension already paid to the applicants as per A-2.

contd....3.

3. The respondents say that in the light of the judgment reported in (1995) 2 SCC 32, the respondents are entitled to recover the excess amount paid to the applicants, and therefore, A-2 order is legal and valid.

4. It was subsequently submitted by the counsel on both sides that a review application was filed before the Apex Court against the judgment reported in (1995) 2 SCC 32. The order in the said review application is reported in 1996 (2) SC.SLJ 479 (National Ex-servicemen Co-ordination Committee etc. Vs. Controller General of Defence Accounts & Others). In the said order the Apex Court has observed that:

"we would also desire the Central Government to sympathetically consider the question of non-realisation of amount already disbursed to re-employed ex-servicemen on the aforesaid amount",

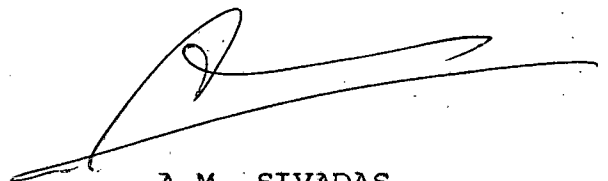
though the review application was dismissed.

5. Counsel for both sides submitted that the OA can be disposed of with a similar observation as made by the Apex Court in the review application.

6. The respondents are directed to sympathetically consider the question of non-realisation of the amount already disbursed to the applicants, ex-servicemen, by way of dearness relief on pension.

7. Original Application is disposed of as above. No costs.

Dated the 14th of July, 1997



A.M. SIVADAS
JUDICIAL MEMBER

LIST OF ANNEXURE

1. Annexure A2: True copy of the order No.AT(ORs)/Tech/263-XII dated 2.11.1995 of the 3rd respondent.

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