

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

Original Application No. 228/2005

Thursday, this the 27th day of July, 2006

C O R A M :

HON'BLE MR. K B S RAJAN, JUDICIAL MEMBER

1. Francis K.J.,
(288252F Sergeant)
S/o. Joseph (Late)
29/2407A, AGI Nivas,
Valloor Road, Poonithura P.O.,
Kochi - 17
2. N.N. Ramachandran
(No.14276968 - Sigman),
S/o. P. Narayanan Nair,
Njarekate House,
Karor, (Post) Mundur,
Trissur District.
3. C.N. Sreedharan,
(600425 F, Corporal),
S/o. Late C.K. Narayanan,
Chakkirikattil House,
Mulakkulam (Post),
Piravom - 686 664
Ernakulam.
4. R. Rajappan,
(263920 Sergeant)
S/o. Raghavan,
Reji Nivas, Kandallur South P.O.,
Kayamkulam.
5. D. George,
(7081870 Havildar),
S/o. Late G. Daniel,
X1/20113, Dhanya,
Padamughal,
Trikkakkara P.O.,
Kochi - 21.



6. K.M. John,
(1234777 H Hony/Naik),
S/o. K.J. Mani (Late),
Kathullil House,
Elamkunnappuzha P.O.
7. E.P. Joy,
(600740 - Sergeant),
S/o. Late E.M. John,
Edayathupura House,
Thrikkakara Road (Post),
Kochi - 21
8. Samuel Kutty M. Thomas,
(280056 - CPL),
S/o. Late C.P. Thomas,
Chirayil House,
Kuzhivelipuram,
Post Karakkal,
Thiruvalla
9. V. Radhakrishnan,
(264238 - CPL)
S/o. Late Pappu Pillai,
Pournamy, Manjadi Thara,
Post Pallickal, Moonamkutty,
Alappuzha Dist.
10. K.D. Varghese,
(269702 - Sergeant)
S/o. K.M. Daniel,
Kuttimavilayil house,
Kollakadavu Post,
Alappuzha District
11. K.V. George,
(28198413 S G T),
S/o. Late K.C. Varghese,
Kandanattan House,
North Muzhuvannoor Post,
Ernakulam.



12. V. Jacob,
(268422, SGT),
S/o. Ulahannan Varkey,
Manihottathil House,
South Marady P.O.
Ernakulam

... Applicants.

(By Advocate Mr. P.V. Mohanan)

v e r s u s

1. Union of India represented by
Secretary, Ministry of Personnel,
Public Grievances & Pension,
Department of Pension & Pensioners' Welfare,
New Delhi.

2. Defence Pension Disbursing Officer,
Office of the Defence Pension,
Disbursing Officer, DAD Complex,
Perumannur P.O., Cochin : 15

... Respondents.

(By Advocate Mr. T P M Ibrahim Khan, SCGSC)

This application having been heard on 27.07.06, the Tribunal on the same day delivered the following):

O R D E R

HON'BLE MR. K B S RAJAN, JUDICIAL MEMBER

The tabular column appended below would give the details of the applicants:

| S. N | @ | # | \$ | % | & |
|-------------|-------------------|----------|---------------|----------|--------------|
| 1 | Francis K.J. | 1070.60 | 260-400 | 350/- | |
| 2 | N.N. Ramachandran | 950/- | 260/- (basic) | 260/- | |
| 3 | C.N. Sreedharan | 1200/- | - | 326/- | |

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| S. N | @ | # | \$ | % | & |
|------|------------------------|----------------|---------|-------|---|
| 4 | R.Rajappan | 1140/- | 260-400 | 356/- | |
| 5 | D. George | 345.50 (basic) | 260-480 | 290/- | |
| 6 | K.M. John | 245/- (basic) | 196-232 | 232/- | |
| 7 | E.P. Joy | 1300/- | 260-400 | 334/- | |
| 8 | Samual Kutty M. Thomas | 380/- (basic) | 260-400 | 320/- | |
| 9 | V. Radhakrishnan | 1200/- | 260-400 | 350/- | |
| 10 | K.D. Varghese | 1200/- | 260-400 | 358/- | |
| 11 | K.V. George | 491/- (basic) | - | 308/- | |
| 12 | V. Jacob | 1350/- | 260-400 | 356/- | |

@: Name of applicants

Last pay drawn/basic pay in the military service

\$ Pay scale(basic pay) attached to the post where re-employed

% Pay fixed at the time of re-employment

& Remarks

2. The grievance of the applicants, who are retired military pensioners is that they are deprived of conversion of 50% of dearness relief attached to the pension as Dearness Pension. According to them, their representation has not conclusively been replied to, inasmuch as the matter is stated to have been under consideration of higher authorities.

3. Respondents, in their reply have contended that conversion of a part of dearness relief as dearness pay would depend upon the entitlement to draw dearness relief. And entitlement to draw dearness relief depends upon the fulfillment of the conditions stipulated in the order dated 02-07-1979 (Annexure A-1). Para 3 (a), 4 (II) (a) and para 7 are the relevant portions and the same are

extracted below:-

"3.(a) In so far as reemployed pensioners are concerned, the entire pension admissible is to be ignored at present only in the case of those civilian pensioners who held posts below Group 'A' and those Ex-servicemen who held posts below the ranks of Commissioned Officers at the time of their retirement. Their pay on reemployment, is to be fixed at the minimum of the pay scale of the post in which they are reemployed. Such civilian pensioners will consequently be entitled to Dearness Relief on their pension in terms of the recommendations of the 5th Central Pay Commission at the rates applicable from time to time."

"4.(II) (a) In the case of Central Government Pensioners who were/are reemployed under the Central Government or the State Government or a Corporation/ Company/ Body/Bank including an autonomous organisation under them in India or abroad or had/have been permanently absorbed in such Corporation/Company/Body/Bank or autonomous organisation, dearness relief will not be admissible to such of those reemployed pensioners who satisfy the conditions referred to in para 3 (a) above. For this purpose, the Central Government Departments concerned, including subordinate organisations, State Government Corporation / Company / Body / Bank etc. employing a Central Government pensioner shall be required to issue of certificate indicating the following:

- (i) The employed pensioner retired from a civil or military post in the Central Government and was holding a post not including in classified as group 'A' , or a post below the rank of Commissioned Officer in the Armed Forces.
- (ii) The entire amount of pension sanctioned by the Central Government was ignored in fixation of the pay on re-employment, i.e. no part of the pension was taken into account in such fixation of pay in the pay scale of the post in which the Central Government retired/retiree officer was reemployed / absorbed; and
- (iii) The pay of the reemployed/absorbed was/is fixed at the minimum of the pay scale of the post in which he had/has been

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initially reemployed from the Central."


"7. Necessary orders in respect of reemployed Defence pensioners and family pensioners will be issued separately by the Ministry of Defence."

4. The above shows that dearness relief relating to pension would be available to a re-employed pensioner, if the three conditions contained in para 3(a) i.e., (a) The rank held during active military service was below commissioned officer; (b) the entire pension is ignored at the time of pay fixation in the re-employed post and (c) the pay fixed on re-employment is at the minimum of the pay scale.

5. Para 7 of the order, however, stipulates that necessary orders in respect of re-employed Defence pensioners and family pensioners will be issued separately by the Ministry of Defence.

6. The applicants being re-employed military pensioners, order dated 02-07-1979 is not directly applicable and in all expectation, on the line of the afore said order or with certain changes (mutatis mutandis or otherwise) the Ministry of Defence would have issued certain orders, though neither side could make available the same.

7. The respondents have relied upon the order dated 26-10-2005 (Annexure R-1) as per which when no dearness relief is available, the question of conversion of 50% Dearness relief as Dearness pay does not arise. This order



is in the form of clarification but it does not reflect any reference to the order dated 02-07-1979, much less any communication or order of the Ministry of Defence, which alone would be applicable to the applicants. Further, the impugned orders are not final and according to these orders, the matter has been referred to the higher authorities.

8. In view of the above, Respondent No. 2 shall liaise with the Ministry of Defence to ascertain whether in the wake of and in accordance with para 7 of the above order dated 01-07-1979 there had been any separate order issued by the Ministry of Defence and if so, telescoping the provisions of the same the case of the applicants shall be examined. In case the conditions stipulated in such an order are fulfilled by the applicants, they should be afforded the dearness relief/conversion of 50% of dearness relief as dearness pension. In case any or all the applicants do not fulfill the conditions, they should be suitably informed by a speaking order.

9. The OA is disposed of. No costs.

(Dated, the 27th day of July, 2006)



K B S RAJAN
JUDICIAL MEMBER

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