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**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

Original Applications No. 128/05 and 267/05

Wednesday, this the 16th day of November, 2005.

CORAM :

HON'BLE MR. K.V. SACHIDANANDAN, JUDICIAL MEMBER

1. OA No. 128/2005 :-
1. A. Gopalakrishnan,
S/o. Late U. Achutha Menon,
Retired Telecommunication Inspector (Special Grade),
Headquarters Palghat, Southern Railway, Palghat,
Residing at "Patinjarapatt House", Santhya Nagar,
Behind Railway Hospital, Palghat 678 009.
2. P. Chandrasekharan Nair,
S/o. Late U. Krishnan Kutty Nair,
Retired Medical Craftsman/Electrical,
Diesel Loco Shed Erode, Southern Railways,
Palghat Division,
Residing at "Lakshmi Mandiram", Athaniparamp Post,
Kallekulangara, Palghat : 678 009.
3. C. Achuthan,
S/o. Late V. Govindan Nair,
Retired Electrical Foreman, Electrical Department,
Southern Railway, Palghat,
Residing at "Kalipurayath House",
Oduvangad, Nochuppully (Post),
Mundur, Palghat : 678 592.
4. G.S. Krishnan,
S/o. Late G.K. Srinivasa Iyer,
Retired Chief Commercial Inspector,
O/o. The Divisional Railway Manager,
Commercial Branch, Southern Railway, Palghat,
Residing at Door No. 3/16, Ambikapuram,
Palghat : 678 001.

Applicants.

(By Advocate.Mr.Shafik.MA)

versus

1. Union of India represented by Secretary to
The Government of India, Ministry of Railways,
Rail Bhawan, New Delhi.
2. The Additional Secretary (Pensions),
Ministry of Pension & Pensioner's Welfare,
Lok Nayak Bhawan, Khan Market, New Delhi - 3
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)

2. O.A. NO. 267/2005

1. K.V. Moideen,
S/o. Late K.M. Veeran Kutty,
Retired Electrical Fitter his (ELF/P/H.S.I),
Palghat, Southern Railway, Palghat,
Residing at Kakkottupeedikkal House,
Kamba, P.O. Kinavallur, Parli, Palghat.
2. A. Sayeed Mohammed,
S/o. Late A. Asanar,
Retired Electrical Fitter HS I, Palghat,
Southern Railway, Palghat,
Residing at "Neelikad House",
Kamba, P.O. Kinavallur, Parli, Palghat.
3. P. Mohammed,
S/o. S. Asanar,
Retired Permanent Way Maistry,
O/o. The PWI, Palghat,
Residing at "Parakkal House",
P.O. Vallikode, Palghat : 678 594

4. A. Mohammed,
S/o. Late Adam Baban,
Retired Master Craftsman/Electrical,
O/o. Electrical Foreman for Southern Railway,
Palghat, Residing at Puzhakkal House,
Kamba, P.O. Kinavallur, Parli, Palghat.
5. A. Said Mohammed,
S/o. Late Hassanar,
Retired Carriage and Wagon Fitter HS I,
Southern Railway, Erode,
Residing at "Allampurathukad",
Kamba, P.O. Kinavallur, Parli, Palghat.

... Applicants.

(By Advocate Mr. Shafik M.A)

v e r s u s

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

... Respondents.

(By Advocate Mr. P. Haridas)

The applications having been heard on 16.11.2005, the Tribunal on the same day delivered the following :

ORDER (Oral)

HON'BLE MR. K.V. SACHIDANANDAN, JUDICIAL MEMBER

Since the factual and legal aspects of the present two O.As are one and the same, I propose to decide them together by this common order with the

consent of the parties.

2. The applicants in the above O.As are Central Government Pensioners retired on various dates prior to 01.04.1995 from Southern Railways and aggrieved by rejection of their claims to grant the benefits 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 14.07.1995, they have filed the present O.As. As per the said O.M dated 14.07.1995 issued by Department of Personnel, Public Grievances and Pension declaring 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 01.04.1995 by the Government. 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., 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 was also granted to those who retired between 01.07.1993 to 31.03.1995. Thereafter, the matter was taken before various High Courts including the Hon'ble High Court of Kerala and went upto the Hon'ble Supreme Court.

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 brought to my notice that now the

matter has attained finality by the judgment of Hon'ble Supreme Court in C.A No.129 of 2003, State of Punjab & Ors Versus Amar Nath 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 the said judgment, Hon'ble Supreme Court has 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 the High Courts on this aspect.

4. As held by Hon'ble Supreme Court in 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, I am of the view that the judgment dated 11.08.2005 in C.A.No.129 of 2003 (supra) was a declaration of law and as such binding on the Tribunal.

5. In the light of the decision of Hon'ble Supreme Court referred to above, I hold that both the Original Applications fail and are accordingly dismissed being bereft of any merit. In the circumstances no order as to costs.

(Dated, the 16th November, 2005.)

K.V.SACHIDANANDAN
JUDICIAL MEMBER

cvr.