

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

ERNAKULAM BENCH

O. A. No. 392 1993.

DATE OF DECISION 15.4.93

B. Abdul Rahiman and others Applicant (s)

Mr. M. Rajagopalan Advocate for the Applicant (s)

Versus

Union of India represented by Respondent (s)
Secretary, Ministry of Defence,
New Delhi and others

Mr. P.S. Krishna Pillai, ACS C Advocate for the Respondent (s)

CORAM :

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

The Hon'ble Mr. **R. RANGARAJAN** ADMINISTRATIVE MEMBER

1. Whether Reporters of local papers may be allowed to see the Judgement? no
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

Applicants are ex-servicemen re-employed in various Central Govt. Departments after 25.1.1983. Though they are eligible for the benefit of relief on pension after Annexure A-1 order, respondent No.2 denied the same to them on account of their re-employment. Hence, they have filed this application under section 19 of the Administrative Tribunals' Act for a direction to the respondents to pay relief payable to the applicants on their military pension during the period of their employment and for a direction to return the entire pension relief of the applicants suspended so far.

2. The details of the service particulars of the applicants are given in para 1 to 17 statements of facts in the original application. Learned counsel for applicants submitted that the case is covered by the judgment of the Full Bench of this Tribunal in T.A.K. 732/87 and the same can be disposed of following the law laid down in that judgment.


3. We have already granted sufficient time to the respondents to file reply. Till today, no reply has been filed. Learned counsel for respondents did not deny the fact that the case of applicants is covered by the decision of this Tribunal in TAK 732/87. The only submission made by him is that the judgment is pending before the Supreme Court and the same is stayed.


4. We have disposed of number of similar cases following the law laid down by the Full Bench in TAK 732/87 holding that the Full Bench decision has not been set aside or modified by the Supreme Court ^{so far.} Consistently we are taking the view that so long as the judgment of Full Bench is either reversed or modified, this Tribunal is bound to follow the same. Accordingly, we are of the view that this application can be disposed of in the line indicated by learned counsel for applicant. The relevant portion in TAK 732/87 is extracted below:

"...Where pension is ignored in part or in its entirety for consideration in fixing the pay of re-employed exservicemen who retired from military service before attaining the age of 55 years, the relief including adhoc relief, relating to the ignorable part of pension cannot be suspended, withheld or recovered, so 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 orders viz. O.F. F-22(87)EV(A)/75 dated 13.2.76 O.M.F-10(26)-B(TR)/76 dated 29.12.76, OM F-13(8)-EV(A)/76 dated 11.2.77 and O.M.No. M-23013/152/79 MF/CGA/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."

5. In the light of the above, we direct the respondents to the applicants to pay/relief on military pension during the period of their re-employment. We also further direct respondents to disburse relief on pension which has already been withheld/suspended from the salary of the applicants so far. The aforesaid direction shall be complied with within a period of three months from the date of receipt of this judgment.
6. The application is allowed as indicated above.
7. There will be no order as to costs.


(R. RANGARAJAN)
ADMINISTRATIVE MEMBER


(N. DHARMADAN)
JUDICIAL MEMBER

15.4.93

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