

CENTRAL ADMINISTRATIVE TRIBUNAL  
BOMBAY BENCH

Original Application No: 968/92

XXXXXXXXXXXXXXXXXXXX

DATE OF DECISION 1.2.1994

Shri P.P.Kamalanandan Petitioner

Shri V.M.Bendre Advocate for the Petitioners

Versus

Union of India & Ors. Respondent

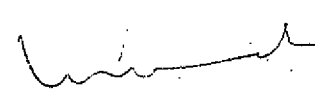
Shri P.M.Pradhan Advocate for the Respondent(s)

CORAM:

The Hon'ble Shri Justice M.S.Deshpande, Vice Chairman

The Hon'ble Shri

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. Whether it needs to be circulated to other Benches of the Tribunal ?

  
(M.S.DESHPANDE)  
VICE CHAIRMAN

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
BOMBAY BENCH, BOMBAY

DA.NO. 968/92

Shri P.P.Kamalanandan

... Applicant

V/S.

Union of India & Ors.

... Respondents

CORAM: Hon'ble Vice Chairman Shri Justice M.S.Deshpande

Appearance

Shri V.M.Bendre  
Advocate  
for the Applicant

Shri P.M.Pradhan  
Advocate  
for the Respondents

ORAL JUDGEMENT

Dated: 1.2.1994

(PER: M.S.Deshpande, Vice Chairman)

The applicant seeks after re-employment benefit of one additional increment on the basis of sterilization operation which he had undergone during the course of his military service and for payment of DA, HRA and other allowances on the ignorable part of pension that became payable to him after his retirement from military service.

2. The applicant had joined the Army in October, 1968 and retired on 31.12.1987. He was enrolled with the District Sainik Board and was called for interview with the Defence Estate Service in February/March 1988. He was interviewed in April 1988 and was selected. He was then appointed as a Lower Division Clerk on 26.4.1988. He gave an option for pay fixation on 18.7.1988 in terms of para 4(b)(i) and para 5 of the Civil Services Fixation of Pay Rules for re-employed Army personnel. The applicant was fixed at the lowest stage of the scale of the Lower Division Clerk and about that fixation the applicant has no grievance.

3. The first submission is that he should be given DA on the ignorable part of his pension. This position is no longer res-integra in view of the Full Bench decision in P.G.Laxmana Panikar & Ors. vs. Secretary to Govt. of India & Ors. (1990) 12 ATC 514 where it was held that since :

"The fixation of pay of a re-employed person is done without any consideration whatsoever to ignorable part of pension. Dearness allowance is also fixed without any reference to that portion of pension. Consequently, to deny the relief on the ignorable portion of pension merely on the ground of re-employment will be arbitrary and amount to deprivation of property."

This decision was stayed by the Supreme Court but in V.V.Rajan vs. Union of India & Ors. (1991) 16 ATC 110, it was held that the Full Bench decision still binds the Tribunal in spite of the stay and has to be followed by the Division Bench. In view of this position, it is clear that the applicant could be entitled to Dearness relief on the ignorable part of his pension in spite of his re-employment.

4. The second submission is that the applicant could not have denied the benefit of the special increment based on the sterilization operation undergone in view of order dated 4.12.1979 which permitted the benefit of those orders on past cases. It is very clear that the applicant will be entitled to this additional benefit in spite of the fact that he came to be re-employed after his retirement from military service.

5. In the result, the application is allowed.


The respondents are directed to calculate the amount that could be due to the applicant as Dearness relief on the ignorable pension after the date of his joining as Lower Division Clerk w.e.f. 26.4.1988 as well as the increment which will be due to him for sterilization operation calculated from the aforesaid date and pay him those and other benefits such as HRA within three months from the date of receipt of a copy of this order.

  
(M.S. DESHPANDE)  
VICE CHAIRMAN

mrj.

Reply of Respondent to  
M.P. Decd. on 13-5-94



Reply of Respondent to  
R.P. Decd. on 13-5-94  


IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
BOMBAY BENCH, 'GULESTAN' BUILDING NO.6  
PRESCOT ROAD, BOMBAY 1

R.P. NO. 60/94

in

O.A. No. 968/92

Director of Defence Estates

Ministry of Defence

Southern Command

Pune & 3 ors.

..Applicants

(Original Respondents)

V/s

P.P. Kamlanandan

L.D.C.

Office of Defence Estate Office

Bombay Circle

Colaba, Bombay.

..Respondent

(Original Applicant)


Coram: Hon. Shri Justice M.S. Deshpande, Vice Chairman

TRIBUNALS ORDER(By Circulation)  
(Per: M S Deshpande, Vice Chairman)

Dated: 9.6.1994

This review petition is directed against judgment delivered in OA NO. 968 of 1992 on 1.2.1994 by which the dearness relief which was directed to be paid ~~the~~ <sup>part of</sup> ~~dearness~~ relief on the ignorable pension and the additional increment due to sterilization operation performed on the respondent.

No new points are being agitated by the review application. All the points which are being raised by the Review Petition were argued and considered and the judgment delivered on 1.2.94. There is no merit in the Review Petition and it is accordingly dismissed.

  
(M.S. Deshpande)  
Vice Chairman

C.F.No. 10/95  
for orders  
dated 27/1/95

2011

Dated: 27/1/95.

Applicant in person.

Respondents by Sh. P.M. Pradhan. The applicant states that he has received the benefits which were directed to be paid as per para 4 of the Judgment dt. 1/2/94, but with regard to the other reliefs i.e. Dearness Relief on ignorable pension after the date of his joining as an L.D.C. w.e.f. 26/4/1988.

Sh. Pradhan, counsel for the Respondents states that the Respondents want to prefer an S.L.P. before the Supreme Court in view of the decision in Union of India v/s. G. Vasudevan Pillay & ors. (1995(1) SCALE Pg. 9).

In view of this we find that there is no wilful disobedience of the direction given by this Tribunal.

The C.P. is disposed of. Liberty to the applicant to approach the Tribunal in respect of the pension part of the direction after six months.

dt. 27/1/95  
order/Judgment despatched  
to applicant/respondent(s)  
13/2/95

15/2

(P.P. Srivastava,  
MCAI.)

(M.S. Jethwani)  
V/c.