

Office Notice, Office  
Memorandum, of coram  
Appearance, Tribunal's  
Orders of direction &  
Registrar's Orders.

Tribunal's Orders

Per Tribunal

Fixed for A.H./I.R. 1/1/93

*G. Y. Registrar*  
D.Y. Registrar  
30/12/92

Dated: 1.1.93

Mr. B. Dattamurthy, counsel  
for the applicants.

Mr. Dattamurthy seeks  
permission to withdraw this  
application since the grievance  
pertains to payment of relief on pension  
earned by the applicants for  
their services as members of  
Armed Force prior to their  
employment in the Railways.  
and Since this Tribunal has  
no jurisdiction over the service  
matters pertaining to the Armed  
Forces the applicant is permitted  
to withdraw this application.  
OA is disposed of as withdrawn.

*if*  
(M.Y. PRIOLKAR)  
(A)

*Order/Judgement Dispatched  
to Applicant/Respondent(s)  
on 3/1/93*

*3/1/93*

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
BOMBAY BENCH, BOMBAY

R.P.No.13/93

in

DA.NO.1310/92

Shri Y.P.Sharma & Ors. ... Applicants

v/s.

Union of India & Ors.

CORAM: Hon'ble Member (A) Shri M.Y.Priolkar

Appearance

Shri B.Dattamurthy  
Advocate  
for the Applicants

Shri R.K.Shetty  
Advocate  
for the Respondents

Tribunal's Order

Dated: 17.8.1993

The Review Petition is allowed and I proceed to  
hear the case on merits with the consent of both the parties.

2. The applicants are all military pensioners and are  
re-employed in Civilian posts in Western Railway, Bombay.  
They were all receiving military pension along with  
admissible dearness relief. On re-employment, however,  
the dearness relief admissible on the pension was stopped.  
The applicants have, therefore, approached this Tribunal  
for a direction to the respondents to restore payment of  
dearness relief admissible on the military pensions received  
by them.

3. It appears that because of various conflicting decisions  
on this point in various Benches of this Tribunal, the issue  
was referred to a Full Bench of this Tribunal at Ernakulam  
and the Full Bench had held that :

"where pension is ignored in part or in its entirety for consideration in fixing the pay of the re-employed ex-servicemen who retired from military service before attaining the age of 55 years the relief on pension cannot be suspended, withheld or recovered, so long as the dearness allowance received by such re-employed pensioner had been determined on the basis of pay which has been reckoned without consideration of the ignorable part of pension ....."

(1990) 12 ATC 514 - P.G.Laxmana Panikar & Ors. vs. Union of India & Ors.

3. The operation of this judgement of the Full Bench has, however, been stayed by the Supreme Court by its order dated 22.1.1992.

4. In the circumstances, the learned counsel for the respondents suggests that this OA. may be disposed of finally on an undertaking which he is prepared to give that whatever be the final decision of the Supreme Court on this SLP which is pending in the Supreme Court, the respondents will implement the decision although the applicants in this OA. are not parties in the case pending before the Supreme Court and irrespective of any limitation provision which may be attracted at that time. Accordingly, the learned counsel for the respondents gives the undertaking as above which is acceptable to the applicant's counsel. This OA. is accordingly disposed of with the direction that the respondents shall implement the decision of the Supreme Court in this case in respect of the applicants in this O.A. as per their undertaking. No order as to costs.

  
(M.Y.PRIDLKAR)  
MEMBER (A)