

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 OA. as per their undertaking. No order as to costs.


(M.Y.PRIDLKAR)
MEMBER (A)

mrj.