

CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

Original Application No: **1018/93**

Transfer Application No:

DATE OF DECISION: **17.8.1994**

S.S.Khedekar.

Petitioner

Shri S.P.Saxena

Advocate for the Petitioners

Versus

Union of India & Ors.

Respondent

Shri S.S.Karkera.

Advocate for the Respondent(s)

CORAM :

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

The Hon'ble Shri

1. To be referred to the Reporter or not? **IV**
2. Whether it needs to be circulated to other Benches of the Tribunal? **(IV)**


(M.S.DESHPANDE)
V ICE-CHAIRMAN

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

BOMBAY BENCH, BOMBAY.

Original Application No.1018/93.

S.S.Khedekar.

.... Applicant.

V/s.

Union of India & Ors.

.... Respondents.

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

Appearances:-

Applicant by Shri S.P.Saxena.

Respondents by Shri S.S.Karkera.

Oral Judgment :-

¶Per Shri M.S.Deshpande, Vice-Chairman] Dt. 17.8.1994.

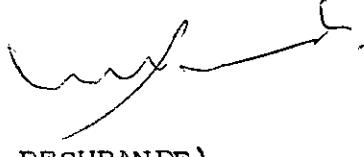
The only question which arise for consideration is whether the amount allegedly recoverable by the Respondents towards damage-rent for continuing in occupation of Government Quarters could be deducted from the amount of Pension and Dearness Relief admissible on the Pension payable to the applicant.

2. The applicant who had joined the service in 1953 retired on superannuation on 31.3.1991. In 1966 he was re-habilitated in certain Quarters constructed by the P & T Department. According to the applicant the agreement was that if the occupants paid the cost of construction the Quarters allotted to them will be transferred to the allottees. After his retirement he filed a Civil Suit No.1502/91 on 28.8.1991 in the Court of the Civil Judge, Senior Division, Pune seeking the declaration of his ownership and obtained an order of status quo. According to the Respondents, the applicant had filed an Original Application before this Tribunal and it came to be rejected on 2.9.1989. The contention

of the applicant is that that OA was not signed by him, but by some one else and the decision would not bind him. It is not necessary to enter into that controversy because the controversy here is restricted to the question which I have pointed out above. The applicant was to get Rs.587/- as basic pension and Rs.625/- as dearness relief.

3. The applicant learnt that the Respondent No.3 had ordered withholding of the Pension in October, 1992, but it was not preceded by an inquiry and the order was not served on the applicant. According to the applicant he was asked to sign on a full receipt, but was not to be paid the dearness relief and he declined to sign any such receipt. The contention of the Respondents is that there was an earlier decision by the Tribunal wherein it was ordered that the applicant and others should pay all the arrears of rent and this order has not been obeyed. Whatever may be the contentions of the parties in the earlier litigation the only question which has to be resolved in the present case is whether the amount which the respondents claim to be entitled to by way of damage-rent could be recovered from pension. That pension also includes dearness relief is a matter which is no longer res integra in view of a decision of the Jodhpur Bench of this Tribunal in U.M.Goel V/s. UOI decided on 19.12.1992 (AISLJ VI - 1992(2) page 180) and Dominic James V/s. Station Commander (Military), Sub-Area, Bombay & Ors. (1992) 21 ATC 735). It is therefore, clear that the amount of pension on dearness relief could not have been withheld from the applicant.

I make it clear that no other issue between the parties has been decided in the present case. The Respondents are restrained from continuing to deduct any amount from the pension or dearness relief from the applicant and if any amount has been recovered from the applicant from the pension and dearness relief, that amount be refunded to the applicant within two months from the date of communication of this order.



(M.S.DESHPANDE)
VICE-CHAIRMAN

B.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,

MUMBAI BENCH, MUMBAI.

REVIEW PETITION NO. 46 OF 1998, and M.P. 467/98,
IN
ORIGINAL APPLICATION NO. 1018 /1993.

Monday, this the 12th day of October, 1998.

Coram: Hon'ble Shri Justice R.G.Vaidyanatha, Vice-Chairman,
Hon'ble Shri D.S.Baweja, Member(A).

Union of India & Ors.

... Petitioners
(Original Respondents)

(By Advocate Shri S.S.Karkera)

V/s.

K.S.Khedekar.

... Respondent.

(By Shri R.S.Kulkarni, Advocate)

(Original Applicant).

O R D E R

(Per Shri Justice R.G.Vaidyanatha, Vice-Chairman)

This Review Petition No.46/98 is filed by the original Respondents to review the order passed by this Tribunal on 17.8.1994. Since there is a delay in filing the R.P., the M.P. 467/98 is filed for condoning the delay. We have heard the learned counsel for the parties in support of the R.P. and the question for condonation of delay.

2. To day, we have passed an order on Review Petition No.45/98 in O.A. 523/98 stating that R.P. does not lie on the basis of a decision of the Larger Bench passed after the original Judgment and further that ground is not sufficient for condoning the delay. We adopt the same reasoning in the present R.P. and M.P. also. For the reasons mentioned in said order passed in R.P. No.45/98 in O.A. 523/91, we hold that both the R.P. and M.P. are liable to be rejected.

3. In the result, R.P. 46/98 and M.P.467/98 are rejected at the admission stage itself.

(D. S. BAWEJA
MEMBER(A))

R. G. Vaidyanatha
VICE - CHAIRMAN

B.