

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,  
MUMBAI BENCH, MUMBAI.

ORIGINAL APPLICATION NO.1061/94

Thursday, this the 8th day of July, 1999.

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

1. Smt. S.S.Joshi,  
1820, Sadashiv Peth,  
Deshmukh Wadi,  
Pune - 411 030.
2. Smt.M.R.Gokhale,  
1294, Shivajinagar,  
Pune - 411 009.
3. Smt. S.R.Potnis,  
39/29, Erandavana,  
Rama Madhav Apartments,  
Pune - 411 004.
4. Smt. Vasantan,  
297, Rasta Peth,  
Pune 411 011.

...Applicants.  
(By Advocate Shri H.Y.Deo)

Vs.

1. Union of India  
through The Secretary,  
Ministry of Defence,  
Raksha Bhavan,  
New Delhi.
2. The Commandant,  
The Controller of Defence  
Accounts (Pension),  
Allahabad.
3. The Chief Engineer,  
Southern Command,  
Pune - 411001.

...Respondents.  
(By Advocate Shri R.K.Shetty)

**: O R D E R :**

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

In this application, the four applicants are claiming that they should get Dearness Allowance on the basic family pension they are getting in addition to their regular pay and pension which they are getting on being employed on compassionate appointment after the death of their respective husbands. The respondents have filed reply opposing the application. We have

heard the learned counsel appearing on both sides.

2. In this case, the applicants are four Ladies who came to be appointed on compassionate grounds after the death of their respective husbands. All the applicants are getting Family Pension. Now, after their employment on compassionate grounds, the Administration has denied them the Dearness Relief on the basic Family Pension. Being aggrieved by that order, the applicants' have approached this Tribunal.

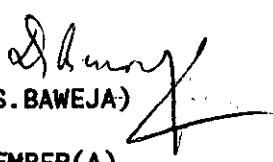
The respondents stand is that the Dearness Relief can be given only once and since it is being given on the basic pay of the applicants' present salary on compassionate appointment, they cannot get the Dearness Relief again on the basic Family Pension. The respondents are also relying on the relevant rules.

The applicants' are challenging the legality of the rules which prohibits payment of Dearness Relief on the basic pension after re-employment.

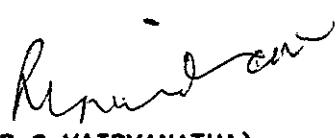
3. Though many documents have been filed and lengthy pleadings are made, we find that the point is no longer res-integra and is covered by a direct authority of the Supreme Court in an unreported Judgment dt. 8.12.1994 in Civil Appeal Nos.3734/94 and connected cases, which is annexed as Ex.R-1 to the reply. Similar question arose before the Supreme Court where the Ex-Servicemen who are re-employed are entitled to get Dearness Relief both on their pension as Ex-Servicemen and on their salary on re-employment. Then, another question posed before the Supreme Court was Dearness Relief on the Family Pension in respect of Family Pension of defendants who are subsequently re-employed on compassionate grounds. The Supreme Court, considered both types of cases and held that Dearness

relief cannot be claimed twice both on basic pension and basic pay on re-employment. It can be claimed only once. Even regarding Family Pension of re-employed dependants, the Supreme Court has held that Dearness Relief cannot be claimed on the pension. In view of these authoritative declaration by the Supreme Court, we find that there is no merit in the present application.

4. In the result, the application is dismissed. There will be no order as to costs.

  
(D.S. BAWEJA)

MEMBER(A)

  
(R.G. VAIDYANATHA)

VICE-CHAIRMAN

B.