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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD.

O.A.No.1528/93.

Date of Judgement : 16.3.95

Y.Raja Rao

.. Applicant

Vs.

Union of India, Reptd. by:

1. The General Manager,
South Eastern Railway,
Garden Reach,
Calcutta-700043.

2. The Secretary,
Ministry of Railways,
Railway Board,
Rail Bhavan,
New Delhi-110001.

3. The Secretary,
Ministry of Personnel,
Dept. of Pensions &
Pensioners' Welfare,
3rd Floor, Loknaya
Bhavan, Khan Market,
New Delhi-110003.

.. Respondents

...

Counsel for the Applicant :: Shri Y.Raja Rao,
Party-in-person.

Counsel for the Respondents:: Shri N.R.Devaraj,
SC for Railways.

...

C O R A M

Hon'ble Shri A.V.Haridasan : Member(J)

Hon'ble Shri A.B.Gorthi : Member(A)

J u d g e m e n t

{ As per Hon'ble Shri A.B.Gorthi : Member(A) }

The grievance of the Applicant is that his pension should have been fixed at Rs.1830/- p.m. w.e.f. 1.1.86 instead of Rs.1625/- p.m. as was done. For this purpose, he claims that the revised relief on pension w.e.f. 1.1.86 should continue to be 92.5% instead of 70% of pension in respect of Government servants who retired on or after 31.1.83 but before 31.3.85, who are drawing pension more than Rs.500/- and have opted for the merger of dearness allowance upto 320 points.

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2. Circumstances leading to the Government's decision to revise the relief on pension can be found in Chapters 10 and 11 of the IVth Pay Commission Report - Part II (Pension). At the very outset, the Report makes an observation that "pensioners drawing pension upto Rs.500/- were about 91.5% of the total number of pensioners". The scheme of graded relief based on a recommendation of the IIIrd Pay Commission provided for dearness relief @ 2.5% of pension subject to a maximum of Rs.12,50 P. for every ^{8 point} increase in the Consumer Price Index (C.P.I. for short) average. There was a restriction on the amount of pension plus graded relief. The effect of such restriction was that those drawing pension above Rs.500/- were not given adequate relief against price rise and this fact was noted by the IVth Pay Commission. Having further examined "all relevant factors" the Commission recommended that the relief on pension be revised covering all the four categories of pensioners referred to in tables I to IV in the Government's O.M. dt. 3.3.86, which related to grant of dearness relief to pensioners. The details of recommendations are summarised below:-

(a) Table-I relates to Govt. servants who retired prior to 30.9.77 and those who retired between 30.9.77 and 30.4.79 but not opted for merger of dearness allowance upto 272 points (We are not here concerned with family pensioners etc.). In respect of such pensioners covered by Table-I and who are drawing pension above Rs.500/- the revised relief was fixed at 95% of pension subject to a minimum of Rs.813/-.

(b) Table-II relates to Govt. servants who retired between 30.9.77 and 30.4.79 and have opted for merger of dearness allowance upto 272 points and those who retired after 30.4.79 and did not opt for merger of dearness allowance upto 320 points. In respect of such pensioners

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drawing pension more than Rs.500/- the revised relief was fixed at 80% of pension subject to a minimum of Rs.663/-.

Table-III relates to Govt. servants who retired on or after 31.1.82 but before 31.3.85 and have opted for merger of dearness allowance upto 320 points.

The Applicant falls in this category of pensioners.

In respect of such pensioners drawing pension more than Rs.500/- the revised relief was fixed at 70% of pension subject to a minimum of Rs.563/-.

(d) Table-IV relates to Govt. servants who retired on or after 31.3.85 and we need not examine the same.

3. In all these tables the rate of increase of relief on pension was different in respect of pensioners drawing Rs.500/- or less compared to pensioners drawing more than Rs.500/- pension. In respect of those governed by Table-III, pensioners drawing pension upto Rs.500/- were given relief as on 1.1.86 at 92.5% of pension and it was to be increased by 10% (of pension plus relief) subject to a minimum of Rs.50/-. However, in respect of those drawing more than Rs.500/- as pension, the revised relief was fixed at 70% of pension subject to a minimum of Rs.563/-.

4. Elaborate arguments were advanced personally by Shri Y.Raja Rao, the Applicant, who happens to be a practising advocate now. His main attack is on the ground of discrimination between pensioners drawing pension upto Rs.500/- and those drawing more. He claims that pensioners like him who are drawing more than Rs.500/- p.m. should also be given relief amounting to 92.5% of pension as was given to those drawing pension

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upto Rs.500/- p.m. The general line of argument was on the adequacy and appropriateness of restricting the relief to 70%. The resultant revised pension, according to him, is not enough to maintain even the minimum standard of life expected to be led by a Govt. official of his rank and status.

5. The Applicant gave his written arguments elaborating therein, with the assistance of several facts and figures, as to how the percentages of revised relief in respect of pensioners drawing pension more than Rs.500/- p.m. have no basis or relation to the neutralisation factors and the objective to be achieved, namely, upgrading the pension to compensate the erosion in the value of the rupee. He also contended that while evaluating neutralisation factors, the IVth Pay Commission adopted two different criteria, one for pensioners and another for serving employees. He asserted that neutralisation is governed by percentage against 8 points of C.P.I. while the constancy of neutralisation is maintained by a parallel increase of the percentage alongwith the C.P.I. The sum and substance of his argument is that despite the revised relief on pension granted to him on the basis of the recommendations of the IVth Pay Commission, "the value" of his pension stood reduced.

6. Learned standing counsel for the Respondents urged that the decision of the Government in fixing the revised relief was based on the recommendation of the IVth Pay Commission and that it was neither arbitrary nor unfair nor discriminatory.

7. A careful examination of Chapters 10 and 11 of the IVth Pay Commission Report - Part II (Pension) would clearly indicate that the Commission was required to examine and it did examine the complex question of revising the pensioner's benefits in a manner as would protect the purchasing power of pension through an appropriate scheme of compensation against price rise. In considering this question, besides

examining numerous aspects of the problem the Commission had to bear in mind the increase in the number of pensioners, the longer life span and the impact of

The Commission also noted the suggestions made by the union of employees with regard to relief on pension to the effect that pension should be fully indexed against price rise and the dearness relief to pensioners should be the same as dearness allowance payable to serving employees. When a complex matter of this nature was duly examined by an expert body, and if recommendation was accepted by the Government, it would rather be a rare occasion when we could justifiably be called to interfere with such a decision. No doubt the Tribunal has jurisdiction and ^{an} aggrieved employee has the remedy provided there is injustice resulting from any arbitrary or discriminatory decision. As aforesaid, the decision relating to the relief on pension was taken by the Government after all the relevant aspects of it were duly examined by the IVth Pay Commission. The said decision cannot, therefore, be viewed as arbitrary.

8. The Applicant placed emphasis on the fact that the relief on pension granted to those drawing pension upto Rs.500/- was at a higher rate than that sanctioned for those drawing pension of more than Rs.500/- and that this was an unwarranted discrimination. The IVth Pay Commission made positive and pragmatic recommendation to the effect that pensioners in the lower bracket of pension should be given relief to provide them full neutralisation of price rise and that the pensioners in the higher bracket of pension could be given graded relief providing for part neutralisation only. The Applicant who is in the higher pension bracket cannot equate himself to those in the lower pension bracket. If a more beneficial provision is made in the

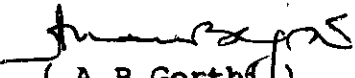
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grant of relief to pensioners drawing pension upto Rs.500/- only it is a measure aimed at achieving the Constitutional goal of socialism. The question of discrimination in this case does not arise.

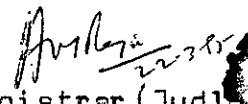
9. Finally we may observe that in any welfare scheme that is introduced by the Government there is a possibility of a segment of the employees remaining unsatisfied. So long the scheme does not suffer from the vice of arbitrariness, discrimination, irrationality or perversity, there is hardly any scope for the Tribunal to interfere with the scheme.

10. We thus find no merit in this O.A. and the same is hereby dismissed. No order as to costs.


(A.B. Gorthi)
Member(A).


(A.V. Haridasan)
Member(J).

Dated: 16 March, 1995.


Dy. Registrar (Judl.)

br.

Copy to:-

1. The General Manager, South Eastern Railway, Union of India, Garden Reach, Calcutta-043.
2. The Secretary, Ministry of Railways, Railway Board, Rail Bhavan, New Delhi-001.
3. The Secretary, Ministry of Personnel, Dept. of Pensions & Pensioners Welfare, 3rd floor, Loknaya Bhavan, Khan Market, New Delhi-003.
4. One copy to Sri. Y.RajaRao, (Party-in-person), H.No. 45-58-7/4, Narasimhanagar, B.P.O.Saligramapuram, Visakhapatnam.
5. One copy to Sri. N.R.Devaraj, Sr. CGSC, CAT, Hyd.
6. One copy to Library, CAT, Hyd.
7. One spare copy.

Rsm/-



DA-1528993

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH

THE HON'BLE MR.A.V.HARIDASAN : MEMBER(J)

AND

THE HON'BLE MR.A.B.GORTHY : MEMBER(A)

DATED : 1/13/95

ORDER/JUDGEMENT.

M.A./R.P./C.P.No.

in

O.A.No. 1528993

Admitted and Interim directions
issued

Allowed

Disposed of with Directions

Dismissed

Dismissed as Withdrawn

Dismissed for Default.

Rejected/Ordered

No order as to costs.

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