

(4)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL AT :: HYDERABAD
O.A.NO. 814 OF 1994

Between:-

1. D.Jaya Rao, S/o.D.Subbaiah, aged about 47 years, working as Supervisor in Telephone Exchange of Chirala Trunk Exchange (Under T.D.E.Ongole).
2. Smt.Seelam Mariamma, W/o.S.Yopan, aged about 32 years, Working as Group-D in the Office of the S.D.O.T.Chirala under T.D.E.Ongole.

... APPLICANTS

A N D

1. The Telecom District Manager, Engineer, Ongole.
2. The Chief General Manager, Telecommunication, Doorsanchar Bhavan, Hyderabad.
3. The Director General, Telecommunication, Sanchar Bhavan, New Delhi.
4. Union of India, represented by its Secretary, Ministry of Finance, New Delhi.

... RESPONDENTS

DETAILS OF THE APPLICATION

1. Particulars of the Applicants : Shown as above
Address for Services : Mr.K.Venkateswara Rao, Advocate, 2-2-1136/3/1, Jayalaxminivas, New Nallakunta, Hyderabad.
2. Particulars of the Respondents : Shown as above
3. Particulars of the Order:-
 1. Order No. & Date : No Order
 2. Subject in brief : Dearness relief on family pension.
4. JURISDICTION:- The Applicants declare that the subject matter of the O.A. is within the jurisdiction of this Tribunal as per Sec.14 of the Admn.Tribunal's Act, 1985.
5. LIMITATION:- The O.A. is within time as per Sec.21 of the Administrative Tribunal's Act, 1985.
6. FACTS OF THE CASE:-

(A) The first applicant is aggrieved by the impugned action of the respondents in not paying dearness relief on ~~his~~ family pension from the date following the date of ~~his~~ death of his wife and the second applicant is aggrieved by the impugned action of the respondents in not paying dearness relief on family from the date of her appointment on compassionate grounds which is illegal, arbitrary, discriminatory, and violative of Articles 14 and 16 of the Constitution and opposed to all canons of equity, justice and fairplay.

(B) The Applicants submit that the wife of the first applicant Smt.D.Manorama expired on 27.8.1989, while working as T.S.(O) and the husband of the second applicant S.Yogan died on 5.12.1991 while working as Lineman in Telecommunication. Both the applicants were sanctioned family pension as admissible under the rules. The first applicant was not sanctioned any relief on the family pension, while the second applicant was granted relief on her family pension.

~~the first applicant was working as Supervisor in the Department of Telecommunication~~
~~the second applicant was appointed on compassionate grounds in Group-D post from 20.4.1994.~~ The grievance of the applicants is that they are ~~now~~ not being paid dearness relief on family pension as the first applicant was working in Telecom even before the death of the wife of the first applicant, while the second applicant was not being paid dearness relief from the date of her appointment ~~on compassionate grounds from 20.4.1994, which is illegal, arbitrary, and discriminatory.~~ It is relevant to submit that similarly placed Government servants appointed on compassionate grounds have approached the Hon'ble Madras Central Administrative Tribunal in O.A.No.801/91 and Hon'ble Ernakulam Bench in O.A.Nos.1132, 1133, 1134/92 and the same have been allowed on 31.1.1992 and 25.1.1992 respectively by holding to continue to pay dearness allowance on family pension to the applicant. Following the said decision, this Hon'ble Tribunal has also allowed O.A.No.1116/93 on 13.9.1993 at the admission stage itself. The Applicants submit that their unions have been representing to the Respondents for payment of dearness allowance (relief) to the Applicants and others similarly placed pensioners after having come to know the judgements of Hon'ble Madras and Ernakulam Bench, but the respondents

(b)

have not favourably responded. It is relevant to submit that the Hon'ble Supreme Court has held in *Inderpal Yadav. Vs. Union of India* 1985 2 SEC 648 that those who have not approached the Court and who are similarly situated will be entitled to similar benefits. Thus in view of the above, the decisions aforesaid will equally apply and they are entitled for dearness relief on the family pension even after their compassionate appointments and the Respondents cannot refuse the same on untenable grounds. The Applicants submit that the first applicant submitted a representation on 8.7.1993 for extending the benefits of judgement of Ernakulam Bench in O.A. Nos. 1132/1992, 1133/92 and 1134/92 but there was no favourable response. The Applicants have therefore been constrained to approach this Hon'ble Tribunal as they have no other effective alternative remedy.

7. REMEDIES EXHAUSTED:- The Applicants have no other effective, alternative remedy except to approach this Hon'ble Tribunal.

8. MATTERS NOT PREVIOUSLY FILED OR PENDING:- The Applicants have not filed any other O.A./W.P. in this regard and such a case is not pending in any court or authority of law.

9. MAIN RELIEF:- It is therefore prayed that this Hon'ble Tribunal may be pleased to declare that the first applicant is entitled for payment of dearness relief on family pension from the date following the date of death of his wife and the second applicant is entitled for payment of dearness relief from the date of her appointment on compassionate grounds with all consequential benefits such as arrears and other attendant benefits as admissible from time to time and pass such other order or orders as this Hon'ble Tribunal may deem fit and proper in the circumstances of the case.

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10. INTERIM RELIEF:- It is therefore prayed that this Hon'ble Tribunal may be pleased to fix an early date for final hearing and pass such other order or orders as this Hon'ble Tribunal may deem fit and proper in the circumstances of the case.

11. COURT FEE:-

I.P.O. No. & Date : 808 352162 15/23/94

Name of the P.O. which drawn : Muthangalha P.O. Andhra Pradesh

12. ENCLOSURES:- IPO., Material papers, Covers, Pads & etc. (850/-)

~~I.P.O. B.C. B.D. / Removal~~

27/6/94

VERIFICATION

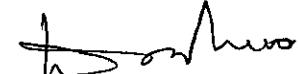
We, the undersigned applicants herein do hereby verify that the contents in the above paras are true to our personal knowledge and legal advice from our counsel and we have not suppressed any material facts.

Hyderabad,

Dated :

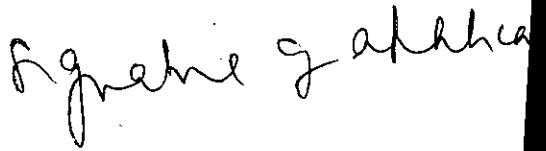
Signature of the Applicants.

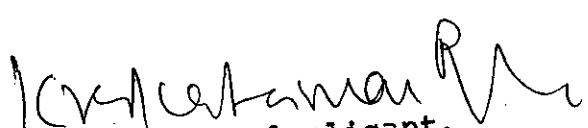
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Counsel for the Applicant.