

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, HYDERABAD
BENCH AT HYDERABAD.

O. A.No. 788 OF 1994.

Between:

1. P.Bhanumathi, w/o late P.Babu Rao,
Hindu, aged about 42 yrs.
2. G.Neelaveni, w/o late G.Jaggu
Naidu, Hindu, aged about 42 yrs.
3. R.Kamalamma, w/o late R.Prakasa
Rao, Hindu, aged about 45 yrs.
4. D.Vijayalakshmi, w/o late D.Subba
Rao, Hindu, aged about 35 yrs.
5. N.Suramma, w/o late N.Jogi Naidu,
Hindu, aged about 49 yrs.
6. S.Appalanarasamma, w/o late S.
Appa Rao, Hindu, aged about 54 yrs.
7. Ch.Dalayamma, w/o late Ch.Surya-
narayana, Hindu, aged about 45 yrs.
8. Y.Bala Tripura Sundari, w/o late
Y.Veerabhadhra Rao, Hindu, aged
about 40 yrs.
9. M.Padma, w/o late M.V.Ramana,
Hindu, aged about 42 yrs.
10. K.Demudamma, w/o late K.Pydithalli,
Hindu, aged about 42 yrs.
11. R.Leelavathi, w/o late R.Eswara
Rao, Hindu, aged about 32 yrs.
12. T.K.Mahalakshmi, w/o late T.S.N.
Murty, Hindu, aged about 52 yrs.
13. P.Appalanarasamma, w/o late P.
Appa Rao, Hindu, aged about 50 yrs.
14. N.Subba Lakshmi, w/o N.Jagannadham,
Hindu, aged about 46 yrs.
15. J.Jayalakshmi, w/o late J.Rajani-
Kantha Rao, Hindu, aged about 41 yrs.
16. P.Samanthakamani, w/o late P.
Dasarathi, Hindu, aged about 48 yrs.
17. J.Sarojini, w/o late J.V.Narayana
Murty, Hindu, aged about 45 yrs.
18. A.V.Hymavathi, w/o late A.V.
Swamy, Hindu, aged about 53 yrs.

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19. T.Prabhavathi, w/o late T.Babu Rao, Hindu, aged about 49 yrs.
20. G.Rama Ratnam, w/o late G.Naidu, Hindu, aged about 39 yrs.
21. K.Sakuntala, w/o K.Jagannadha Rao, Hindu, aged about 42 yrs.
22. K.Gowramma, w/o late K.Chinna Guruvulu, Hindu, aged about 45 yrs.
23. B.Lakshmi, w/o late B.Appa Rao, Hindu, aged about 42 yrs.
24. B.Kumari, w/o late B.Trinadha Rao, Hindu, aged about 45 yrs.
25. D.Suryakantham, w/o late D. Suryanarayana, Hindu, aged about 49 yrs.
26. G.Kanchana, w/o late G.Krishna Rao, Hindu, aged about 29 yrs.

(All are residents of Visakhapatnam, c/o Sri K.Raghavendra Rao, General Secretary, Railways Pensioners' Federation, Visakhapatnam, Door No.49-23-33, Lalithanagaram, Visakhapatnam-530 016). Applicants.

AND

1. Union of India represented by its Secretary (Establishment) Railway Board, Rail Bhavan, New Delhi.
2. General Manager, South Eastern Railway, Garden Reach, Calcutta-700 043.
3. Divisional Railway Manager (P), South Eastern Railway, Waltair, Visakhapatnam-530 004.
4. Chief Project Manager (Constn.), South Eastern Railway, Visakhapatnam-530 004.
5. F. A. & C. A. O. (Constn.), South Eastern Railway, Visakhapatnam-530 004.
6. Dy.F.A. & C.A.O.(Workshops), South Eastern Railway, Khargpur. Distt. Midnapore. (West Bengal)
7. Sr.D.A.O., South Eastern Railway, Khargpur. Distt: Midnapore. (West Bengal).

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8. Sr.D.A.O., South Eastern Railway, Waltair, Visakhapatnam-530 004.
9. Sr.D.A.O., South Eastern Railway, Chakradharpur. Distt: Singhbhum. (Bihar).
10. Sr.D.A.O., South Eastern Railway, Khurda Road, P.O. Jatni. Distt: Puri. (Orissa).
11. Regional Manager, State Bank of India, R.T.C. Complex, Visakhapatnam-530 020 (for S.B.I. Main, Suryaraopeta, Kakinada, S.B.I., Dondapartip, S.B.I., Industrial Estate and S.B.I./Venkateswara Metta, Visakhapatnam Branches)
12. Post Master, Market Post Office, Vizianagaram-531 201.
13. District Treasury Officer, Collectorate, Visakhapatnam-530 002.
14. Sub-Treasury Officer, M.R.O. Office Compound, Seethammadhara, Visakhapatnam-530 013.Respondents.

The address for service for the purpose of Notices and Summons, etc. of the above Respondents is that of their counsel is the same as stated above in the cause title.

DETAILS OF THE APPLICATION.

1. Particulars of the Order against which the Application is made :-

This application is being filed seeking direction to the Respondents to pay Dearness Relief on family pension to the applicants and also to refund the amounts recovered from such of the family pensioners towards the relief paid from the basic pension of Rs.375/- as cited in the Remarks Column of the statement at Annexure A-I of this O.A. as applicable from the date of stoppage of the same at

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the increased rate thereon from time to time.

2. Jurisdiction of the Hon'ble Tribunal :-

All the applicants herein are the widows enjoying Family Pension and subsequently appointed on compassionate basis and are working at Visakhapatnam within the jurisdiction of this Bench of the Hon'ble Tribunal under section 14 of the Administrative Tribunal Act, 1985.

3. Limitation :-

The application is well within the period of the Limitation prescribed under section 21 of the Administrative Tribunal Act, 1985.

4. Facts of the Case :-

a) All the applicants herein are widows who were sanctioned Family Pension on the death of their respective husbands except item No.14 (ie., N. Subba Lakshmi, w/o N.Jagannadham, who is missing ever since 25.2.74 and his whereabouts are not known). She is sanctioned the Family Pension with effect from 26.2.1981 (ie., 7 years after the disappearance of her husband), under the Family Pension Scheme of Railway Employees, 1964 incorporated in Chapter VIII of Manual of Railway Pension Rules - 1950 (M.R.P.R - 1950). They were subsequently appointed in Class IV/Group 'D' except item 14 herein who was appointed in Class III/Group 'C'. All of them are presently employed in Waltair Division and Construction Department at Visakhapatnam as indicated in the

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statement furnishing the details of date of death of the husband, date from which Family Pension paid, date of appointment on compassionate grounds, etc. and enclosed hereto marked as Annexure A-I.

b) All the applicants herein are poor widows surviving on Family Pension and salary. The basic Family Pension was enhanced to Rs.375/- with effect from 1.1.1986 on the basis of IV Pay Commission Report. All the applicants are entitled to Dearness Relief on the basic Family Pension at the percentages sanctioned from time to time, as the Dearness Relief forms part and parcel of the basic family pension in order to compensate the rise of cost of living and it has the effect of off-setting eroding value of rupee, thus preventing the fall in pension.

c) It is further submitted that on compassionate appointment, the Family Pension of all the applicants was not taken into account for assessing the dearness allowance along with salary and hence they are entitled to receive the Dearness Relief on Family Pension besides payment of dearness allowance on monthly salary. In other words, the basic pension was not taken into account for payment of dearness allowance on the pay plus pension on compassionate appointment. Therefore, there is no contingency of double payment of Dearness Allowance as visualised in Railway Board's letter No.F(E)III 73 PN-I/17 dt.15.5.1974. In fact, in a number of cases various Benches of the Central

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Administrative Tribunal held that payment of Dearness Relief on Family Pension, even on their compassionate appointment is admissible as relief on pension is an inseperable part of pension.

5. Grounds of reliefs with Legal Provisions :-

Pension in the form of dearness relief forms part of pension and therefore it cannot be denied on compassionate appointment, as dearness relief is granted to the pensioner for compensating eroding value of rupee and to provide neutralisation for price rise from time to time. The IV Pay Commission while dealing specifically with the relief in pension has treated the relief as an essential component of pension packet payable to the pensioner vide paras 28 to 34 as brought out in O.A. 1871 of 1987 decided by the Central Administrative Tribunal, Principal Bench, New Delhi, reported in (1988) 8 ATC 26.

This aspect is amply covered by various Benches of Central Administrative Tribunals as (1988) 7 ATC 909; (1992) 20 ATC 933; (1992) 22 ATC 22; (1990) 12 ATC 514; (1991) 16 ATC 110.

The respondents herein should have extended the payment of dearness relief on Family Pension even when they are appointed on compassionate grounds at a later date, in view of many covered decisions of various Benches of the Central Administrative Tribunal as mentioned above, instead of driving them to this Hon'ble Tribunal, which also extended such a benefit in O.A. 1116, 1117

and 1483 of 1993 as the cases of the applicants are very similarly situated and the cause of action is one and the same.

6. Details of remedies exhausted :-

The applicants submit that they have addressed many representations to the authorities concerned individually and also jointly which did not yield any results. The joint representation dated 23.4.94 addressed to all concerned is enclosed and marked as Annexure A-II.

7. Matters not previously filed or pending with any other Court :-

The applicants further declare that they have not previously filed any application, writ petition or suit regarding the same or similar relief in any Court of Law, nor any such case is pending in any Court of Law that is sought for in this original application.

8. Relief sought :-

It is, therefore, prayed that this Hon'ble Tribunal may be pleased to direct the respondents to continue to disburse Family Pension and Dearness Relief thereon as admissible from time to time to all the applicants notwithstanding their employment on Railway and pass such relief or reliefs as this Hon'ble Tribunal may deem fit, just and necessary in the circumstances.

9. Interim Relief :-

Pending final disposal of the main application, it is also just and essential that this Hon'ble Tribunal may direct the respondents particularly Respondent Nos. 11, 12 & 14 to continue to disburse basic family pension of Rs. 375/- plus dearness relief on it as admissible from time to time and pass such other relief or reliefs as this Hon'ble Tribunal may deem fit, just and necessary in the circumstances of the case.

10. Not applicable.

11. Particulars of the Postal Order :-

a) No. of the Postal Order: 92320/b) date: 6/9/94 c) Amount: 50/-

12. List of enclosures :- 7596512 75965276-674 407
630534 606 94 5
Vakalat, Material Papers, Postal Orders, Covers, Pads, etc.

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VERIFICATION.

We, the under signed applicants, do hereby
in the
verify that the contents/above paras are true and
correct to the best of our knowledge, belief and on
legal advice and that we have not suppressed any
material facts.

Place: VISAKHAPATNAM

Date : 30.5.1994.

- [illegible]

SIGNATURE/L.T.I. OF THE APPLICANTS.

D. S. R. Murthy,
COUNSEL FOR THE APPLICANTS.