

(39)

CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH

Original Application No. 1336/97 & Batch cases

DATE OF DECISION: 26.12.97

Smt. V. Renuka and others

-----Petitioner(s)

K. Venkateswara Rao

-----Advocate for the  
Petitioner(s)

Versus

Telecom Dist. Manager, Nalgonda & others

-----Respondent(s)

V. Vinod Kumar, N.R. Devaraj, K. Bhaskar Rao

V. Rajeswara Rao

-----Advocate for the  
Respondent(s)

THE HON'BLE SHRI H. Rajendra Prasad, Member (Admn.)

THE HON'BLE SHRI

1. Whether Reporters of local papers may be allowed to see the judgement?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgement?
4. Whether the Judgement is to be circulated to the other Banches?  
avl/

Judgement delivered by Hon'ble Shri H. Rajendra Prasad, M(A)

(40)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH

AT HYDERABAD

OA.1336/97 & Batch cases

dt. 26.12.1997

Between

Smt. V. Renuka (1336/97)  
Smt. P. Rahmat Bee (OA.1337/97)  
D. Vara Prasad (OA.1338/97)  
Smt. C. Bala Mani (1345/97)  
Smt. L. Nagamani (OA.1346/97)  
Smt. E. Parvathi (1316/97)  
Smt. K. Yasoda (1317/97)  
Smt. Parveen (1363/97)  
Sh. Ansar Begum (1364/97)  
Smt. B. Gopamma (1300/97)  
~~S.V.V.S.N. Murthy (1516/97)~~  
Smt. S. Umadevi (1517/97)  
Smt. G. Suseelamma (1204/97)  
A. Alice Mary & Smt. Ghousia (  
    (MA.959/97 in OA.SR.3219/97)  
Y. Ganga Bhavani  
P. Lakshmi Devi  
K. Yasodamma  
D. Bibi  
D. Bujamma  
N. Kasturbai  
B. Malleswari  
    (MA.956/97 in OASR.3231/97) .. Applicants

and

- A. 1. Telecom District Manager  
    Nalgonda ( 1st Respondent) (OA.1336/97)  
    2. Telecom Dist. Manager, Ongole (1337/97)  
    3. Telecom Dist. Manager, Nalgonda (1338/97)  
    4. Telecom Dist. Manager, Nizamabad (1345/97)  
    5. GM, Hyderabad Telecom Dist., Hyderabad (1346/97)  
    6. Telecom Dist. Manager, Ongole (1316/97)  
    7. Telecom Dist. Manager, Ongole (1317/97)  
    8. Telecom Dist. Manager, Khammam (1363/97)  
    9. Telecom Dist. Manager, Nalgonda (1300/97)  
    10. Telecom Dist. Manager, Ongole (1204/97)  
    11. Telecom Dist. Manager, Nalgonda (MA.959/97)  
    12. Telecom Dist. Manager, Ongole (MA.956/97)  
        (A.1 to 12 all Respondent 1 in the respective cases)
- B. Chief General Manager  
    Telecommunication, AP Circle  
    Doorsanchar Bhavan  
    Nampalli Station Road  
    Hyderabad (R-2 in above cases)
- C. The Chairman, Telecom Commission  
    New Delhi (R-3 in above cases)

..contd.

D. Union of India, rep. by  
The Secretary to the  
Ministry of Finance  
New Delhi (R-3 in above cases)

1. Assistant Commissioner of Central Excise  
Nellore Division, Nellore, Nellore Dist.
2. Collector of Customs, Central Excise  
Lalbahadur Stadium Road, Basheerbagh  
Hyderabad
3. Union of India, rep. by its Secretary  
Min. of Finance, New Delhi

(Respondents in OA.1364/97)

1. Supdt. of Post Offices,  
Hanmakonda Division, Hanmakonda
2. CPMG, AP Circle, Hyderabad
3. DG of Posts, New Delhi
4. Union of India, rep. by the Secretary  
Min. of Finance, New Delhi

(Respondents in OA.1517/97)

Supdt. of Post Offices  
Hanmakonda Division, Hanmakonda

CPMG, AP Circle, Hyderabad

(Respondents in OA.1517/97)

Respondents

Counsel for the applicants in all the above OAs & MAS	:	K. Venkateswara Rao
Counsel for the respondents (OA.1316, MA.959 of 97)	:	N.R. Devaraj, Sr. CGSC
	:	K. Ramulu, CGSC (OA.1363)
	: :	K. Bhaskar Rao (OA.1300, 1364 of 97)
	:	V. Rajeswara Rao, CGSC (OA.1345, 1317 of 97)
	:	V. Vinod Kumar, CGSC (OA.1336, 1204, MA.956)

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Hon. Mr. H. Rajendra Prasad, Member (Admn.)

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OA.1336/97 & Batch cases (OA.1337/97, 1338/97, 1345/97, 1346/97, 1316/97, 1317/97, 1363/97, 1364/97, 1300/97, 1517/97, 1204/97 and MA.959/97 in OASR.3219/97) & MA.956/97 in OASR.3231/97)

dt. 26.12.97

### Judgement

Order (per Hon. Mr. H. Rajendra Prasad, Member (Admn.))

The applicants in these OAs were appointed on compassionate grounds on the demise of the bread-winner in their respective households who had been serving the department for a number of years. For some time thereafter they were paid Dearness Relief on family pension sanctioned to them after the death of the original employee. This was, however, subsequently stopped on the applicant's securing regular appointment in the Department. The applicants are aggrieved by this action of the authorities and pray for a declaration that they are entitled to receive Dearness Relief on family pension even subsequent to the date of their appointment on compassionate grounds. In this connection applicants seek support from a judgement rendered by this Bench in OA.303/94 directing the authorities to sanction relief on family pension from the date they were appointed regularly on compassionate grounds. In issuing this direction, the learned Single Judge <sup>had</sup> relied on an earlier judgement rendered by a Division Bench of this Tribunal in OA.1116/93.

2. Mr. Vinod Kumar, learned counsel for the respondents, drew my attention to a judgement in 'Union of India and others vs. G. Vasudevan Pillay and others (1995(1)SCALE 9) wherein it was held that Ex-servicemen pensioners who were re-employed in civil posts, or <sup>were the</sup> recipients of family pension of Ex-servicemen, were not eligible for Dearness Relief on such pensions and the decision of the Government in this regard was sustainable. The ground taken for this view was

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the salary paid to them on reemployment takes care of erosion in the value of money because of rise in prices which lay at the back of grant of dearness relief, as they get dearness relief on their pay, which allowance is not available to those who do not get the employment. In view of what has been held by the Apex Court in the case of reemployed Ex-servicemen, the present applicants also have to be held as ineligible for the payment of dearness relief since the principle underlying both situations is similar.

To this argument, the learned counsel for the applicants responds as under :

- i. The judgement of the Hon'ble Supreme Court in UOI Vs. G. Vasudevan Pillay (1995(1)SCALE 9) would not be applicable to the present case inasmuch as it dealt with the case of Ex-Servicemen who are re-employed whereas in all these cases the applicants have not been re-employed but appointed on compassionate grounds;
- ii. The re-employment of ex-servicemen, grant of family pension and appointments on compassionate ground are governed by different set of rules, and no direction issued in one would automatically apply to others unless a specific provision is contained in the relevant rules;
- iii) Rule 55A of CCS Pension Rules specifically refers to Dearness Relief on pension/family pension, which would indicate that this rule is applicable only to pensioners and family pensioners. Nowhere in the rule does one find any mention of dependants/wards of the deceased officials or family pensioners who were appointed on compassionate grounds on the demise of the Government servant, or of family pensioners per se; and

iv. No specific orders have been cited by the respondents under which the dearness relief earlier paid to the family pensioners has since been withdrawn. No details of any Government decision, or any order embodying this decision, has been cited.

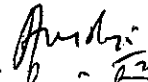
3. A Batch of cases (OA.306/94 and 81 other OAs) disposed of by this Bench examined specifically the very same issues that are involved in the present OA by dismissing the claims of the applicants therein. It is unnecessary to retrace the whole gamut of the arguments advanced by the applicant now in this OA since these are more than adequately covered and dealt with in the said judgement of Hon. Supreme Court. The judgements OA.1116/93, 303/94 as well as by Madras Bench (ATR 1992(2) CAT 75) dated 13-1-1992 pre-dated the judgement of the Hon. Supreme Court. It is, therefore, no longer possible to reopen the same issues which have attained finality with the said judgement of the Hon. Supreme Court.

4. In the light of the above it is held that the applicants have not made out any convincing or cogent case and that they are not entitled to the relief claimed.

5. Thus the OA is disallowed and disposed of. No costs.

  
(H. Rajendra Prasad)  
Member (Admn.)

Dt. 26 DEC 97

  
Deputy Registrar

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