(15)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH AT HYDERABAD

O.A. 1336/97 & Batch cases. Dated of Order: 26-12-97

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 (O.A.1346/97)
Smt.E.Parvathi (OA. 1316/97)
Smt.K.Yasoda (1317/97)
Smt.Parveen (1363/97)
Sk.Ansar Begum (1364/97)
Smt.B.Gopamma (1300/97)
Smt.S.Umadevi (1517/97)
Smt.G.Suseelamma (1204/97)
A.Alice Mary & Smt.Ghousia (MA.959/97 in OASR.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. General Manager, Hyderabad TelecomDist.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 (M.A.956/97)

(A.1 to 12 all respondent 1 in the respective cases.

contd.2

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)

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,
Ministry of Finance, New Delhi (Respondents in OA 1364/97)

1. Supdt.of Post Offices, Hanamkonda Division,
Hanamkonda.

2. CPMG, AP Circle, Hyderabad.

3. DG of Posts, New Delhi.

4. Union of India, rep. by the Secretary,
Ministry of Finance, New Delhi.
(Respondents in O.A.1517/97)

1. Supdt.of Post Offices,
Kakinada Division, Kakinada.

2. Postmaster General, Visakhapatnam,

3. CPMG, AP Circle, Hyderabad.
(Respondents in O.A.1516/97)

.. Respondents.

Counsel for the Applicants: Mr.K.Venkateswar Rao.
in all the above OAs & MAs.

Counsel for the Respondents: Mr.N.R.Devraj, Sr.CGSC.
(O.A.1316, MA 959/97)

Mr.K.Ramulu, CGSC. (OA 1363/97)

Mr.K.Bhaskar Rao (OA 1300, 1364/97)

Mr.V.Rajeswar Rao, CGSC (1345,1317/97)

Mr.V.Vinod Kumar, CGSC.(OA1336,1204
M.A.956/97)

CORAM:

THE HON'BLE MR.H.RAJENDRA PRASAD : MEMBER(ADMN).

OA.1336/97 & Batch cases (OA.1337/97,1338/97,1345/97,1346/97 1316/97, 1317/97, 1363/97, 1364/97, 1300/97, 1516/97,1517/97 1204/97 and MA.959/97 in OASR.3219/97 & MA.956/97 in OASR.3231/97).

JUDGMENT

(Order per Hon'ble 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 thedeath 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 tht 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 judgment rendered by this Bench in O.A.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 had relied on an earlier judgment rendered by a Division Bench of this Tribunal in O.A. 1116/93.

2. Mr.Vinod Kumar, learned counsel for the respondents, drew my attention to a judgment 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 were the receipients 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 the salary paid to them on re-employment 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 re-employed 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 judgment 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 inthe 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 bf 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 retraverse the whole gamut of the arguments advanced by the applicant now in this OA since these are more than adequately covered and dealtnwith in the said judgment of Hon' Supreme Court. The Judgments OA. 1116/93, 303/94 as well as by Madras Bench (ATR 1992 (2) CAT 75) dated 13-1-1992 pre-dated the judgment of the HonlSupreme Court. It is, therefore, no longer possible to reopen the same issues which have attained finality with the said judgment of the Hon.Supreme Court.

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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.

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

Sd/-x x
Deputy Registrar.

9/1/98.

प्रमाणित प्रति
CERTIFIED TO BE TRUE COPY

न्यायालय अधिकारी उप रजिस्ट्रार (न्यायिक)
Court Officer/Dy. Registrar
केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
हैदराबाद न्यायपीठ
HYDERABAD BENCH