

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL AT JAIPUR BENCH:
J A I P U R.

...

O.A.No.576/94

Date of order: 1.4.1997

Dr. (Mrs.) Kusum Bhargava Wife of late Dr.
Shri L.R.Bhargava, Resident of 21, Manu
Marg, Alwar, presently posted as Senior
Medical Officer, Government Hospital,
Alwar.

: Applicant

Versus

The Accountant General (A&E), Rajasthan,
Jaipur.

: Respondent.

Mr. R.N.Mathur, counsel for the applicant
Mr. M. Rafiq, counsel for respondent

CORAM:

HON'BLE SHRI RATAN PRAKASH, MEMBER (JUDICIAL)

ORDER

(PER HON'BLE SHRI RATAN PRAKASH, MEMBER (JUDICIAL))

Dr. (Mrs.) Kusum Bhargava has approached this Tribunal under Section 19 of the Administrative Tribunals Act, 1985, to seek a direction against the respondents to produce the entire record and instructions on which they have relied upon for stopping the payment of Dearness Allowance on family pension to the applicant and also to quash the impugned order dated 5.10.1994 (Annx.A-1) issued by the State Bank of Bikaner & Jaipur.

2. Facts relevant for disposal of this application are that the husband of the applicant Dr. L.R.Bhargava was employed in the Atomic Mineral Division at Hyderabad and died on 27.8.1987. The applicant is receiving the family pension since 27.8.1987. The

In

(14)

grievance of the applicant is that by the impugned order as at Annexure A-1, the respondents have now instructed to the Bank to deduct the amount already paid @ Rs. 500/- per month and also to stop the payment of Dearness Allowance on family pension received by the applicant.

3. After issue of notices to the respondents, a number of opportunities were given to them but they have not filed any reply.

4. On the pleadings being complete, the learned counsel for the parties have been heard.

5. The short question to be answered in this application is whether the applicant is entitled to receive Dearness Allowance on family pension which she is receiving even though she is an employed person with the State of Rajasthan ?

6. The applicant has already stated in her pleadings that even during the time of her husband Dr. L.R. Bhargava she was in the employment of the State of Rajasthan and her services under the State of Rajasthan cannot be classified as re-employment of pensioner under Rule 55 'A' (ii) of the C.C.S. (Pension) Rules, 1972. It has, therefore, been averred in the pleadings by the applicant that the respondents cannot stop the payment of Dearness Allowance received by her on the family pension which she is receiving after the death of her husband. In contrast, the learned counsel for the respondents has relied upon the judgment of Hon'ble the Supreme Court in the case

2

of Union of India v. G. Vasudevan Pillay, (1995) 2 SCC 32. On the basis of this authority, it has been urged that the controversy with regard to the payment of Dearness Relief/Dearness Allowance on the family pension received by the widow of the deceased employee who are in employment, has been settled. The learned counsel for the applicant also does not dispute this position. In the case of Union of India v. G. Vasudevan Pillay, Hon'ble the Supreme Court has held that:


"Even if Dearness Relief be an integral part part of pension, there is no legal inhibition in disallowing the same to pensioners who get themselves re-employed after retirement. This category of pensioners can rightfully be treated differently from those who do not get re-employed; and in the case of the re-employed pensioners it would be permissible in law to deny DR on pension in as much as the salary to be 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 DR, as they get Dearness Allowance on their pay which allowance is not available to those who do not get re-employed."

In the instant case also the above principle of law laid down by the Hon'ble Supreme Court applies with full force because the applicant admittedly is in employment and is receiving not only salary but also Dearness Allowance from the State Government.

7. Accordingly, there is no illegality or infirmity in the order issued by the respondents and referred to in the letter of the State Bank of Bikaner and Jaipur dated 5.10.1994 (Annx. A-1) stopping the payment of

Dearness Allowance on pension received by the applicant and also for deduction of the amount already paid @ Rs. 500/- per month.

8. For all the aforesaid reasons, this OA has no merit which is hereby dismissed with no order as to costs.


(RATAN PRAKASH)
MEMBER (J)