

Welfare Association of Absorbed Central Government Employees in Public Enterprises

Vs

Arvind Verma

(S. Saghir Ahmed, K. Venkataswami, S. Rajendra Babu JJ)

01.05.1998

JUDGMENT

K. VENKATASWAMI J

1. This Court in a judgment dated 15.12.1995 in Welfare Association of Absorbed Central Government Employees in Public Enterprises & Ors. Vs. Union of India & Anr. [(1996) 2 SCC 187], inter alia, held as follows:

"From the above extracts, it will be seen that a clear-cut distinction is made in Rule 37-A itself between one-third portion of pension to be commuted without any condition attached and two-third portion of pension to be received as terminal benefits with condition attached with it. It follows that so far as commutation of one-third of the pension is concerned, the petitioners herein as well as petitioners in "Common Cause" stand on similar footing with no difference. So far as the balance of two-third pension is concerned, the petitioners herein have received the commuted value (terminal benefits) on condition of their surrendering of their right of drawing two-thirds of their pension. This was not the case with the petitioners in 'Common Cause' case. That being the position the denial of benefit given to "Common Cause" petitioners to the present petitioners violates Articles 14 and 16 of the Constitution. The reasoning for restoring one-third commuted pension in the case of "Common Cause" petitioners equally applies to the restoration of one-third commuted pension in the case of these petitioners as well. For the foregoing reasons, we hold that the petitioners are entitled to the benefits as given by this Court in "Common Cause" case so far as it related to restoration of one-third of the commuted pension. Consequently, the impugned para 4 of Office Memorandum dated 5.3.1987 is quashed. The writ petitions are accordingly allowed to the extent indicated above. No costs.

2. As the respondents did not give effect to the judgment, the petitioners, on an earlier occasion, moved this Court in Contempt Petition No.310 of 1996, which was disposed of by this Court on 7.10.1996 by passing the following order:

"The counter has been filed wherein it has been stated that the directions of this Court are in the process of being complied with. The Contempt Petition is disposed of. "

3. Thereafter, it appears that the respondents construing the judgment of this Court literally restored one-third of the commuted pension and denied all other attendant benefits as made available to the

other Central Government pensioners. Aggrieved by that, the petitioners have moved this Court once again by filing this Contempt Petition.

4. Shri Altaf Ahmad, learned Additional Solicitor General, once again attempted to re-open the issue that the petitioners cannot be treated at par with the Central Government pensioners even though such a contention was raised and negated by this Court in the said judgment. For the reasons already stated in the judgment, we hold that the petitioners have to be treated at par with the Central Government pensioners. When we directed the respondents to restore the one-third portion of the commuted pension, it was intended to be given effect to in letter and spirit, which means that the restoration of pension must be with attendant benefits as given to the Central Government pensioners. The learned Additional Solicitor General brought to our notice the statement in paragraph 15 of the Additional Affidavit on behalf of Respondent Nos.1 to 3, which reads as follows:

"In the case of PSU absorbees, they have drawn lump sum capitalized value for the 2/3rd portion of pension as one time settlement. This portion is therefore no longer available to the absorbed employees in the nature of pension and according to the Supreme Judgment dated 15.12.1995 the petitioners have received the commuted value (terminal benefits) on condition of their surrendering their right of drawing 2/3rds of their pension. In view of this, the absorbed employees are not entitled to the grant of dearness relief on this 2/3rd commuted portion of pension (terminal benefits)."

5. It will be noticed that the Central Government pensioners are given revision in the pension, which was not given to the petitioners on the ground that this Court had ordered only restoration of pension.

6. After hearing counsel on both sides, we make it clear that the respondents are liable to restore not only the pension as ordered by this Court in the said judgment, but also all the attendant benefits as given to the Central Government pensioners. We hold that there was some genuine doubt on the part of the respondents in construing and giving effect to the judgment of this Court and, therefore, there is no contempt. We now direct the respondents to comply with the judgment of this Court as explained hereinbefore within three months from this date.

7. The Contempt Petition will stand disposed of accordingly.