

SUPREME COURT OF INDIA

Vinaya Krishna Sinha

Vs.

Union of India

Writ Petn. No. 232 of 1998

(V. N. Khare and S. N. Phukan, JJ.)

27.04.2000

ORDER

1. The petitioners herein are the retired civil servants. They were given pension after their retirement. They commuted 100% pension, with the result their pension became nil. However, they continued to be treated as pensioners by virtue of the order dated 15-12-95. The petitioners filed this petition under Article 32 of the Constitution of India praying several reliefs. One of the reliefs in the writ petition is as follows :

"iv) Issue a Writ, Order or Direction placing the petitioners herein on the same footing as those optees/absorbees who had exercised option No. (b) mentioned herein above and issue directions that the commutation of 2/3rd pension should be allowed with the same benefits as extended to category (b) optees/absorbees or the petitioners in the Common Cause judgment of this Hon'ble Court....."

2. At the time when notice was issued on this petition, it was directed to be tagged with W.P. (C) No. 576/99. Subsequently, the W.P. (C) No. 576/99 came up for hearing before a Bench of this Court. However, the present writ petition was not listed along with the said writ petition. Writ

Petition (C) No. 576/99 has now been decided and the operative portion of the judgment reads as under :

"The parity claimed by Lt. Co. Malhotra and other absorbees who had commuted 100% pension, in our view, is entirely misplaced. The contention that what is commuted or given up is an amount and not the right to receive pension or right to receive post-commutation revision and attendant benefits including dearness relief on the gross entitled pension on the dates they were granted to other Government pensioners, is only illusory. The decision in the case of State of T.N. v. V. S. Balakrishnan, 1994 Suppl (3) SCC 204 : (1994 AIR SCW 3277) on which reliance was placed by Mr. Gopal Subramaniam, Senior Advocate, has not applicability to the point in issue. Those who commuted 100% pension continue to remain non-pensioners till their pension is restored. In Welfare Association Case (supra), persons who commuted the full pension and who will not be given any monthly pension by deeming monthly pension to have been reduced to nil has been treated as a separate category. Those who commute 100% pension are not entitled to the benefit of dearness relief on full pension or other benefits as claimed herein. We also do not find any discrimination in so far as this class is concerned.

The interlocutory applications and the writ petitions are disposed of in the above terms leaving the parties to bear their own costs."

3. Learned counsel appearing for the parties are agreed that the aforesaid decision squarely covers the present case. We, therefore, decide this writ petition in terms of the judgment rendered in Writ Petition (C) No. 576/99.

4. The writ petition is, accordingly, disposed of. There shall be no order as to costs.

Order accordingly.