
(2013) 10 KAR CK 0084

In the Karnataka High Court

Case No : Writ Petition No. 3754 of 2013 (S-CAT)

The Director General and Scientific Adviser Research and
Development Organisation and The Director Gas Turbine
Research Establishment

APPELLANT

Vs

Mr. T.S. Veerasimha

RESPONDENT

Date of Decision : 28-10-2013

Acts Referred:

Citation : (2013) 10 KAR CK 0084

Hon'ble Judges : Mohan M. Shantanagoudar, J;K.N. Phaneendra, J

Bench : Division Bench

Advocate : C. Ashwin, for the Appellant;

Final Decision : Allowed

Judgement

Mohan M. Shantanagoudar, J.—By the impugned order, the Central Administrative Tribunal has directed the petitioners herein to grant appropriate benefits relating to family pension allowance in favour of the respondent herein. The records reveal that the respondent herein was working in Indian Army. He retired from the services of Army w.e.f. 31.7.2000. He was reemployed in the petitioner-Organization as Security Assistant Grade-A, on 9.1.2003. The respondent made a representation on 15.7.2005 to the petitioner-Organization seeking family planning allowance on the ground that his wife had undergone tubectomy operation (sterilization operation) on 12.7.2001. Thus, he claimed a special increment, on the ground of his wife undergoing sterilization operation, with effect from the date of his re-employment. The petitioner-Organization rejected the claim of the respondent. Being aggrieved, respondent approached the Central Administrative Tribunal by filing O.A. No. 40/2011, which came to be allowed by the impugned order.

2. From the aforementioned facts, it is clear that the respondent was not in service at all while his wife underwent sterilization operation. As aforementioned, respondent herein retired from services of Army w.e.f. 31.7.2000. However, he is

re-employed in the petitioner-Organization as Security Assistant Grade-A on 9.1.2003. Thus, it is clear that the respondent was not in service from 1.8.2000 to 9.1.2003. During the said period, i.e., on 12.7.2001 his wife underwent sterilization operation. Since the respondent was not in service, he is not entitled to the special increment as per the Government Order (FR. 27-Official Memorandum of Ministry of Finance). The clarification has been issued by the Ministry of Finance vide I.P. No. 587/E-III(A)/2002, dated 2.9.2002 that incentive for adopting small family norms is admissible during service life of eligible Government servants. Once an employee demits office/retires from/ ceases to be in the Government service on whatsoever consideration, his/her service life ends, and the incentive for adoption of small family norms also comes to an end. In the case of re-employment which is in the nature of fresh employment/appointment, the incentive admissible in the past service before re-employment cannot automatically be continued. It is also made clear that re-employed persons are not entitled to incentive, if the sterilization operation on this account was undergone prior to re-employment. In the matter on hand, as aforementioned, the respondent was not in employment at all while his wife underwent sterilization operation. Hence, benefit of the Government Order cannot be made applicable to the respondent.

In view of the above, the impugned order at Annexure-C, dated 1.6.2012 is liable to be quashed and the same stands quashed.

Writ petition is allowed accordingly.