

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (C) No. 28700/2017

(Arising out of impugned final judgment and order dated 06-03-2017 in WPC No. 5687/2007 passed by the High Court of Delhi at New Delhi)

DIRECTOR GENERAL CIVIL AVIATION & ANR.

Petitioner(s)

VERSUS

IQBAL SINGH VEDI & ORS.

Respondent(s)

Date : 28-09-2021 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE K.M. JOSEPH

HON'BLE MR. JUSTICE PAMIDIGHANTAM SRI NARASIMHA

For Petitioner(s)

Mr. K. M. Nataraj, ASG.  
Mr. A. K. Panda, Sr. Adv.  
Mr. Gautam Sharma, Adv.  
Mr. Sharath Nambiar, Adv.  
Mr. Shailesh Madiyal, Adv.  
Mr. B. V. Balaram Das, AOR

For Respondent(s)

Mr. Gaurav Agarwal, Adv.  
Mr. Pratap Shanker, Adv.  
Mr. Ankit Kumar, Adv.  
Mr. Kunik Aggarwal, Adv.  
Mr. Swetank Shantanu, AOR

Mr. Gp. Capt. Karan Singh Bhati, AOR

UPON hearing the counsel the Court made the following  
O R D E R

The party respondents in this case while working with the petitioners came to be absorbed with National Airport Authority. It is the case of the petitioners that out of the three options available, the respondents opted to be

governed by the option iii. Option iii as set out at page 'G' of the special leave petition reads as follows:

"(iii) Pension under Central Government rules on finally retirement from the National Airports Authority on the basis of the combined service rendered in Government of India and the Public Sector Undertaking."

It is the further case of the petitioners that in 1996, with retrospective effect from the dates on which the respondents retired subsequent to their absorption, they were given revised pay scale based on Industrial Dearness Allowance (hereinafter referred to as 'IDA' for brevity).

Thereafter, OA No. 480/1998 was filed by certain persons, whom the respondents alleged, were identically placed as the respondents. Certain reliefs were granted by the Tribunal. In a challenge raised against the said order by the petitioners in Writ Petition (C)No. 1597/2001, by order dated 05.05.2006, the High Court, except for the modification to the rate of interest, upheld the order of the Tribunal.

Complaining that the respondents were not given the full benefit of the option which they had exercised, viz., to be given the benefit of Central Government pension, OA in the present case came to be filed by the respondents. The Tribunal has allowed the OA and on challenge, the High Court, by the impugned order, has purported to follow the decision in OA No. 480/1998 which, no doubt, had become

final as it had not been challenged by the petitioners.

Shri K. M. Nataraj, learned Additional Solicitor General would point out the fallacy underlying the impugned order as follows: -

He pointed out that here is a case where the respondents received full benefits of the revised scale of pay based on IDA with effect from the date of their retirement. This immediately attracted, according to him, the terms of Office Memorandum dated 19.09.2003. He took us through the said Office Memorandum and pointed out that the said Office Memorandum is clearly applicable to the respondents. He further pointed out that the said Office Memorandum was not the subject matter of consideration in the earlier OA (OA No. 480/1998) which, in fact, was decided on 13.11.2000 and it was also not considered by the High Court in Writ Petition (C)No. 1597/2001. Therefore, the Tribunal could not possibly derive any support from the earlier litigation and grant benefits to the respondents.

No doubt, the respondents join issue in the form of the submissions made by Shri Gaurav Aggarwal, learned counsel, who would point out that had the respondents actually paid by IDA pay scale at the time of retirement, it would have enabled them to continue for a period of 2 more years, which has been noted by the Tribunal. He would further set up the statutory Rule viz., Rule 70 of CCS (Pension) Rules 1972 which forbids the reduction of pension

except on the incidence of clerical error.

We notice, in the facts of this case, that the respondents are octogenarians and we would, in the circumstances, decline to go into the questions of law which have, no doubt, been raised by the Additional Solicitor General. We would think that in exercise of power under Article 136 of the Constitution of India, we need not go into this question. Accordingly, we leave open the vertible questions which have been stressed before this Court by the learned Additional Solicitor General and dismiss the special leave petition.

(NIDHI AHUJA)  
AR-cum-PS

(RENU KAPOOR)  
BRANCH OFFICER