

IN THE SUPREME COURT OF PAKISTAN
(Appellate Jurisdiction)

PRESENT:

Mr. Justice Faisal Arab

Mr. Justice Syed Mansoor Ali Shah

Civil Appeal No.805 of 2016

(on appeal from the judgment of Federal Service Tribunal, Islamabad dated 06.1.2016, passed in Appeal No.482(R)CS/2013)

and

Civil Appeal No.1438 & 1443 of 2016

(on appeal from the judgment of Federal Service Tribunal, Islamabad dated 18.2.2016, passed in Appeal No.1031(R)CS/2013)

and

Civil Appeal No.1439 & 1442 of 2016

(on appeal from the judgment of Federal Service Tribunal, Islamabad dated 16.2.2016, passed in Appeal No.507(R)CS/2013)

and

Civil Appeals No.1440, 1444 & 1445 of 2016

(on appeal from the judgment of Federal Service Tribunal, Islamabad dated 11.2.2016, passed in Appeals No.2088, 1984 & 2088(R)CS/2012)

and

Civil Appeals No.1441 of 2016

(on appeal from the judgment of Federal Service Tribunal, Islamabad dated 19.2.2016, passed in Appeal No.3029(R)CS/2012)

and

CMAs No.2841 & 2842/2016 in CAs.1438 & 1439 of 2016.

(stay applications)

and

Civil Petition No.124 to 128, 269 to 271 of 2017,

(on appeal from the judgment of Federal Service Tribunal, Islamabad dated 02.11.2016, passed in M.Ps No.1920 in Appeal No.831(R)CS/2012 etc)

and

Civil Petitions No.3446 & 3447 of 2016.

(on appeal from the judgment of Federal Service Tribunal, Islamabad dated 20.1.2016, passed in Appeal No.1519 & 2118(R)CS/2015)

Federation of Pakistan through Secretary Finance

(in CA-805 & 1441 to 1445/16 and CP-3446 & 3447/16)

Divisional Superintendent, Pakistan Railways *(in CA-1438 to 1440/16)*

Muhammad Hayat *(in CP-124/2017)*

Ghulam Shabbir *(in CP-125/2017)*

Muhammad Ayaz *(in CP-126/2017)*

Muhammad Rashid *(in CP-127/2017)*

Muhammad Ishaq *(in CP-128/2017)*

Muhammad Ashraf *(in CP-269/2017)*

Saeed Ahmed Sheikh *(in CP-270/2017)*

Muhammad Shahid Hussain *(in CP-271/2017)*

...Appellants/Petitioners

versus

Muhammad Sharif, etc *(in CA805/16)*

Taj Muhammad, etc *(in CA-1438/16)*

Ghulam Mustafa (decd.) thr. LRs, etc *(in CA-1439/16)*

Nazir Ahmad, etc (in CA-1440/16)
Muhammad Arif, etc (in CA-1441/16)
Ghulam Mustafa (decd.) thr. L.Rs, etc (in CA-1442/16)
Taj Muhammad, etc (in CA-1443/16)
Islam Khan, etc (in CA-1444/16)
Nazir Ahmed, etc (in CA-1445/16)
Divisional Superintendent, Pakistan Railways, etc
(in CP-124 to 128 & 269 to 271/17)
Rehmat Gul, etc (in CP-3446/16)
Muhammad Asghar, etc (in CP-3447/16)

...Respondents

For the appellants: Mr. Sohail Mehmood, DAG.
(CA-805, 1441 to 1445/16 & CPs-3446 & 3447/16)
Hafiz S.A. Rehman, Sr. ASC.
(in C.As-1438 to 1440/16)
Syed Ishtiaq Haider, ASC.
(in CPs-124 to 128 & 269 to 271/17)

For respondent No.1: Mr. Ishtiaq Haider, ASC.
a/w Syed Rifaqat Hussain Shah, AOR.
(in CA-805/2016)

Date of hearing: 15th & 16th April, 2019.

JUDGMENT

Civil Appeals No.805 & 1438 to 1445 of 2017 and Civil Petitions No.3446 & 3447 of 2016:

Syed Mansoor Ali Shah, J.- The Prime Minister in his speech to the nation on 23.2.1997 announced adhoc relief for the government employees including an increase of Rs.300/- per month in their salaries w.e.f. 01.03.1997 and an increase in the pension by 10% (ten percent). This announcement was officialized through Office Memoranda Nos. F.1(17) Imp./97 and Nos.F.4(3)-Reg.6/97 dated 5.03.1997 and 11.3.1997 respectively, issued by the Finance Division (Regulations Wing), Government of Pakistan, while clarificatory Office Memorandum Nos. F.4(3)-Reg.6/97 dated 29.3.1997 issued by the Finance Division provided as follows:

"2(ii). The benefit of an increase in pension is admissible to those Government servants who were retired prior to 1st March, 1997."

The respondents in these connected cases, who admittedly retired after 01.03.1997, claim that they are entitled to 10% increase in the pension after they have availed the benefit of increase in monthly salary of Rs.300/- under the above Office Memoranda, while they were in service. Their reliance is primarily on a series of orders passed by this Court in related matters arising out of the relief package announced by the Prime Minister. The matter was taken up by the Tribunal and benefit of 10% increase in pension was extended to the respondents on the ground that earlier orders of this Court have granted such relief, hence these appeals with leave of the Court.

2. We have heard the learned counsel for the parties. Adhoc relief was extended by the then Prime Minister by granting an increase of Rs.300/- in the salary of government employees and an increase of 10% in the pension of the employees who retired prior to the said date i.e., 01.3.1997. The Office Memoranda show that two distinct reliefs were granted, one for the employees in service through increase in salary and the other for retired employees through increase in pension. Retired employees are those who retired prior to 01.03.1997, as has been clarified in Office Memorandum dated 29.03.1997. Therefore, the respondents cannot claim both the benefits; one of increase in the monthly salary by Rs.300/- while in service; and the other of increase in pension after retirement. The cutoff date of 01.03.1997 is critical and has relevance. It splits the employees into two broad categories of in service employees on the cutoff date and retired employees on the cutoff date for the purposes of the adhoc relief. Extending 10% increase in pension to the employees who were in service on 01.03.1997 goes against the scheme of the adhoc relief as it creates an imbalance between the two classes of employees by extending unjust advantage to one class of employees i.e., the in

service employees on the cutoff date, who would walk away with two distinct adhoc reliefs (i.e., increase in salary and increase in pension after retirement) when they have been promised only one.

3. We have also gone through the various orders referred to by the learned counsel for the respondents passed by this Court and upon examination we have noticed that through some of these orders leave was refused against the judgment of the Tribunal on various grounds, which does not form a binding precedent, while in other cases, the question raised before us has not been considered. Therefore, reference to earlier orders of this Court does not advance the case of the respondents.

4. For the above reasons, we set aside the impugned judgment passed by the Federal Service Tribunal, Islamabad and hold that adhoc relief of 10% increase in pension is only admissible to employees who stood retired prior to 01.3.1997. The listed appeals are, therefore, allowed, whereas Civil Petitions No.3446 and 3447 of 2016 are converted into appeals and allowed.

Civil Petition No.124 to 128, 269 to 271 of 2017,

5. These petitions filed by the employees against an interim order of the Tribunal are disposed of in light of the above judgment.

Judge

Islamabad,
16th April, 2019.
Approved for reporting.

Judge

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