

Sr. No.	Date	Orders
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IN THE HIGH COURT OF DELHI

W.P.(C) NOS.7240/2003

Date of decision : August 9, 2004

LEKH RAM & OTHERS

... Petitioner
through Mr.H.S.Kathuria, Advocate

VERSUS

UNION OF INDIA & OTHERS

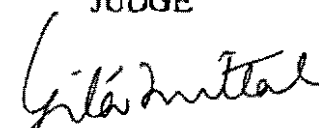
..., Respondents
through Ms.Raman Oberoi, Advocate

CORAM:

HON'BLE JUSTICE DR. MUKUNDAKAM SHARMA
HON'BLE MS. JUSTICE GITA MITTAL

For order, see W.P. (C) No.7238/2003.


(DR. MUKUNDAKAM SHARMA)
JUDGE


(GITA MITTAL)
JUDGE

Signature Not Verified

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physical file have been compared and
the digital data is as per the physical
file and no page is missing.

August 09, 2004

sjs/

IN THE HIGH COURT OF DELHI

W.P.(C) NOS.7238/2003

with

W.P. (C) Nos. 7240/2003,7254/2003 &5507/2004

Date of decision : August 9, 2004

W.P.(C) 7238/2003

JAI SINGH H.C.NO.814500406,
CLSF UNIT, KTPS KOTA (RAJASTHAN)

... Petitioner

through Mr.H.S.Kathuria, Advocate

VERSUS

UNION OF INDIA & OTHERS

.... Respondents

through Mr.S.S.Deswal, Advocate

AND

W.P.(C)7240/2003

LEKH RAM & OTHERS

... Petitioner

through Mr.H.S.Kathuria, Advocate

VERSUS

UNION OF INDIA & OTHERS

.... Respondents

through Ms.Raman Oberoi, Advocate

AND

W.P.(C)7254/2003
GIRDHARI LAL

... Petitioner
through Mr.H.S.Kathuria, Advocate

VERSUS

UNION OF INDIA & OTHERS

.... Respondents
through Mr.A.K.Bhardwaj, Advocate

AND

W.P.(C)5507/2004
ROSHAN LAL & OTHERS

... Petitioner
through Mr.H.S.Kathuria, Advocate

VERSUS

UNION OF INDIA & OTHERS

.... Respondents
through Mr.A.K.Bhardwaj, Advocate

CORAM:

HON'BLE JUSTICE DR. MUKUNDAKAM SHARMA
HON'BLE MS. JUSTICE GITA MITTAL

1. Whether reporters of local papers may be allowed to see the Judgment?
2. To be referred to the Reporter or not?
3. Whether the judgment should be reported in the Digest?

Yes

Yes

DR. MUKUNDAKAM SHARMA, J : (ORAL)

1. The only issue that arises for our consideration in these writ petitions is whether while fixing the pay of the re-employed persons, enhanced portion of the military pension is to be ignored or not. Our attention has been invited to a

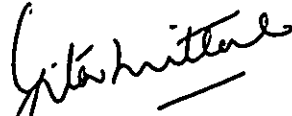
decision of this court delivered placing reliance upon the decision of the Supreme Court in Union of India & Others s. G. Vasudevan Pillai and Others reported in JT (1991) CSIF 417. In the aforesaid decision of the Supreme Court, it has been held that the respondent could not deduct the military pension in the absence of any terms and conditions stipulated at the time of re-employment. It was also held that the decision to reduce the enhanced pension from pay of those ex-serviceman only, who were holding civil posts on 1.1.88 following the re-employment is unconstitutional. The Division Bench of this court in H.C./G.D.R hazul Hag vs UOI & Others in CWP 224/96 decided on 13.2.1997 has also taken a similar view that the respondent cannot deduct the amount from enhanced military pension.

2. In view of the aforesaid settled position of law, we are satisfied that these writ petitions could also be allowed holding that the impugned decision and action of the respondent to deduct enhanced military pension or any part thereof from the pay of the petitioners is illegal and without jurisdiction. The impugned orders, therefore, stand quashed and are set aside.

It is directed that the respondents shall re-fix the pay of the petitioners ignoring the enhanced military pension. The respondents are further restrained from making any recovery of the alleged arrears. It is also made clear that in case any amount has been recovered from the petitioners, the same shall be duly paid to the petitioners within eight weeks from today.

3. The writ petitions are accordingly allowed in the aforesaid terms. Let a copy of this order be sent to to D.O.P & T of the Government of India with a direction to them to ensure that these orders are complied with in future, in other similar cases, as well.


(DR. MUKUNDAKAM SHARMA)
JUDGE


(GITA MITTAL)
JUDGE

August 09, 2004
sjs
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