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### **Differential treatment in fixing pension unfair, rules SC**

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J. Venkatesan

*Tamil Nadu GO classifying pensioners into those who retired before and after June 1, 1988 struck down*

In fixing pension, no differential treatment can be made among government employees who retired in different periods while taking into consideration their 'dearness pay', the Supreme Court has held.

In a ruling that will benefit thousands of employees, a Bench of Justices D.K. Jain (who has since taken over as Law Commission Chairman) and J.S. Khehar quashed an August 9, 1989 Tamil Nadu Government Order to the extent that it extended to employees who retired on or after June 1, 1988 a lower component of 'dearness pay' as against those who had retired prior to June 1, 1988, holding that the GO was violative of Articles 14 (equality before law) and 16 (equality in matters of public employment) of the Constitution.

The Bench said there was no valid justification for the government "to have classified pensioners similarly situated as the appellants — the Kallakurichi Taluk Retired Official Association, etc [who retired after 1.6.1988] — from those who had retired prior thereto."

Writing the judgment, Justice Khehar said inflation would have the same effect on all pensioners, whether they retired prior to or after June 1, 1988.

"The purpose of adding the component of 'dearness pay' to wages for calculating pension is to offset the effect of inflation...Therefore, the classification in the impugned GO placing employees who retired after 1.6.1988 at a disadvantage, vis-à-vis the employees who retired prior thereto, by allowing them a lower component of 'dearness pay', is clearly arbitrary and discriminatory."

The Bench said: "In a situation where the State government had chosen that a particular component of 'dearness allowance' would be treated as 'dearness pay', it could not discriminate between one set of pensioners and another, while calculating the pension payable to them."

In the instant appeals, a single judge of the Madras High Court granted relief to the pensioners but a Division Bench reversed the order. The present batch of appeals was directed against that judgment.

Keywords: [government employees pension scheme](#), [Tamil Nadu pensioners](#), [Supreme Court](#)

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