

(2005) 12 PAT CK 0009
In the Patna High Court
Case No : CWJC No. 435 of 2003

Arbind Kumar Thakur and Others

APPELLANT

Vs

The Union of India and Others

RESPONDENT

Date of Decision : 15-12-2005

Acts Referred:

Citation : (2005) 12 PAT CK 0009

Hon'ble Judges : Radha Mohan Prasad, J

Bench : Single Bench

Final Decision : Dismissed

Judgement

Radha Mohan Prasad, J.—In this writ petition, originally filed by a retired Hon'ble Judge of his Court, upon whose death his heirs have been substituted, a direction has been sought to re-fix his pension after calculating the services of ten years when he was a Member/ President of Illegal Migrant (Determination) Appellate Tribunal, Assam. Mr. Sinha, learned Senior Counsel appearing for the petitioners has contended that as per the terms of appointment of the original petitioner as Member-President of the said Appellate Tribunal, contained in Annexure 2, he is entitled for the same service conditions as were available while discharging the function of High Court Judge. In support of this, he referred to various paragraphs and especially paragraph 5 of the terms and conditions mentioned in Annexure 2. Learned counsel for the petitioner relied upon various decisions of the Allahabad High Court in the case of Justice Nand Lal Ganguly (Rtd.) vs. State of Uttar Pradesh and Ors., (C.M.W.P. No. 18496 of 1999), of the Patna High Court in the case of Prem Shankar Sahay vs. The Union of India & Ors., (C.W.J.C. No. 11334 of 2001) and of the Apex Court in the case of Union of India and others Vs. Pratibha Bonnerjea and another, .

2. Mr. Tripathi, learned Additional Standing Counsel appearing for the Union of India submitted that all the decisions of the Supreme Court, including the decision in the case of Union of India vs. Pratibha Bonnerjea (supra) have been considered by the Apex Court in the case of Justice P. Venugopal Vs. Union of

India (UOI) and Others, , and it has been held that for the purpose of computation of pension, different services of the petitioner could not have been clubbed in terms of Act 28 of 1954, which deals with Service Conditions of a High Court Judge. The Supreme Court has further held that the pension payable to a High Court Judge would be only for the period rendered in that capacity which would constitute charge to the Consolidated Fund of India and services rendered subsequent thereto in terms of the order made by a State Government would not be charged to the Consolidated Fund. Mr. Tripathi submitted that in the present case it is not the case of the petitioner that rendering service as Member/President of the said Appellate Tribunal constitutes charge to the Consolidated Fund of India and as such, the services rendered by the petitioner in that capacity cannot be clubbed with the services rendered as High Court Judge for the purpose of computation of pension in view of the decision of the Apex Court in the case of Justice P. Venugopal vs. Union of India (supra).

3. I find substance in the submission of the learned Additional Standing Counsel. The Supreme Court in the case of Justice P. Venugopal vs. Union of India (supra) has elaborately dealt with various provisions as well as the earlier decisions. According to the Apex Court, the provisions of law are absolutely clear and unambiguous. A High Court Judge is entitled to pensionary benefits only in terms of the said Act and not otherwise. The Apex Court held that the said Act is a self-contained code and it does not contemplate grant of pension to a retired High Court Judge for holding any other office of profit. It has further been held that clubbing of services for the purpose of computation of pension is not contemplated under the said Act and, thus, the Court by process of interpretation of statutory or constitutional provisions cannot hold so. In view of the decision of the Apex Court in the case of Justice P. Venugopal vs. Union of India (supra), this court finds it difficult to grant any relief to the petitioners. The writ petition is, thus, dismissed.