
(2006) 08 PAT CK 0030
In the Patna High Court
Case No : CWJC No. 15781 of 2005

Md. Baidullah Ansari

APPELLANT

Vs

The Union of India (UOI) and Others

RESPONDENT

Date of Decision : 28-08-2006

Acts Referred:

Citation : (2006) 4 PLJR 375

Hon'ble Judges : Barin Ghosh, J

Bench : Single Bench

Advocate : Gyan Prakash Ojha, for the Appellant; Jai Prakash Verma, for the Respondent

Final Decision : Allowed

Judgement

Barin Ghosh, J.—Petitioner is entitled to, it is not disputed, pension under Employees Pension Scheme, 1995. The question is what pension the petitioner is entitled to. There is no dispute that the petitioner worked for more than 24 years as on 16th December, 1995. There is also no dispute that the petitioner was covered under the ceased Family Pension Scheme, 1971. As on 16th December, 1995, the petitioner was in between 48 years and 53 years. In such view of the matter, admittedly, sub-paragraph (4) of paragraph 12 of the Employees' Pension Scheme, 1995 was applicable in so far as the petitioner is concerned. In terms thereof the pension payable to the petitioner is equal to the aggregate of pension as determined under sub-paragraph (2) of paragraph 12 of the said scheme for the period of service rendered from 16th December, 1995 or Rs. 438 per month, whichever is more and the past service benefit as provided in sub-paragraph (3) of the said paragraph subject to a minimum of Rs. 600 per month. There is no dispute as regards determination of pension payable to the petitioner under sub-paragraph (2) of paragraph 12 of the said scheme. The dispute is pertaining to the past service benefit as provided in sub-paragraph (3) of paragraph 12 of the said scheme. The exact words of the scheme to which we are concerned is as follows:-

Past service benefit as provided in sub-paragraph (3) subject to a minimum of Rs. 600 per month provided the past service is 24 years.

That has got a proviso which deals with past service of less than 24 years with which we are not concerned.

2. In the instant case, on the basis of the formula given in sub-paragraph (3) of paragraph 12, the past service benefit of the petitioner had been calculated at Rs. 420. The direction in the scheme is that the past service benefit as determined in terms of sub-paragraph (3) of paragraph 12 of the scheme or the minimum of Rs. 600 per month is to be paid provided the past service is 24 years. Accordingly, the petitioner was entitled to Rs. 600 and not Rs. 420 on account of past service benefit in terms of the provisions contained in subparagraph (4) of paragraph 12 of the scheme. The mistake that has been committed by the provident fund authority is for proceeding with the case of the petitioner on the basis of the proviso which is applicable to people whose past service is less than 24 years. The petitioner admittedly having had past service of more than 24 years, he was entitled at least to Rs. 600 per month as and by way of past service benefit.

3. In those circumstances, it is declared that on account of past service benefit in terms of clause (b) of subparagraph (4) of paragraph 12 of the said scheme, the petitioner was entitled to Rs. 600 per month and not Rs. 420 as incorrectly determined by the respondent authorities. The writ petition is accordingly allowed. The respondents are directed to re-fix the petition of the petitioner in the light of the observations made above as quickly as possible but not later than two months from today and pay the arrears to the petitioner within a month there from. This disposes of the writ petition.