

Shiv Dayal Srivastava

Vs

Union of India

Writ Petition No. 341 of 1982

(Syed M. Fazal Ali, A. Varadarajan, V. B. Eradi JJ)

31.08.1982.

ORDER

1. Mr M.M. Abdul Khader mentioned that Miss Subhashini Advocate on record, has received a D.O. letter No. 24/17/82/Jus dated August 30, 1982 conveying the decision of the Government of India on the general issues raised in the petition. The Government's decision as indicated in para 2 of the said D.O. reads as follows :

2. I am directed to inform you that the Government have decided to issue clarificatory instructions to all the State Governments and Accountant-Generals as well as the Registrar of High Courts and Supreme Court to the effect that :

(a) No deduction can be made from the gross pension of Judges of the High Courts and Supreme Court of the pension equivalent of death-cum-retirement gratuity paid to them; and

(b) Commutation of pension up to a maximum of one-half, instead of one-third, of the gross pension is admissible in the case of Judges of the High Courts and Supreme Court (without prejudice to other rules relating to commutation of pension).

2. In para 2 of the letter the use of the words "clarificatory instructions" clearly indicates, and it is not disputed before us by the Union of India that the statutory benefits conferred have to be applied retrospectively with effect from October 1, 1974 and in case of the petitioner from the date of his retirement, that is, February 28, 1978.

3. The petition is disposed of in terms of the above order and the D.O. letter mentioned above shall form part of this Order.

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