

Raghu Nandan Lal Chaudhary And Others

Vs

Union of India

Writ Petitions (Civil) Nos. 11207-09 of 1985

(CJI R.S. Pathak, Ranganath Misra JJ)

07.04.1988

ORDER

1. These writ petitions under Article 32 of the Constitution are by three retired defence personnel. They maintain that their pension is not liable to be reduced by recovery of pension equivalent of gratuity out of it; they have asked for a declaration that the ceiling on the qualifying service in the case of service record optees should be 30 years instead of 33 years, particularly in respect of persons who retired at the age of 55 years; they have also asked for a direction of recomputation of their pension after the aforesaid reliefs have been granted.
2. A counter-affidavit has been filed on behalf of the Union of India denying the claim of the petitioners.
3. In view of the decision of this Court in Common Cause v. Union of India ([1987] 1 SCC 142), the 15 year period of the age of 70 years as fixed therein, has to apply and learned counsel for the petitioners does not dispute this position. There can also be no dispute that pension equivalent of gratuity will be recoverable from January 1, 1986. The only other question which requires determination is whether the appropriate period of service should be 30 years or 33 years. At the relevant time when each of the petitioners superannuated, the retiring age was 55 years. We are of the view that the period of qualifying service as indicated therein should therefore be 30 years.
4. Petitioners should be entitled to the benefit on the aforesaid basis. A direction is accordingly issued to the Union of India to extend the benefit on such basis. Writ petitions are accordingly disposed of with no order for costs.

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