

Raghu Nandan Lal Chaudhary And Ors. vs Union Of India (Uoi) on 7 April, 1988

Equivalent citations: AIR1988SC2125, 1988(36)BLJR583, JT1988(2)SC45, 1989LABLC40, (1988)IILLJ216SC, 1988(1)SCALE647, (1988)2SCC406, 1988(1)UJ594(SC), AIR 1988 SUPREME COURT 2125, 1989 LAB IC 40, (1988) 2 JT 45 (SC), 1988 2 JT 45, 1988 BLJR 583, 1988 (1) UJ (SC) 594, 1988 2 SERVLR 773 (2), (1988) 2 LAB LN 172, 1988 SCC (L&S) 630, (1988) 56 FACLR 731, (1988) 2 LABLJ 216, 1988 (2) SCC 406, (1988) 2 SERVLR 773(2), (1988) 7 ATC 336, (1988) 1 CURLR 492

Bench: R.S. Pathak, Ranganath Misra

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 for 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, a Registered Society v. Union of India , the 15 year period or 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 1st of January, 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.