

Binod Kumar Singh Vs. Union of India (Uoi) and ors.

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Court : Patna

Decided On : Nov-14-2005

Judge : J.N. Bhatt, C.J., V.N. Sinha and Sadanand Mukherjee, JJ.

Appeal No. : C.W.J.C. No. 5777 of 2002

Appellant : Binod Kumar Singh

Respondent : Union of India (Uoi) and ors.

Advocate for Def. : Harendera Pd. Singh, Adv.

Advocate for Pet/Ap. : Harendra Pratap Singh, Adv.

Judgement :

J.N. Bhatt, C.J.

1. The reference of this petition has been to Full Bench necessitated on account of a reference order made by learned Single Judge, while appreciating and examining the merits of the petition being C.W.J.C. No. 5777 of 2002. It was felt by learned Single Bench that in view of two Division Bench, decisions rendered in (1) Susil Kumar Pandey v. Union of India and Ors. 2001 (2) BLJ 525 : 2001 (4) PLJR 678 and (2) Rameshwar Prasad v. Union of India and Ors. 2003 (2) PLJR 151 that are seemingly contradictory to each other. Therefore, it was thought by the learned Single Judge to have one authoritative pronouncement by a Full Bench to resolve the conflict between the two Division Bench judgments. That is how, the learned

Single Judge was prompted to refer the matter so that this issue of vital public interest relating to jurisdiction of this Court may be settled, by the Full Bench Let it be also, recalled that in the said reference ,order it has been observed :

Let it be placed before a Division Bench for appropriate orders after obtaining orders of Hon'ble the Chief Justice.

2. It appears that there are, also, contradictory versions in paragraphs 4 and 5 and, presumably, the expression 'Division Bench' in paragraph 5 of the reference order has unnecessarily detained us, as the learned counsel appearing for the petitioner has repeatedly submitted that the reference order does not speak about the constitution of the Full Bench to which we do not consider at this stage even worth the candle to go into it in view of the clear observation of the learned Single Judge in paragraph 4, as well as, the provisions in relevant Rules.

3. In order to examine the merits of the said observation in the reference order as to whether there is as such a conflict between the aforesaid two decisions, we have threadbare examined the entire text and tenor, the content and colour of both the judgments.

4. Learned counsel appearing for the parties have, also, stated during submissions, upon consensus, that there is no conflict in them. Let it be mentioned that there is a consensus on either side that there is no conflict between aforesaid two judgments. If this be the position, the question as to which is the authoritative pronouncement cannot be gone into. It is, rightly, therefore, jointly, submitted that when there is no any apparent conflict or dissent or any contradiction in the aforesaid two Division Bench decisions of this Court, this Court need not divulge and examine other aspects as to which is the authoritative pronouncement.

5. In our considered opinion, when there is no apparent or substantive difference between the two aforesaid Division Bench decisions of this Court, it would not hold us any longer to dispose of this reference. We have, upon careful scrutiny and evaluation of both the judgments of this Court, noticed that they operate in two different areas in the light of special and different, noticed that they operate in two different areas in the light of special and peculiar facts of each case having no any

technicality, apparent or legal dissent or contradiction.

6. With this observation, we have to say in the epilogue that the reference shall stand answered accordingly, though specific question has not been referred with a direction to the Registrar General to place this petition before the learned Single Judge to take up such matter and to proceed in accordance with law for rendering adjudication on merits without any order as to costs at an early date.

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