

Santosh Kumar Vs. Union of India and ors.

Santosh Kumar Vs. Union of India and ors.

SooperKanoon Citation : sooperkanoon.com/909655

Court : Delhi

Decided On : Jan-25-2011

Judge : Pradeep Nandrajog; Suresh Kait, Jj.

Appeal No. : W.P.(C) 1080/2000

Appellant : Santosh Kumar

Respondent : Union of India and ors.

Advocate for Def. : Ms.Jyoti Singh, Adv.

Advocate for Pet/Ap. : Mr.Aashish Arya, Adv.

Judgement :

1. Whether the Reporters of local papers may be allowed to see the judgment?

2. To be referred to Reporter or not?

3. Whether the judgment should be reported in the Digest?

1. In view of the principle of law deducible from the decision of the Supreme Court reported as 2009 (13) SCC 311 R.R.Pillai v. CO, HQ Southern Air-Command & Ors. the writ petition has to be dismissed.

2. In said decision it was held that employment under Unit run canteens in Army, Navy and Air Force is not public employment i.e. the employees cannot be treated as civilian employees for the reason sine qua non to be treated as civilian

employees of the Union was the funding of the Unit from the Consolidated Fund of India and this not being so, notwithstanding public funds being utilized, the employees of the canteens would not be government employees.

3. Petitioner was an employee of the Indian Naval Benevolent Association a society registered under the Societies Registration Act with the object of providing group insurance to the Naval Officers. It is true that most of the funds of the association come from the Government, but it be noted that insurance premiums are paid by the Naval Officers; it is also true that the serving or retired Naval Officers manage the fund, but employees of the association cannot claim status of Government servants. Thus, petitioner cannot claim benefit of the decision taken by the Government to enhance the age of superannuation of Government employees from 58 years to 60 years. It be noted that as per the standing orders of the Indian Naval Benevolent Association, the age of superannuation of its employees is 58 years.

4. The writ petition is accordingly dismissed, but it may be recorded that even if it is treated that the association is an instrumentality of the State it would not mean that its employees are Government servants and thus we need not decide whether the association would be an instrumentality of the State for purposes of it being amenable to the writ jurisdiction of this Court.

5. No costs.

SooperKanoon - India's Premier Online Legal Search - sooperkanoon.com