Before : I. S. Tiwana & Amarjeet Chaudhary, JJ.

MR. JUSTICE S. S. SANDHAWALIA (RETD.) FORMER CHIEF JUSTICE, HIGH COURT OF PATNA, PUNJAB & HARYANA HIGH COURT, CHANDIGARH,—*Petitioner.*

versus

UNION OF INDIA AND OTHERS,—*Respondents.*

Civil Writ Petition No. 4838 of 1988.

12th January, 1990.

Constitution of India, 1950—Arts. 221 & 222—*High Court Judges (Conditions of Service) Act,* 1954—*S.* 22-*B—Salary to High Court Judge—Judge acquires right on the date of appointment—Alteration or change to his disadvantage—Cannot be allowed even on his transfer from one High Court to another.*

Held, that what is of still greater significance in this proviso is that these rights as provided for by the Parliament are not only to be determined in the light of his date of retirement but in the light of the date of appointment also. This is so because of the last words of the proviso, i.e., "after his appointment". It may be that subsequent to his appointment as a Judge some more rights or benefits are made available to him by the Parliament, yet once these are so allowed, cannot be varied or altered to his disadvantage under any circumstances. This proviso immunises these rights against any Government direction that may be to the disadvantage of a Judge. The right to pension or allowances obviously includes not only their quantum but also their mode of payment, time of payment, place of payment and the remedies for the enforcement of these rights within the territory of India. The words "right in respect of" clearly bear out this inclusiveness of the expression. This is more so in the case of the petitioner who initially was elevated to the Bench of this Court and then appointed as Chief Justice of this Court before his transfer as such to the Patna High Court. By then he had concededly earned the statutory right to full pension and other ancilliary benefits including medical facilities, etc. on account of his long tenure of 15½ years in this Court. He cannot possibly be divested of these vested rights merely on account of the furtuitous circumstances of his transfer to Patna. The factum of his permanent Judgeship in this Court cannot possibly be obliterated by an order of compulsory transfer under Article 222 of the Constitution. As a matter of fact that it is not even the case of the respondents that this transfer disturbed his original seniority or other rights in any manner. Rather this transfer was ordered after taking into account the service rendered by him in this Court. That is how he was appointed as Chief Justice of that Court. Further, the ordinary dictionary meaning of the word

'disadvantage' occurring in this proviso, is detriment or the loss or injury to 'interest'. It is, therefore, patent that no authority can alter or change these rights vested in a Judge at any time subsequent to his appointment or after the date of the grant or the vesting of these rights.

(Para 4)

Petition under Article 226 of the Constitution of India praying that the Hon'ble Court may kindly issue a writ of mandamus *or any other appropraite writ, order or direction directing the respondents* :

(*i*) *to produce the complete records of the case;*

(*ii*) *a suitable writ,* order or *direction be issued directing the respondents to finalise the claims as made above in the writ petition and release them to the petitioner;*

(*iii*) *all the consequential benefits flowing from the reliefs granted by this Hon'ble Court be allowed to the petitioner;*

(*iv*) *the respondents be further directed to make the payments of all the claims with an interest at the rate of* 12 *per cent per annum from the date they became due till the date of actual payments;*

(*v*) *the petitioner be exempted from filing the certified copies of the annexures to the writ petition;*

(*vi*) *the condition of serving advance notices of the petition on respondents be dispensed with;*

(*vii*) *costs of the petitioner be allowed to the petitioner.*

J. L. Gupta, Sr. Advocate, with Jaswant Singh and Vikrant Sharma, Advocates, *for the petitioner.*

H. S. Brar, Advocate with P. S. Teji, Advocate, *for Respondent No.* 1.

H. S. Riar, Sr. D.A.G. Pb., *for Respondents Nos.* 2 & 3.

Ashok Bhan, Sr. Advocate with Gulshan Sharma, Advocate, *for Respondent No.* 4.

JUDGMENT

I. S. Tiwana, J.

(1) The petitioner is a former Chief Justice of this Court and later of Patna High Court. He retired from there on July 27, 1987.

Having settled all matters that appeared before him during his illustrious career of about two decades (May, 1968 to July 27, 1987) as a Judge, he himself is pushed into the area of litigation more on account of don't care attitude of the authorities concerned than any thing else. He is aggrieved by the actions of the respondents in:—

(i) not releasing the full amount of gratuity due to him;

(ii) not including various allowances that he was drawing just prior to his retirement while computing the cash equivalent of leave due to him;

(iii) not paying the amount payable to him under section 22-B of the High Court Judges (Conditions of Service) Act, 1954 (for short, the 1954 Act); and

(iv) not deciding or sanctioning his case for reimbursement of medical charges.

It may, however, be stated here that since the filing of this petition, the grievances specified at (i) and (iv) above have been settled and the respondents have almost discharged their liability. The marginal reliefs that are still being claimed in this regard would be discussed towards the end of this judgment, i.e., after the conclusion of the other two much debated issues specified at (ii) and (iii) above.

(2) What is payable to a Judge of the High Court is specified in Article 221 of the Constitution of India which reads as under :—

"221. *Salaries etc. of Judges* :

(1) They shall be paid to the Judges of each High Court such salaries as are specified in the Second Schedule...

(2) Every Judge shall be entitled to such allowances and to such rights in respect of leave of absence and pension as may from time to time be determined by or under law made by Parliament and, until so determined, to such allowances and rights as are specified in the Second Schedule :

Provided that neither the allowances of a Judge nor his rights in respect of leave of absence or pension shall be varied to his disadvantage after his appointment".

(3) Apparently the proviso is the most significant part of this Article of the Constitution. It makes the rights mentioned in sub-Article (2) sacrosanct or immune from interference. In other words, the right of a Judge to receive pension and such other rights as are allowed by the Parliament through legislation cannot be tinkered with or altered in any manner to his disadvantage. These rights are well laid down in the 1954 Act, referred to above. As per clause (g) of section 2 of the Act, 'Judge' includes Chief Justice also.

(4) Further what is if still greater significance in this proviso is that these rights as provided for by the Parliament are not only to be determined in the light of his date of retirement but in the light of the date of appointment also. This is so because of the last words of the proviso, i.e., "after his appointment". It may be that subsequent to his appointment as a Judge some more rights or benefits are made available to him by the Parliament, yet once these are so allowed, cannot be varied or altered to his disadvantage under any circumstances. This proviso immunises these rights against any Government direction that may be to the disadvantage of a Judge. The right to pension or allowances obviously includes not only their quantum but also their mode of payment time of payment, place of payment and the remedies for the enforcement of these rights within the territory of India. The words "right in respect of" clearly bear out this inclusiveness of the expression. This is more so in the case of the petitioner who initially was elevated to the Bench of this Court and then appointed as Chief Justice of this Court before his transfer as such to the Patna High Court. By then he had concededly earned the statutory right to full pension and other ancillary benefits including medical facilities, etc. on account of his tenure of 15½ years in this Court. He cannot possibly be divested of these vested rights merely on account of the furtuitous circumstance of his transfer to Patna. The factum of his permanent Judgeship in this Court cannot possibly be obliterated by an order of compulsory transfer under Article 222 of the Constitution. As a matter of fact it is not even the case of the respondents that this transfer distributed his original seniority or other rights in any manner. Rather this transfer was ordered after taking into account the service rendered by him in this Court. That is how he was appointed as Chief Justice of that Court. Further, the ordinary dictionary meaning of the word 'disadvantage' occurring in this

proviso, is detriment or the loss or injury to 'interest'. It is, therefore, patent that no authority can alter or change these rights vested in a Judge at any time subsequent to his appointment or after the date of the grant or the vesting of these rights. A similar interpretation was put on this proviso by a Full Bench of Allahabad High Court in *B. Malik* v. *Union of India* (1). We respectfully follow the rationale adopted in that judgment. As has been pointed out therein, this proviso has to be given a broad construction not merely because it is part of the constitution but because it is designed to secure a historic social interest in a democratic society. The social interest lies in the independence of Judges from men and their government so that they may dispense with fearless and favourless justice between man and man and between man and the government. It need hardly be emphasised that to achieve this objective they have to be granted complete economic security. This proviso fixes these rights definitely at the time of the appointment of a Judge and insulates the same from subsequent impairment.

(5) In the light of this interpretation of the above noted proviso, we see no merit in the preliminary objection raised on behalf of the contesting respondents (respondent No. 5, i.e., the State of Bihar, has not put in appearance inspite of service) to the effect that since the petitioner retired as Chief Justice of Patna High Court in July, 1987, he cannot claim any cause of action within the territorial jurisdiction of this Court and, therefore, this petition cannot be entertained here. It is not disputed before us that for the pensionary and other ancillary claims made in this petition, the petitioner's service rendered in this Court has to be counted and taken notice of. Then how can it be said that even a part of the cause of action does not arise within the territorial jurisdiction of this Court? We are quite clear that petitioner's transfer from here to Patna as Chief Justice and retirement from there on July 27, 1987, on attaining the age of superannuation do not impair these rights.

(6) The precise case of the petitioner is that in terms of Rule 20-B of the All India Services (Leave) Rules, 1955 read with Rule 2 of the High Court Judges Rules, 1956 framed under the 1954 Act, his leave encashment or payment of cash equivalent of leave salary admissible to him is to include all the allowances which were paid to him during the last month of his service, i.e., June 1987. In other words, he maintains that to determine the amount payable to him

(1) A.I.R. 1970 Allahabad 268.

under the above noted provisions, the following allowances should be taken notice of :—

(i) Sumptuary allowance @ Rs. 500 P.M.;

(ii) Compensatory allowance payable under Article 221(2) of the Constitution @ Rs. 900 P.M.;

(iii) City Compensatory allowance @ Rs. 75 P.M.; and

(iv) the allowances specified in section 22-A and 22-B of the 1954 Act.

(7) As against this, the stand of the respondents is that encashment of leave to the Judges including the Chief Justice of a High Court is allowed within the provisions of Rule 20-B of the 1955 Rules and as per this rule, the cash equivalent of leave salary payable to a Judge only includes dearness allowance as payable on the date of his retirement and it has to be paid in one lump sum as one time settlement. According to the respondents, no other allowance is to be accounted for while computing the leave salary.

(8) In order to appreciate the respective submissions, a reference to the relevant parts of the provisions under which these allowances are claimed is absolutely necessary and these are :—

High Court Judges Rules, 1956 :

"*Rule* 2:

The conditions of service of a Judge of a High Court for which no express provision had been made in the High Court Judges (Conditions of Service) Act, 1954, shall be, and shall from the commencement of the Constitution be deemed to have been determined by the rules for the time being applicable to a member of the Indian Administrative Service holding the rank of Secretary to the Government of the State in which the principal seat of the High Court is situated.

Provided that, in the case of a Judge of the High Court of Delhi and a Judge of the High Court of Punjab and

Haryana the conditions of service shall be determined by the rules for the time being applicable to a member of the Indian Administrative Service on deputation to the Government of India holding the rank of Joint Secretary to the Government of India stationed at New Delhi."

All India Services (Leave) Rules, 1955 :

"Rule 20B. Payment of Cash Equivalent of Leave Salary to a member of the service retiring from service on attaining the age of *Superannuation*.—

(1) The Government shall *suo moto* Sanction to a member of the Service who retires from the service under sub-rule (1) of the All India Services (Death-cum-Retirement Benefits) Rules, 1958, the cash equivalent of leave salary in respect of the period of earned leave at his credit on the date of his retirement, subject to a maximum of 240 days."

High Court Judges (Conditions of Service) Act, 1954:

"22-A(1)—*Facility of Rent Free Houses* :

Every Judge shall be entitled without payment of rent to the use of an official residence in accordance with such rules as may, from time to time, be made in this behalf.

(2) Where a Judge does not avail himself of the use of an official residence, he may be paid every month two thousand five hundred rupees."

"22B.—*Conveyance facilities* :

Every Judge shall be entitled to a staff car and one hundred and fifty litres petrol every month or the actual consumption of petrol per month, whichever is less."

Petitioner's claim further is that since no official car was made available to him by the State of Bihar in terms of Section 22-B in

spite of his repeated requests to that effect, he could only utilise 150 litres of petrol meant for his staff car in his own car. As per his stand, he is entitled to have the cash equivalent of this conveyance facility minus the value of 150 litres of petrol which he duly availed of. He has evaluated this claim at Rs. 3500 p.m. The basis is that the State of Bengal where too no official cars were provided to the Judges had computed the cash equivalent of the aforesaid conveyance facility at Rs. 3500 p.m. with the express concurrence of the respondent-Union of India. In short, his claim is that in his case the conveyance allowance should be calculated at Rs. 3500 p.m. minus the price of 150 litres of petrol as was being done in the case of Judges of Calcutta High Court. It may be noticed here that though as pointed out earlier, the State of Bihar has not chosen to contest or file a counter to this petition, yet the Union of India has denied in specific terms that it had ever concurred to any such arrangement as resorted to by the West Bengal Government, i.e. payment of Rs. 3500 p.m. in lieu of the non-providing of the facility of conveyance as envisaged by Section 22-B of the 1954 Act. While totally denying his claim to house rent allowance at Rs. 2500 p.m., it is highlighted by the Union of India that till the time of petitioner's retirement, house rent allowance was payable to a Judge who was not provided with an official furnished accommodation, at the rate of 12½ per cent of his basic salary and it was only with effect from 16th December, 1987, i.e., about five months subsequent to the date of retirement of the petitioner that this rate of house rent was raised to Rs. 2500 p.m. According to the respondent, the petitioner cannot at all base his claim on this later raise in house rent allowance.

(9) Having given our thoughtful consideration to the respective stands of the parties, we are of the opinion that all allowances except the city compensatory allowance and the house rent allowance as payable to a Judge at the time of his retirement have to be taken into consideration while calculating the cash equivalent of the leave salary payable to him in terms of rule 20-B of the 1955 Rules read with rule 2 of the 1956 Rules as referred to above. The city compensatory allowance and the house rent allowance have to be so excluded in view of sub-rule (3) of rule 20-B of the 1955 Rules wherein it has specifically been provided that the city compensatory allowance and the house rent allowance shall not be included in calculating the cash equivalent of leave salary under this rule.

To formulate this opinion we depend upon clause (1) of rule 2 of the 1955 Rules wherein leave salary is defined to mean the monthly amount admissible to a member of the Service who has been granted leave under these Rules. It is ruled by their Lordships of the Supreme Court in *Union of India* v. *Gurnam Singh*, (2) that though Rule 20-B of the 1955 Rules *per se* applies to a member of the Indian Administrative Service and not to a Judge of a High Court, yet by virtue of Rule 2 of the 1956 Rule, the benefit of this rule must be read as condition of service enjoyed by a Judge of the High Court. The relevant observations are :—

> "The concept then on which Rule 20-B proceeds is familiar to and underlies the statutory scheme relating to leave formulated in the Act. It bears a logical and reasonable relationship to the essential content of that scheme. On that, it must be regarded as a provision absorbed by rule 2 of the High Court Judges Rules, 1956 into the statutory structure defining the conditions of service of a Judge of a High Court. We may observe that even as a right receive pension, although accruing on retirement, is a condition of service, so also the right to the payment of the cash equivalent of leave salary for the period of unutilised leave accruing on the date of retirement must be considered as a condition of service."

(10) Another significant observation made in this judgment is that although Rule 20-B of the All India Services (Leave) Rules, 1955 is a provision of a scheme applicable to members of the All India Services, yet there is nothing in its nature and content which makes it inapplicable *mutatis mutandis* to the statutory scheme pertaining to leave enacted in the High Court Judges (Conditions of Service) Act, 1954. The expression '*mutatis mutandis*' essentially means that in case a provision made for a certain type of case has to be applied to another type of case, then it has to be applied with such changes, which the exigency of the case may require. Such changes, of course, have to be kept within the bare minimum, i.e., without altering the provision.

(11) It is, therefore, patent in the light of these observations that while calculating the cash equivalent of leave salary payable to a Judge, this rule has to be adjusted to the scheme of payment

(2) A.I.R. 1982 Supreme Court 1265.

of leave salary as envisaged by the 1954 Act. In other words, this rule is to be read as a part of the 1954 Act, with necessary omissions and additions to make it workable or to give full effect to it.

(12) Similarly, the definition of leave salary as provided for in clause (1) of the 1955 Rules is to be read into this rule i.e., 20-B, and in that manner the rule after necessary omissions, additions or alterations would read as follows:—

> "The Government shall *suo moto* sanction to a Judge who retires from service the cash equivalent as per the monthly amount admissible to him in respect of the period of earned leave at his credit on the date of his retirement subject to a maximum of 240 days."

(13) It is, thus, manifest that the cash equivalent payable to a Judge in terms of this rule *mutatis mutandis* is to be equivalent to the amount payable to him for eight months or 240 days. In other words the 'amount' here must mean a total sum payable to a Judge for 240 days.

(14) We are conscious of the fact that the decision in *Gurnam Singh's case* (supra) though deals with the payment of cash equivalent of leave salary to a Judge of the High Court who has retired from service, yet the precise question as to which allowances payable to him at the time of his retirement have to be taken into consideration while calculating the cash equivalent of the leave salary payable to him was not directly in question. The 1955 Rules could not possibly take notice of the allowances payable to Judge in terms of the 1954 Act as these Rules were meant for a different Service. It is only by virtue of Rule 2 of the 1956 Rules framed under the 1954 Act that these rules have been made applicable *mutatis mutandis* to the Judges of the High Court to the extent the Act is silent or does not provide for.

(15) In the light of this interpretation, the following allowances concededly payable to the petitioner, on the date of his retirement, are to be taken into consideration to work out the cash equivalent of leave salary due to him under Rule 20-B of the 1955 Rules read with Rule 2 of the 1956 Rules:—

(i) Sumptuary allowance @ Rs. 500 per month.

(ii) Compensatory allowance @ Rs. 900 per month under Article 221 of the Constitution.

(iii) Conveyance allowance at the rate of Rs. 3,500 P.M. minus the cost of 150 litres of petrol per month.

The claim for City Compensatory and House Rent Allowances has of course to be ignored in view of sub-rule (3) of this very rule, i.e., Rule 20-B of the 1955 Rules which reads:—

"(3) The city compensatory allowance and the house rent allowance shall not be included in calculating the cash equivalent of leave salary under this rule."

(16) We have chosen to accept the evaluation of the petitioner's claim under section 22-B of the 1954 Act at Rs. 3,500 P.M. for the reasons that :—

(i) The State of Bihar, as already pointed out, has not put in appearance either to contest this claim or to explain the reasons and circumstances under which it failed to discharge its obligation to provide a staff car to the petitioner. This non-contest by the said respondent, to our mind, amounts to implied admission of the claim;

(ii) What has been denied by the Union of India is that it had ever conveyed its concurrence to the West Bengal Government for the payment of this amount and not the factum of the amount of Rs. 3,500 P.M. being paid to the Judges of the Calcutta High Court in lieu of the non-providing of the staff car and 150 litres of petrol as envisaged by section 22-B of the Act;

(iii) To reconcile with the attitude of the State of Bihar in not discharging its obligation under section 22-B of the Act would amount to a complete negation of that provision; and

(iv) Otherwise also the claim as put forth by the petitioner. does not appear to be unreasonable.

(17) Now with regard to the rest of the claims of the petitioner as specified at (i) and (iv) in the opening part of the judgment:—

(18) It is conceded at all hands in the light of the Supreme Court judgment in Civil Writ Petition No. 764 of 1987 (*Satish*

Chandra v. *Union of India and others*) (3) decided on July 30, 1987 (copy Annexure P. 7 to the petition) that an amount of rupees one lakh was payable to the petitioner by way of gratuity. As against this, only an amount of Rs. 49,000 was paid. The balance amount of Rs. 51,000 has been paid to him in July, 1988, i.e., about 12 months after the date of his retirement. He claims interest on this amount on account of the delayed payment. The claim appears to be well merited in the light of the observations made by their Lordships of the Supreme Court in an earlier judgment, i.e., *State of Kerala and others* v. *M. Padmanabhan Nair* (4), wherein it is ruled that "pension and gratuiity are no longer any bounty to be distributed by the Government to its employees on their retirement but have become, under the decisions of this Court, valuable rights and property in their hands and any culpable delay in settlement and disbursement thereof must be visited with the penalty of payment of interest at the current market rate till actual payment'. We, therefore, allow him interest at the rate of 12 per cent on the balance amount of Rs. 51,000 with effect from the date of his retirement, i.e., July 27, 1987 to the date of actual payment made to him. Similarly his claim for interest on the amounts to be calculated and payable to him in terms of the above noted conclusions of ours with regard to his claims specified at (ii) and (iii), is upheld.

(19) So far as his claim under (iv) for reimbursement of medical charges is concerned, the State of Punjab has though discharged its obligation,—*vide* order of the Governor dated March 21, 1989 (copy placed on record)— as per the stand of Mr. Riar, Senior Deputy Advocate General for the State, it has been so done as a special case — yet it has chosen to contest its liability on the plea that subsequent to his retirement, the petitioner has settled at Panchkula and, therefore, he is not entitled to this relief in view of the instructions of the State Government dated August 24, 1973; December 11, 1973 and December 11, 1978 (Annexures P. 3 to P. 5 to the petition). The crux of these instructions is that grant of free medical facilities/reimbursement of medical charges, is available to only those "retired members of All India Services, their wives/husbands and retired Judges of Punjab and Haryana High Court, their wives/husbands who after retirement have settled in Punjab

(3) C.W.P. 764 of 1987, decided on 30th July, 1987.
(4) A.I.R. 1985 S.C. 356.

and draw their pension from the Punjab Government Treasuries' It is conceded by this respondent that the petitioner is drawing his pension from one of its treasuries. The plea, however, is that before the petitioner can be made entitled to reimbursement of medical charges or the grant of free medical facilities by the State Government, he has to fulfil the twin condition, i.e., he is settled in Punjab and is drawing his pension from the Punjab Government Treasury. We, however, fail to see any merit in this plea for various reasons. Firstly, as per the stand of the petitioner which is otherwise also not disputed that he owns considerable immovable properties within the State of Punjab. Merely because that at the moment he is residing in Panchkula which is almost an integral part of the City of Chandigarh, which happens to be the capital of Punjab also, it cannot be said that he is not a domicile of Punjab or has settled outside the State of Punjab. Secondly, the requirement of a retiree having settled in Punjab appears to be only, directory and not mandatory. On the face of it, the settlement of a retiree within the territory of Punjab or outside does not appear to be relevant to the question of reimbursement of the medical expenses undergone by him on his or his wife's treatment. What seems to be of importance in this regard is that such a retiree should have his treatment as an indoor or outdoor patient including X-ray, laboratory and other such examinations from the State hospitals and dispensaries, etc. This appears to be so very clear from the contents of Annexure P. 4 itself. When the Union of India had not agreed to provide free medical treatment facilities to Punjab Government pensioners at the Post Graduate Institute of Medical Education and Research at Chandigarh wherefrom the petitioner and his wife got themselves treated, the State Government issued instructions to say that:—

> "It has now been decided that the Punjab Government pensioners including the retired Judges of the High Court of Punjab and Haryana and their wives/husbands and retired officers belonging to All India Services and their wives/husbands while availing of the aforesaid medical facilities at the Post Graduate Institute of Medical Education and Research at Chandigarh should, in the first instance, pay the charges as per the Post-graduate Institute of Medical Education and Research Tariff and then claim reimbursement from the Punjab Government. Such pensioners will submit necessary claims for reimbursement of expenses in the same manner

to the Head of Department under whom they were serving at the time of their retirement. This reimbursement scheme shall come into force with immediate effect."

Otherwise also the plea of the State Government appears to be incongruous with the acceptance of the claim of the petitioner for payment of pension through one of its treasuries. Inevitably the other retirement benefits, including the medical reimbursement, etc. have to be paid to him through the same very treasury. We, therefore, repel the above noted stand of the State Government and except that it would continue to discharge its obligations as has now been done,—*vide* order dated March 21, 1989, without resort to the power of relaxation as mentioned in this order.

(20) For the reasons recorded above, we allow this petition and direct the issuance of a writ of *mandamus* to finalise the claims of the petitioner in the light of the above noted conclusions of ours and to pay the amounts due to him within a period of three months from today. He is also held entitled to the costs of this petition which we determine at Rs. 1,000.

P.C.G.

Before : *Harbans Singh Rai, J.*

MAJOR I. S. SABHERWAL,—*Petitioner.*

versus

CHIEF OF ARMY STAFF AND OTHERS,—*Respondents.*

Civil Writ Petition No. 3846 *of* 1988.

5th October, 1989.

Army Instructions 31/86, 1/*S*/74 *as amended by* 2/76—*Petitioner promoted to rank of acting Lt. Colonel—Reservation to rank of substantive Major on ground of pending disciplinary case—Authorities deciding not to bring petitioner to trial—Petitioner whether entitled for regrant of acting rank—Award of severe displeasure (recordable) without sanction of law is not sustainable.*

Held, that the petitioner is entitled to be regranted the rank vacated by him on account of the amended clause 7(b) of the Army Instruction 31/86 since he was not admittedly brought to any trial.
(Para 9)