



IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO.433/2021

SHRI PRASHANT S. P. TENDOLKAR,
age 65 years, Retired Chief
Information Commissioner,
Goa State Information Commission,
Panaji, Goa, and presently
residing at A6, Raj Heritage,
Shantinagar, Ponda, Goa.

... PETITIONER

Versus

(1) STATE OF GOA, Through the
Chief Secretary, Secretariat, Porvorim-Goa.

(2) SECRETARY FINANCE,
State of Goa, Secretariat, Porvorim Goa.

(3) SECRETARY INFORMATION
& PUBLICITY, State of Goa,
Secretariat, Porvorim Goa.

(4) DIRECTOR, INFORMATION
& PUBLICITY, Govt. of Goa
Udhyog Bhavan, 3rd Floor,
Near Azad Maidan, Panaji Goa.

(5) SECRETARY, GOA STATE
INFORMATION COMMISSION,
7th Floor, Kamat Towers,
Patto, Panaji, Goa.

... RESPONDENTS

Mr R. G. Ramani, Senior Advocate with Mr Vinayak Nevrekar,
Advocate for the Petitioner.

Ms Maria Correia, Additional Government Advocate for the
Respondents.

CORAM:**M. S. KARNIK &
VALMIKI MENEZES, JJ.****Reserved on:****18th JULY 2024****Pronounced on:****1st AUGUST 2024**

JUDGMENT: (Per M. S. Karnik, J.)

1. The petitioner herein invokes the jurisdiction of this Court under Article 226 of the Constitution of India seeking the following reliefs:

“a) For an appropriate Writ, order or direction of this Hon'ble Court directing the Respondents to effect the payment of the entire arrears of salary and allowances and related arrears as per the Amendment Act of 2018 alongwith interest thereon @ 12% p.a. from 1/4/2018 till the same is fully and finally paid;

b) For an appropriate Writ, order or direction of this Hon'ble Court directing the Respondents to finalize/Fix the Petitioner's pension and submit the required papers to the Directorate of Accounts for payments, within such period as may be fixed by this Hon'ble Court;

c) For an appropriate Writ, order or direction of this Hon'ble Court directing the Respondents to order the payment of the entire amount towards Gratuity and the Leave Encashment amount, alongwith interest thereon @ 12% p.a. from 11/2/2020 till the same is fully and finally paid;

d) For an appropriate Writ, order or direction of this Hon'ble Court directing the Respondents to order the reimbursement of the payment towards domestic help as per the Notification dated 24/11/2016 of the Hon'ble Supreme Court of India published in the Gazette of India (Extraordinary) dated 25/11/2016 notifying the Rules for providing domestic help to former Chief Justice of India and former Judges of the Supreme Court and as implemented by the Election Commission of India;”

2. Before we deal with the facts, it is necessary to refer to the observations of this Court in the order dated 20.03.2024. Mr Ramani, learned Senior Advocate for the petitioner admitted that the petitioner has been paid the entire arrears of the salary and allowances and the related arrears as per the Amendment Act, 2018. The relief now sought is for the interest due and payable on this amount for the delayed period. In so far as the prayer clause (c) is concerned, the petitioner has been paid the leave encashment amount on 20.11.2020. Interest for the delayed period is demanded. The petitioner then prayed for gratuity. The core issue in this petition is the dispute whether the petitioner is entitled to any pensionary benefit. The petitioner also prays, in the context of prayer clause (d), for the reimbursement of payment of domestic help in terms of the notification dated 24.11.2016.

3. The facts in a nutshell are as follows.

4. The petitioner has been a practising advocate enrolled with the Bar Council of Maharashtra and Goa from 01.06.1982. Pursuant to the order of the Governor dated 11.12.2015, issued through the respondent no.4 – Director, Information and Publicity, Government of Goa and published in the Official Gazette of Government of Goa on 24.12.2015, the petitioner was appointed as the State Chief Information Commissioner (SCIC for short) for the Goa State Information Commission. The said appointment was made in terms of Section 15(3) of the Right to Information Act, 2005 (RTI Act for short).

5. The petitioner entered the office as SCIC of the Goa State Information Commission with effect from 01.01.2016. According to the learned Senior Advocate for the petitioner, the terms and conditions of service were governed under Section 16(5) of the RTI Act. It is the

contention of the learned Senior Advocate that in terms of Section 16(5)(a) of the RTI Act, the salaries and allowances payable to and other terms and conditions of service of the SCIC shall be the same as that of an Election Commissioner. Under Section 3 of the Election Commission (Conditions of Service of Election Commissioners and Transaction of Business) Act, 1991 (Election Commission Act for short), the terms and conditions of service and the salaries payable to the Election Commissioner are the same as provided under The Supreme Court Judges (Salaries and Conditions of Service) Act, 1958 (Act of 1958 for short) and The Supreme Court Judges Rules, 1959. It is the submission of the learned Senior Advocate that the petitioner's salary and allowances and other terms and conditions of service are thus governed as per the provisions of the Act of 1958. There is no dispute that the petitioner has received salary and allowances as prescribed under the Act of 1958.

6. By the Amendment Act of 2018, the Act of 1958 was amended by the Ministry of Law and Justice thereby revising the salaries and allowances as also some of the terms and conditions of service. There is also no dispute that the salaries and allowances came to be revised and paid as per the Amendment Act, 2018. For the delay in payment of arrears, interest is demanded.

7. The petitioner retired as SCIC on 11.02.2020 on completion of his tenure. It is the submission of the learned Senior Advocate for the petitioner that the petitioner is entitled to receive pension and gratuity as per the Act of 1958 duly amended by the Amendment Act of 2018. The petitioner however was not paid pension and gratuity though he was entitled to its receipt. By communication dated 15.01.2020, the respondent no.5 informed the petitioner that he is not entitled for pension. In addition to the pension, it is contended that the petitioner is entitled to

reimbursement towards domestic help as per notification dated 24.11.2016 of the Hon'ble Supreme Court of India published in the Gazette of India (Extraordinary) dated 25.11.2016 notifying the Rules for providing domestic help to former Chief Justice of India and former judges of the Supreme Court and as implemented by the Election Commission of India. The said Rules providing for domestic help are made applicable to the Election Commission of India vide Office Memorandum dated 05.07.2017 and to the Central Information Commission, New Delhi by Office Memorandum dated 09.04.2018.

8. Ms Maria Correia, learned Additional Government Advocate appearing for the State submitted that the petitioner is not entitled to any pensionary benefits. It is submitted that pensionary benefits to any given post are to be granted on the basis of the contract of service or the statute that governs the service. According to her, pensionary benefits cannot be granted de hors the statute and/or de hors the contract of service. The phrase '*others terms and conditions of service*' under Section 16(5) of the RTI Act, 2005 are qualified by the words '*salaries and allowances*' and hence cannot be construed to include retiral benefits and/or post retiral benefits. Reliance is placed on the decision of the Division Bench of the Jharkhand High Court in *Shristidhar Mahato v/s State of Jharkhand and Others - 2023 SCC Online Jhar 3215* which has interpreted Section 16(5) of the RTI Act, 2005 to be restricted to salaries and allowances only and not to include pensionary benefits.

9. It is submitted by the learned AGA that in the event it was the intention of the Legislature to include retiral and/or post retiral benefits, the same would be mentioned in the provision itself. A reference is made to the Goa Lokayukta Act, 2011 which contains a similar provision wherein, when it comes to the conditions of service of the Lokayukta and the Upa

Lokayukta, reference is made to the service conditions of the Judges of the Supreme Court and the High Court, respectively. Under Section 6 of the Goa Lokayukta Act, 2011 it is stated that Lokayukta and the Upa-Lokayukta shall be entitled to salary, allowances and pension and shall be subject to the same conditions of service, as a Judge of the Supreme Court and a Judge of the High Court, respectively. She submits that when the Legislature intended to extend pensionary benefits, it has clearly stipulated so. Mere reference to the phrase '*other terms and conditions of service*' would not by default include within its ambit pensionary benefits. The intent always was not to extend pensionary benefits which is further made clear by virtue of the 2019 amendment to the RTI Act. Section 16(5) reads - '*the salaries and allowances payable to and other terms and conditions of service of the State Chief Information Commissioner and the State Information Commissioners shall be such as may be prescribed by the Central Government*'. The use of the phrase '*other terms and conditions of service*' only speaks about the benefits which are available to the incumbent while he or she holds the post of State Chief Information Commissioner and does not provide for retiral and/or post retiral benefits. Therefore, unless there is specific mention of pensionary benefits and other such retiral benefits, the same cannot be included in the phrase '*other terms and conditions of service*'. The grant of any pension in terms of Part III would result in an absurd situation wherein persons who entered the office as State Chief Information Commissioner and who did not hold a pensionable post prior to such entry would not be entitled to pension whilst persons who held a pensionable post anytime prior to becoming a judge would be entitled to additional pensionary benefits upon being appointed as SCIC. In the alternative and without prejudice to the above, learned AGA submitted that the Petitioner's benefits would be limited to Part III of the Supreme Court Judges (Conditions of Service) Act, 1958,

and in terms of the same, the petitioner would only be entitled to the additional pensionary benefits in terms of sub clause (b) of clause 2 of Part III of the Supreme Court Judges (Conditions of Service) Act, 1958.

10. It is submitted that gratuity being a post retiral benefit cannot be extended to the petitioner. In the alternative and without prejudice to the above, she submits that the gratuity would have to be extended in terms of clause (b) of sub section (2) of section 6 of the Election Commission (Conditions of Service of Election Commissioners and Transaction of Business) Act, 1991 if at all the same is payable.

11. Learned AGA urged that the service conditions spelt out in Section 8 of the Election Commission (Conditions of Service of Election Commissioners and Transaction of Business) Act, 1991 are all in the nature of conditions as are applicable to a person whilst he holds the said post and does not pertain to post retiral benefits. Therefore, by placing reliance upon the said provision, the post retiral benefits which are applicable to a retired Judge of the Supreme Court cannot be extended to the retired SCIC. The post retiral benefits are made applicable to retired Judges of the Hon'ble Supreme Court in light of the esteemed constitutional position held by them.

12. As regards the entitlement of domestic help, it is submitted that the Central Government has been given the power to frame Rules under Section 24 of the Supreme Court Judges (Conditions of Service) Act, 1958 (41 of 1958). The Rules for providing Domestic Help to Former Chief Justices of India and Former Judges of the Supreme Court upon which the Petitioner has placed reliance have not been framed in exercise of powers under Section 24. Instead, the said Rules have been framed by Order and under the authority of the Chief Justice of India. Further, Rule 3 of the

said Rules provides that the Rules shall apply to a person who has held office either as a Chief Justice of India or as a Judge of the Supreme Court. Rule 4, further, goes on to define '*Former Judge*' and '*Supreme Court*'. The said Rules are only applicable to the persons who held the posts mentioned therein and cannot be extended to the petitioner.

13. Learned AGA submits that mere fact that in the past by way of executive instructions the State of Goa has granted certain benefits which are under the RTI Act, would not preclude the State of Goa from now discontinuing the said benefits which are not contemplated in law as there is no estoppel against law. Further, merely because some retired SCIC has enjoyed the benefit under the instructions which are de hors the RTI Act, the same does not create any right in favour of the petitioner as there cannot be equality in illegality.

14. The rival contentions now fall for our determination.

15. The question is whether the petitioner is entitled to pensionary benefits upon completion of his tenure as SCIC. Let us first examine the provisions of the RTI Act, 2005. The RTI Act, 2005 was enacted to provide for setting out practicable regime of right to information for citizens to secure access to information under the control of public authorities, in order to promote transparency and accountability in the working of every public authority, the constitution of a Central Information Commission and State Information Commissions and for matters connected therewith or incidental thereto. Democracy requires an informed citizenry and transparency of information which are vital to its functioning and also to contain corruption and to hold Governments and their instrumentalities accountable to the governed. The revelation of information in actual practice is likely to conflict with other public

interests including efficient operations of the Governments, optimum use of limited fiscal resources and the preservation of confidentiality of sensitive information. As it is necessary to harmonise these conflicting interests while preserving the paramountcy of the democratic ideal, it was felt expedient to provide for furnishing certain information to citizens who desire to have it. The RTI Act came to be enacted.

16. Chapter IV of the RTI Act deals with provisions regarding the State Information Commission which shall consist of (a) the State Chief Information Commissioner, and (b) such number of State Information Commissioners, not exceeding ten, as may be deemed necessary. Section 15(5) provides that the SCIC and the SICs shall be persons of eminence in public life with wide knowledge and experience in law, science and technology, social service, management, journalism, mass media or administration and governance.

17. Section 16 provides for the term of office and conditions of service. Section 16(1) postulates that the SCIC shall hold office for a term of five years from the date on which he enters upon his office and shall not be eligible for reappointment, provided that no SCIC shall hold office after attaining age of sixty-five years. Sub-section (5) of Section 16 which is significant from the point of view of the present petition reads thus:-

“(5) of The salaries and allowances payable to and other terms and conditions of service:

(a) the State Chief Information Commissioner shall be the same as that of an Election Commissioner;

(b) the State Information Commissioner shall be the same as that of the Chief Secretary to the State Government.”

The first proviso to sub-section (5) is of some importance. If the SCIC at the time of his appointment is in receipt of any pension in respect of any previous service under the Government of a State, his salary in respect of the service as the SCIC shall be reduced by the amount of that pension including any portion of pension which was commuted and pension equivalent of other forms of retirement benefits excluding pension equivalent of retirement gratuity. It is also necessary to bear in mind the third Proviso to sub-section (5) of Section 16 which provides that the salaries, allowances and other conditions of service of the SCIC shall not be varied to his disadvantage after the appointment.

18. It is important to bear in mind that sub-section (6) of Section 16 which stipulates that the State Government shall provide the SCICs with such officers and employees as may be necessary for the efficient performance of their functions under this Act, and the salaries and allowances payable to and the terms and conditions of service of the officers and other employees appointed under this Act shall be such as may be prescribed. It is thus seen that when it comes to the SCIC, the salaries and allowances payable to and other terms and conditions of service shall be the same as that of an Election Commissioner; whereas, in respect of other officers and employees the salaries and allowances payable to and the other terms and conditions of service shall be such as may be prescribed. The intent of sub-section (5) of Section 16 is that in respect of salaries and allowances payable to the SCIC and other terms and conditions of service shall be the same as that of an Election Commissioner. The learned Additional Government Advocate pointed out that the phrase '*other terms and conditions of service*' relates to the salaries and allowances payable during the period of service and has nothing to do with entitling the petitioner to post retiral benefits.

19. In the context of sub-section (5) of Section 16, it will now be important to examine the salaries and allowances payable to and other terms and conditions of service in respect of Election Commissioner. Salaries and other terms and conditions of service in respect of Election Commissioner is provided under Chapter II of the Election Commission Act, 1991. Section 3 therein provides that there shall be paid to the Election Commissioner a salary which is equivalent to the salary of a Judge of the Supreme Court. A brief mention to the proviso to Section 3 is relevant as it contains a somewhat similar provision as that of an SCIC who was in receipt of pension immediately before the date of assuming office as the Chief Election Commissioner. In Chapter II itself is a provision for pension payable to Election Commissioners. Section 6(1) ordains that the person who, immediately before the date of assuming office as the Chief Election Commissioner or an Election Commissioner was in service of Government, shall be deemed to have retired from service on the date on which he enters upon office as the Chief Election Commissioner or an Election Commissioner but his subsequent service as the Chief Election Commissioner or an Election Commissioner shall be reckoned as continuing approved service counting for pension in Service to which he belonged. Sub-section (1) of Section 6 thus is a provision where the Election Commissioner, immediately before the date of assuming office as the Chief Election Commissioner or an Election Commissioner was in service of Government.

20. What is relevant from the point of view of the petitioner's case, according to us, is sub-section (2) of Section 6 which reads thus:-

“(2) Where the Chief Election Commissioner or an Election Commissioner demits office whether in any manner specified in sub-

section (3) or by resignation, he shall, on such demission be entitled to-

(a) a pension which is equal to the pension payable to a Judge of the Supreme Court in accordance with the provisions of Part III of the Schedule to the Supreme Court Judges (Conditions of Service) Act, 1958 (41 of 1958), as amended, from time to time; and

(b) such pension (including commutation of pension), family pension and gratuity as are admissible to a Judge of the Supreme Court under the said Act and the rules made thereunder, as amended from time to time.”

21. Thus, sub-section (2) of Section 6 entitles an Election Commissioner to pensionary benefits which is equal to the pension payable to the Judge of Supreme Court in accordance with Part III of the Schedule to the Act of 1958 as amended from time to time, upon his demitting office in any manner specified in sub-section (3). Sub-section (3) of Section 6 provides that “*except where the Election Commissioner demits office by resignation, he shall be deemed, for the purpose of this Act, to have demitted his office if, and only if, (a) he has completed the term of office specified in section 4, or (b) he has attained the age of sixty-five years; or ”.*

22. It is also significant to note the provisions of Section 8 of the Election Commission Act, 1991 which provide for other conditions of service. Section 8 reads thus:-

“ 8. Other conditions of service.- Save as otherwise provided in this Act, the conditions of service relating to travelling allowance, provision of rent-free residence and exemption from payment of

income-tax on the value of such rent-free residence, conveyance facilities, sumptuary allowance, medical facilities and such other conditions of service as are, [for the time being, applicable to a Judge of the Supreme Court under Chapter IV of the Supreme Court Judges (Conditions of Service) Act, 1958 (41 of 1958) and the rules made thereunder, shall, so far as may be, apply to the Chief Election Commissioner and other Election Commissioners].”

23. We may now examine the provisions of the Supreme Court Judges (Conditions of Service) Act, 1958. Chapter III of the Act of 1958 deals with salaries and pension. Section 12(a) is a provision for payment of salaries to the Judges. Section 13 provides for the pension payable to the Judges. Section 13 ordains that “*subject to the provisions of this Act, a pension shall be payable in accordance with the provisions of Part I of the Schedule to a Judge of the Supreme Court on his retirement if, but only if,- (b) he has attained the age of sixty-five years; or (c)*”. Section 13A provides for benefit of added years of service viz. a period of ten years shall be added to the service of a Judge for the purposes of his pension, who qualified for appointment as such Judge under sub-clause (b) of clause (3) of Article 124 of the Constitution.

24. It is material to note that sub-section (1) of Section 14 provides that every Judge who has held any other pensionable post under the Union or a State shall, on his retirement, be paid pension as per the provisions of Part III of the Schedule. The Proviso to Section 14 stipulates that every such Judge shall elect to receive the pension payable to him either under Part I of the Schedule, or as the case may be, Part II or Part III of the Schedule, and the pension payable to him shall be calculated accordingly.

25. Section 16A are provisions relating to family pension and gratuity payable to the Supreme Court judges. Sub-section (2)(i) of Section 16A provides - (i) the minimum qualifying service for the purpose of entitlement to the gratuity shall be two years and six months; and (ii) the amount of gratuity shall be calculated on the basis of ten days salary for each completed six months period of service as a Judge. Section 17 provides that if, at the time of his appointment to the Supreme Court, a Judge is in receipt of a pension in respect of any previous service either as a Judge of a High Court or in any other pensionable civil post under the Union or a State, the pension payable to him under this Act shall be an additional pension for service in the Supreme Court equal to the difference between his original pension and the pension to which he would have been entitled under this Act, if his service in the Supreme Court had been rendered in continuation of the previous service for which his original pension was granted. It is now material to look at the Schedule specified in terms of Section 13 and Section 14 of the Act. What is relevant to the present petition is Part III of the Schedule which deals with pensions of Judges. Part III reads thus:-

“ PART III

1. The provisions of this Part apply to a Judge who has held any [pensionable post] under the Union or a State (but is not a member of the Indian Civil Service) and who has not elected to receive the pension payable under Part 1.

2. The pension payable to such a Judge shall be-

(a) the pension to which he is entitled under the ordinary rules of his service if he had not been appointed a Judge, his service

as a Judge in India being treated as service therein for the purpose of calculating that pension; and

(b) a special additional pension of [Rs. 45,016] per annum in respect of each completed year of service for pension as a Judge in India.

[Provided that the pension under clause (a) and the additional pension under clause (b) together shall in no case exceed [Rs.16,80,000] per annum in the case of a Chief Justice and [Rs.15,00,000] per annum in the case of any other Judge.]

26. According to us, on a reading of the aforesaid provisions, the term ‘*other terms and conditions of service*’ in Section 16(5) of the RTI Act would include pension. It is not possible for us to accept the arguments of the learned Additional Government Advocate that the phrase ‘*other terms and conditions of service*’ should receive a restricted meaning and that it applies only to salaries and allowances during the terms of office as SCIC. Section 16(5) clearly provides that the salaries and allowances payable to and other terms and conditions of service of the SCIC shall be the same as that of an Election Commissioner. The salaries and allowances payable to the SCIC is obviously during the service tenure as SCIC.

27. The phrase ‘*other terms and conditions of service*’ cannot be curtailed to mean that it is only restricted to ‘*salaries and allowances payable to*’ during the subsistence of employment. The usage of the words ‘*other terms and conditions of service*’ in the absence of anything to indicate that pensionary benefits are excluded, has to be given a proper meaning and it has to be so understood to cover post retiral benefits if otherwise admissible. We are not in agreement with the learned Additional Government Advocate that as the phrase ‘*other terms and conditions of*

service are qualified by the words '*salaries and allowances*' and hence cannot be construed to include retiral benefits and/or post retiral benefits. In *The U.P. State Electricity Board And Another v/s. Hari Shankar Jain And Others – (1978) 4 SCC 16*, Their Lordships held that the true scope of the rule of "*ejusdem generis*" is that words of a general nature following specific and particular words should be so construed as limited to things which are of the same nature as those specified. But the rule is one which has to be applied with caution and not pushed too far. It is a rule which must be confined to narrow bounds so as not to unduly or necessarily limit general and comprehensive words. If a broad-based genus could consistently be discovered there is no warrant to cut down general words to dwarf size. If giant it cannot be, dwarf it need not be.

28. In our opinion, the phrase '*other terms and conditions of service*' in the context of Section 16(5) cannot be given a restricted meaning to exclude pension and post retiral benefits. The provisions clearly ordain that '*other terms and conditions of service*' apart from salaries and allowances payable to SCIC shall be the same as that of an Election Commissioner. In such view of the matter, if the Election Commissioners are entitled to receipt of pension under Section 6 of the Election Commission Act, 1991, which provision is found under Chapter II relating to salaries and other conditions of service of the Election Commissioners, there is no warrant then to restrict the scope of the words '*other terms and conditions of service*' under Section 16(5) of the RTI Act to exclude post retiral benefits though an Election Commissioner is entitled to such post retiral benefits including pension.

29. The Hon'ble Supreme Court in *State of Madhya Pradesh And Others v/s. Shardul Singh – 1970 (1) SCC 108* had an occasion to consider the expression '*conditions of service*'. Article 309 of the

Constitution of India provides that subject to the provisions of the Constitution, acts of the appropriate Legislature may regulate the recruitment, and conditions of service of the persons appointed, to public services and posts in connection with the affairs of the Union or of any State. Proviso to that Article says:-

"Provided that it shall be competent for the President or such person as he may direct in the case of services and posts in connection with the affairs of the Union, and for the Governor of a State or such person as he may direct in the case of services and posts in connection with the affairs of the State to make rules regulating the recruitment, and the conditions of services of persons appointed, to such services and posts until provision in that behalf is made by or under an Act of the appropriate Legislature under this article, and any rules so made shall have effect subject to the provisions of any such Act."

30. In paragraph 8 it is observed that one of the powers conferred under this proviso is to make rules regulating the conditions of service of persons appointed to civil services of the Union or the State as the case may be. It was noted that the expression "*conditions of service*" is an expression of wide import. In paragraph 9 Their Lordships observed that the expression "*conditions of service*" means all those conditions which regulate the holding of a post by a person right from the time of his appointment till his retirement and even beyond it in matters like pension, etc. We therefore see no reason to give the phrase '*other terms and conditions of service*' a restricted meaning as the learned Additional Government Advocate wants us to.

31. The view taken by the Division Bench of this Court in *Alagharu Venkataratnam v/s. The Union of India And Others – Writ Petition No.653 of 2010* supports the petitioner's cause. We may also draw support from the decision of the High Court of Karnataka in *Wing Commander G. B. Athri v/s. Union of India And Others – Writ Petition No.52207 of 2017*. The Karnataka High Court held that as per the terms and conditions of service of the Chief Secretary of State, the State Information Commissioners will be entitled to pension payable to the Chief Secretary, subject to deduction of pension already received for their past service. It was held that in view of sub-section 5 of Section 16, the SICs are entitled to the same pension, which is payable to the Chief Secretary.

32. According to us, the decision relied upon by the learned Additional Government Advocate in *Shristidhar Mahato v/s State of Jharkhand and Others (supra)*, is distinguishable on facts. The petitioner before the Jharkhand High Court was not working in any pensionable service the day he was appointed as SIC and in that context it was held that the petitioner therein was not entitled to pensionary benefit. The petitioner in the present case was receiving pension at the time of his appointment as SCIC.

33. The reliance by the learned Additional Government Advocate on The Right to Information (Term of Office, Salaries, Allowances and Other Terms and Conditions of Service of Chief Information Commissioner, Information Commissioners in the Central Information Commission, State Chief Information Commissioner and State Information Commissioners in the State Information Commission) Rules, 2019 to contend that as there is no provision made for pension in the said Rules, the intention of the Legislature was obviously to exclude post retiral benefits is completely misconceived. The Rules of 2019, if at all, will

operate prospectively. In any case, the third Proviso to Section 16(5) clearly stipulates that the salaries, allowances and other conditions of service of the SCIC and SICs shall not be varied to their disadvantage after their appointment. The petitioner was appointed prior to the coming into force of the Rules of 2019. The benefit accrued in favour of the petitioner prior to the coming into force of the Rules of 2019 cannot be taken away.

34. We therefore have no hesitation in holding that the petitioner is entitled to pension in terms of Part III of the Supreme Court Judges (Conditions of Service) Act, 1958. It is a common ground that the petitioner was discharging duties as Additional President of Goa State Administrative Tribunal, South District and was in receipt of pension when he was appointed as SCIC. The petitioner would thus be entitled to receive additional pensionary benefit in terms of the Supreme Court Judges (Conditions of Service) Act, 1958. The petitioner will also be entitled to gratuity in terms of Clause (b) of sub-section 2 of Section 6 of the Election Commissioner Act, 1991. Insofar as prayer clause (d) is concerned, it is brought to our notice that the petitioner has already been provided with some assistance. It was the contention of the learned Additional Government Advocate that the Central Government has been given the power to frame rules under Section 24 of the Supreme Court Judges (Conditions of Service) Act, 1958. The rules providing domestic help to former Chief Justices of India and former judges of the Supreme Court upon which the petitioner had placed reliance has not been framed in exercise of powers under Section 24, instead, the said rules have been framed by the Order and under the authority of the Chief Justice of India. In such view of the matter, we find it appropriate that the petitioner makes a comprehensive representation to the State Government for seeking redress which he has sought in prayer clause (d) of this petition. The representation may be decided on its own merits and in accordance with

law. We are not expressing any opinion so far as prayer clause (d) is concerned.

35. Learned Senior Advocate for the petitioner on instructions from the petitioner who was present in the Court graciously agreed not to press for interest on the delayed payment now that this Court has held him entitled to retiral benefits afore-stated.

36. In this view of the matter, the pensionary benefits be calculated and the arrears paid to the petitioner within a period of three months from today. The gratuity amount be paid in accordance with the provisions of law expeditiously.

37. The petition is allowed. There shall be no order as to costs.

VALMIKI MENEZES, J.

M. S. KARNIK, J.