

WP.CT. 77 of 2022

(Union of India & Ors. Vs. Rajat Kumar
Samanta & Ors.)

Mr. Kushi Rasun Chatterjee

..... For the petitioners

Mr. Achintya Kumar Banerjee

Ms. Indumouli Banerjee

..... For the respondents

The present writ petition has been preferred challenging an order dated 24th January, 2022 passed by the learned Tribunal in the original application being OA No. 350/00679/2021 preferred by the applicants/respondents in the present petition challenging, *inter alia*, an order dated 13th July, 2020 passed by the PFA(Admn)/CLW/Chittaranjan by which the authorities refused to grant the benefits of ‘*split duty*’ allowance to the respondents.

Mr. Chatterjee, learned advocate appearing for the petitioners herein submits that as per the 7th CPC as accepted by the Government of India, the claim of ‘*split duty*’ allowance had been radically changed and there are specific categories of employees who can be granted such allowance. The respondents herein do not fall in those categories and as such, they are not entitled to the allowances.

According to Mr. Chatterjee, the arguments as advanced on behalf of the petitioners herein were not

taken into consideration by the learned Tribunal and the impugned order was passed without appreciating that the respondents herein are ministerial staff and they are not similarly circumstanced with the respondents in the case of ***‘Union of India & Ors. Vs. Sukumar Dutta & Ors’*** and are not entitled to the benefits of the judgment delivered by the Hon’ble Supreme Court in the said case.

Per contra, Mr. Banerjee, learned advocate appearing for the respondents submits that the petitioners have filed the present writ petition with the sole intent to delay the disbursement of the benefits in favour of the respondents, whose claim stands fortified by the judgment delivered in the case of *Union of India (supra)* as well as the judgment delivered by a coordinate Bench of this Court in WP.CT 218 of 2009, WP.CT 219 of 2009 and WP.CT 73 of 2009.

Heard the learned advocates appearing for the respective parties and considered the materials on record.

By the order impugned in the present application, the learned Tribunal has only directed the writ petitioners to consider the claim of the respondents herein in the light of the decisions as contained in the original application and to pass necessary orders within a period of three months from the date of receipt of a copy of the order. It has also been observed in the said order that *‘in the event the applicants seem to be identically circumstanced*

to the said employees, appropriate benefits be released within a further period of one month, and, in that case benefits would be actual from the date of this order and notional from the date the applicants are adjudged eligible for the said benefits’.

It appears that the present application was filed belatedly after 127 days and in the midst thereof, the respondents have denied to comply with the directions. The learned tribunal upon dealing with all the factual issues arrived at a finding and issued directions upon the petitioners observing, *inter alia*, that in the event the applicants seem to be identically circumstanced to the employees in the earlier proceedings, appropriate benefits should be released within a period of one month. Such directions are supported with reasons and the same do not cause any prejudice to the writ petitioners herein.

We do not find any error in such directions, least to say any patent error of law in the same. The impugned order does not suffer from any jurisdictional error or any manifest injustice warranting interference of this Court.

Accordingly, the writ petition being WP.CT. 77 of 2022 is dismissed.

There shall, however, be no order as to costs.

All parties shall act on the server copies of this order duly downloaded from the official *website* of this Court.

(Partha Sarathi Chatterjee, J.) (Tapabrata Chakraborty, J.)