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<u>WPCT 203 of 2023</u>
Shri Dhanurdhar Halder
– *Versus* –
Union of India & Others

Mr. Siddhartha Sanakr Mandal,
Ms. Arunima Das Sharma
... for the Petitioner.

Ms. Chandreyi Alam,
Ms. Runu Mukherjee
... for the UoI/Respondents.

The present writ petition has been preferred challenging an order dated 24th March, 2021 passed by the learned Tribunal in the original application (in short, OA), being OA 50 of 2019.

The said OA was preferred by the petitioner challenging *inter alia* an order dated 8th October, 2018 passed by the respondent no.3.

Mr. Mandal, learned advocate appearing for the petitioner strenuously argues that the dual charge allowance of the petitioner for the period from 12th June, 1996 to 30th July, 1996 though taken into consideration for fixing his pension upon retirement on 31st March, 1997 and also at the time of revision of pension in terms of the 5th Pay Commission, the element of dual charge allowance was excluded with effect from 1st January, 2006 on refixation of pension in terms of the 6th Pay Commission. The said dual charge allowance had been withdrawn without any reason whatsoever. Pension is a valuable right and property in the hands of the petitioner and the same had been illegally refixed to his disadvantage without due process of law. In the said conspectus, the learned Tribunal erred in law in not interfering with the order dated 8th October, 2018 passed by the said respondent no.3.

Drawing our attention to the memo dated 16th May, 2013 as well as the provisions of Para – 650 of IREM (Vol. – I), he contends that the dual charge allowance was a part and parcel of the pay and accordingly the same was taken into consideration at the time of revision in terms of the 5th Pay Commission and in the absence of alteration of such nature and character of the element of dual charge allowance, the same could not have been denied in terms of 6th Pay Commission. Such arguments, as advanced, were glossed over by the learned Tribunal and no finding was returned on the same.

Ms. Alam, learned advocate appearing for the respondents submits that the petitioner enjoyed dual charge allowance for the period from 12th June, 1996 to 30th July, 1996 prior to his retirement and cessation of his relationship with the employer. The fixation of pay as per the 6th Pay Commission was rightly done by the respondents in consonance with the provisions of the circular, being RBE No.11 of 2013. The said circular was, however, not challenged by the petitioner before the learned Tribunal.

We have heard the learned advocates appearing for the respective parties and considered the materials on record.

Records reveal that the petitioner's pension was fixed earlier at Rs.6,000/- as per 5^{th} Pay Commission and thereafter, fixed at Rs.6097/- after taking into account the dual charge allowance, which was further raised to Rs.6153/- on the grant of annual increment with effect from 1^{st} January, 1996.

Indisputably, the petitioner enjoyed dual charge allowance for a period of 49 days prior to his retirement. He was not holding any dual charge on the date of his retirement. His pension was refixed upon 6^{th} Pay Commission recommendations in the light of the circular, being RBE No.11 of 2013. The said circular was not under challenge.

In the said conspectus, the learned Tribunal refused to interfere with the order dated 8^{th} October, 2018 passed by the respondent no.3 and we do not find any infirmity in the order impugned.

The learned Tribunal, upon dealing with all the factual issues arrived at specific findings and we do not find any error, least to say any patent error of law in the order impugned.

In view thereof, the writ petition, being WPCT 203 of 2023 is dismissed.

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

Urgent photostat certified copy of this order, if applied for, be supplied to the parties, upon compliance of all requisite formalities.

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