

19.02.2024

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WPCT 234 of 2023
North Eastern Council
– *Versus* –
Sri Shyamal Biswas & Others

Mr. Bibaswan Deka
Mr. Khaza Raihan Ahmed
... for the Petitioner.

Mr. Bharat Bhusan,
Mr. Atindranath Misra
... for the Respondent no.1.

The present writ petition has been preferred challenging an order dated 20th February, 2023 passed by the learned Tribunal in the original application, being O.A./350/01471/2018. By the said order the petitioner was directed to pay Special Duty Allowance (in short, SDA) and double House Rent Allowance (in short, HRA) to the applicant/respondent no.1 herein for the period of his deputation with the North Eastern Council within a period of four months.

Mr. Deka, learned advocate appearing for the petitioner submits that the learned Tribunal had mechanically granted the benefits in favour of the respondent no.1 by a cryptic order without considering the circulars dated 29th March, 1984 and 29th May, 2002. The circular dated 29th March, 1984 would reveal that the same was pertaining to grant of

allowances and facilities for civilian employees of the Central Government serving in the States and the Union Territories of North-Eastern region. The said circular does not apply to persons appointed on deputation and as such, the petitioner ought not to have been directed to grant the allowances and facilities available to the civilian employees of the Central Government to the respondent no.1. When the respondent no.1 does not come under the purview of the said circular dated 29th March, 1984, question of application of the principles of equity do not occasion and the learned Tribunal erred in observing that the denial of the benefits was iniquitous.

He argues that the respondent no.1 was rightly denied the benefits, as prayed for, by the competent authority since he was not working in a post having '*All India Transfer Liability*'. Such arguments, as advanced, were glossed over by the learned Tribunal and no finding was returned on the same.

Mr. Bhusan, learned advocate appearing for the respondent no.1 denies and disputes the contentions of Mr. Deka and submits that there is no infirmity in the order impugned warranting interference of this Court.

We have heard the learned advocates and considered the materials on record.

Indisputably, the respondent no.1 was an employee under the Government of West Bengal. He joined the post of Director in the Information and Public Relation Department of the petitioner herein at Shillong on deputation on and from 18th October, 2006. He continued in the said post till the year 2009. The precondition towards grant of SDA to the Central Government employees that they should have '*All India Transfer Liability*' was dispensed with by the circular dated 29th August, 2008. Subsequent thereto, the respondent no.1 was granted SDA with effect from 1st September, 2008 to 16th October, 2009 though at that juncture the respondent no. 1 was on deputation and the circular dated 29th March, 1984 was in operation.

The argument of Mr. Deka that the respondent no.1 does not come under the purview of the circular dated 29th March, 1984 and as such was not entitled to the benefits was, in our opinion, rightly discounted by the learned Tribunal since the said circular did not specifically debar other Government employees on deputation to such posts from the said benefits. The learned Tribunal while granting such benefits also placed reliance upon the judgment delivered by the Hon'ble Supreme Court in Civil Appeal no.7320 of 1995 by which it was *inter alia* held that all persons similarly situated should be treated similarly.

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.

Accordingly, the writ petition 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.)