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THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : WA/353/2025

THE UNION OF INDIA AND 2 ORS.
REPRESENTED BY THE SECRETARY, GOVERNMENT OF INDIA, MINISTRY
OF DEFENCE, SENA BHAWAN, NEW DELHI-110011.

2: THE DEPUTY CONTROLLER OF DEFENCE ACCOUNTS
NARENGI
P.O. UDAYAN VIHAR
GUWAHATI
DIST. KAMRUP (M)
ASSAM 781027

3: THE DEPUTY CONTROLLER OF DEFENCE ACCOUNTS
AREA ACCOUNTS OFFICE
BIVAR ROAD
SHILLONG
MEGHALAYA
PIN 79300

VERSUS

SRI JAGANNATH DATTA,
SON OF LATE JYOTISH CHANDRA DATTA, HOUSE.NO. 119, CHACHAL
PATH, VIP ROAD, SIX MILE GUWAHATI, ASSAM, PIN-781022.

2:THE PRINCIPAL REGISTRAR
ARMED FORCES TRIBUNAL (PRINCIPAL BENCH)
WEST BLOCK-VIII
SECTOR-1
RK PURAM
NEW DELHI 110066

3:THE REGISTRAR IN CHARGE
ARMED FORCES TRIBUNAL
(REGIONAL BENCH)

2ND FLOOR
ASSAM POLICE HOUSING CORPORATION LTD.
BEHIND ASSAM POLICE HEADQUARTERS
DR. BK. KAKATI ROAD
REHABARI
GUWAHATI
ASSAM 78000

Advocate for the Petitioner : MS BIJITA SARMA,

Advocate for the Respondent : ,

Linked Case : WA/354/2025

THE UNION OF INDIA AND ORS.
REPRESENTED BY THE SECRETARY
GOVERNMENT OF INDIA
MINISTRY OF DEFENCE
SENA BHAWAN
NEW DELHI-110011.

2: THE DEPUTY CONTROLLER OF DEFENCE ACCOUNTS
NARENGI
POST OFFICE UDYAN VIHAR
GUWAHATI
DIST- KAMRUP - M
ASSAM-781027

3: THE DEPUTY CONTROLLER OF DEFENCE ACCOUNTS
AREA ACCOUNTS OFFICE
BIVAR ROAD
SHILLONG
MEGHALAYA
PIN-793001.
VERSUS

MANABENDRA CHAKRABORTY AND ORS.
SON OF LATE MATHURA NATH CHAKRABORTY
HOUSE NO. 46
AVANTI ENCLAVE
SISHURAM CHOUDHURY PATH
KALAPAHAR
GUWAHATI
DISTRICT-KAMRUP M
ASSAM-781018

2:THE PRINCIPAL REGISTRAR
ARMED FORCES TRIBUNAL (PRINCIPAL BENCH)
WEST BLOCK VIII
SECTOR-1
R.K. PURAM
NEW DELHI 110066

3:THE REGISTRAR IN CHARGE
ARMED FORCES TRIBUNAL
(REGIONAL BENCH)
2ND FLOOR
ASSAM POLICE HOUSING CORPORATION LTD.
BEHIND ASSAM POLICE HEADQUARTERS
DR. B.K. KAKATI ROAD
REHABARI
GUWAHATI
ASSAM 780008

For the Petitioner/appellant(s) : Ms. Bijita Sarma, CGC

For the Respondent(s) : Mr. A.R. Tahbildar, Advocate

- B E F O R E -
HON'BLE THE CHIEF JUSTICE MR. ASHUTOSH KUMAR
HON'BLE MR. JUSTICE ARUN DEV CHOUDHURY

12.11.2025

(Ashutosh Kumar, CJ)

This writ appeal has been preferred by the appellants/Union of India against the judgment dated 03.04.2024, passed by a learned Single Judge of this Court in WP(C) No. 5517/2024, whereby the writ petition filed by the respondent herein was allowed and the appellants were directed to pay to the writ petitioner/respondent monthly remuneration @ Rs. 48,000/- per month as also the arrear amount along with interest @ 12% accrued thereon.

The respondent, after attaining the age of superannuation in the year 2017, started getting pension @ 33,700/- per month. During his retirement, he was re-employed as Consultant (Junior Accounts Officer) on contractual basis at the Armed Forces Tribunal, Regional Bench, Guwahati, for a period of one year, vide engagement letter dated 01.09.2023 after obtaining the approval of the Chairman of the Tribunal, New Delhi.

Under the terms of the contract, the respondent was to get a consolidated fixed remuneration of Rs. 48,000/- per month but was not entitled to any other perquisites. Accordingly, as per the terms of the contract, he was being paid Rs. 48,000/- per month.

Later the remuneration was reduced on the pretext of there being in existence an Office Memorandum dated 09.12.2020, which provided that the fixed monthly amount shall be admissible, arrived at by deducting the basic pension from the pay drawn at the time of retirement. The amount of remuneration so fixed shall remain unchanged for the term of the contract and there will be no annual increment/percentage increase during the contract period.

This reduction of the monthly remuneration was challenged before the learned Single Judge, who sustained the objection and observed that since the contractual agreement provided that the respondent would be paid remuneration @ Rs. 48,000/- per month and there being no mention in the terms of the contractual engagement that the remuneration of the respondent would be subject to deduction of his basic pension, the terms of the agreement could not have been altered

by the employer/appellants unilaterally. The learned Single Judge also observed that the appellants could not show the exemplar of such deduction of basic pension from the fixed remuneration in case of any other contractual employee engaged in any other Armed Forces Tribunal across the country.

Though the learned counsel for the appellants/Union of India submits that orally it was informed to the learned Single Judge that in all cases of contractual engagement, the basic pension is deducted from the monthly remuneration, but no instance of such deduction appears to have been shown.

We would like to know, before disposing off this appeal, whether the O.M. dated 09.12.2020 is being implemented and applied across the board in cases of post-retirement contractual employment in the Armed Forces Tribunals.

The learned Advocate for the appellants shall furnish the information by way of an affidavit, which shall be filed by the next date.

Re-notify on 08.12.2025.

JUDGE

CHIEF JUSTICE

Comparing Assistant