

Central Administrative Tribunal, Principal Bench

O.A. No. 1566 of 1995

New Delhi this the 18th day of ^{Nov} October, 1999

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Hon'ble Shri S.R. Adige, Vice Chairman(A)
Hon'ble Shri Kuldip Singh, Member (J)

Ms. Kamlesh Massey D/o Shri H.S. Massey
R/o Q.No.2 Type 2 (Staff Quarters)
Children Home Complex,
Alipur,
Delhi.

...Applicant

By Advocate Ms. Madhavi Bala.

Versus

1. Union of India through
its Secretary,
Ministry of Welfare,
Shastri Bhavan,
New Delhi.
2. Government of NCT of Delhi
through its Secretary (Health)
5- Sham Nath Marg,
Delhi-54.
previously Secretary (Health)
Delhi Administration,
5, Sham Nath Marg,
Delhi-54.
3. Directorate of Social Welfare,ice
Govt. of NCT of Delhi,
5, Sham Nath Marg,
Delhi-54.
4. Joint Director
Directorate of Social Welfare,
Government of NCT of Delhi
Canning Lane (Old ITI Building)
Kasturba Gandhi Marg,
New Delhi.

...Respondents.

Shri Ajesh Luthra, proxy counsel for Ms. Jyotsana
Kaushik, Counsel for the respondents.

Order

By Hon'ble Shri Kuldip Singh, Member (J)

This Original Application has been filed
by Ms. Kamlesh Massey who is working as a Staff
Nurse under the Directorate of Social Welfare of
the Government of NCT, Delhi. In this OA she has

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prayed that she is entitled for Uniform Allowance, Washing Allowance and Nursing Allowance as the same are admissible under the rules and the order of the Government of India and which are being paid to other Staff Nurses in the National Capital Territory of Delhi from time to time as per the directions of the Government of India.

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2. It is stated that applicant is a qualified Staff Nurse and was appointed to the post of Staff Nurse after having been sponsored by the Employment Exchange and the respondents Nos. 3 and 4 are directly responsible for all appointments/service conditions in respect of the applicant.

3. It is further pleaded that the appointment letter issued by the respondents mentions a pay scale of Rs.425-640 plus D.A. and usual allowances. The scale was revised from time to time as per the Pay Commission's reports but the term of usual other allowances continued to remain the same along with appointment terms and conditions.

4. She further claims that the payment of usual allowances like uniform allowance, washing allowance and nursing allowance have been paid to all the staff nurses working in all the establishments except the Staff Nurses working under the Directorate of Social Welfare of NCT, Delhi where the applicant is employed. These allowances are also paid by various other departments/hospitals/institutions such as AIIMS,

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PGI Chandigarh and NIMHANS Bangalore but no uniform allowance, nursing allowance and washing allowance has been paid to the staff nurses of the respondents-department by the respondents.

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5. It is further pleaded that the applicant and other staff nurses working under the Directorate of Social Welfare which is a department of Government of NCT, Delhi. The other staff nurses who are working under the Government of NCT, Delhi in the Department of Health are being paid these allowances. Thus the applicant and her colleagues of Social Welfare are being discriminated and this discrimination is hit by Article 14 of the Constitution of India. Various representations alleged to have been made, but to no effect.

6. Respondents have filed their counter-affidavit and they have stated that the proposal for grant of uniform allowance, nursing allowance and washing allowance was sent to the Government of India, Ministry of Welfare, New Delhi vide Directorate's letter dated 10.11.1983 and subsequently a proposal for grant of nursing allowance to the nursing staff was also sent vide letter dated 3.1.1991, on receipt of the representations from the staff nurses working in the Directorate. It was stated that the matter is still under consideration with the Government of India. It is denied that any decision has been taken to withhold the grant of allowances by the Government of NCT.

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7. We have heard the learned counsel for the parties and have gone through the records.

8. From a perusal of the record we find that the facts that the applicant is working as a staff nurse and was appointed as a qualified staff nurse after having been sponsored by the Employment Exchange is not denied. The only dispute is regarding non-payment of uniform allowance, washing allowance and nursing allowance. To that extent also, the department has sent the representations of the applicant and her colleagues to the Government of India as long back as in 1983 and 1991. It appears that no decision has been taken by the Government of India.

9. From the perusal of the record we also find that when this OA was filed notice to Union of India through Secretary, Ministry of Welfare, Shastri Bhawan was also sent but nobody had bothered to appear before this Tribunal on behalf of Union of India. The counter-affidavit has been filed by respondent Nos. 2 to 4, Government of NCT, Delhi and Department of Social Welfare only, which means that the Government of India was not serious to contest this case.

10. Applicant in support of her case had relied upon copy of the Circular issued by the Ministry of Health and Family Welfare whereby the staff nurses have been granted nursing allowance, uniform allowance and washing allowance which has

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been revised from time to time and the said circular is 13.7.1998. There is also revision of nursing allowance by circulars dated 2.7.98 and 28.7.98.

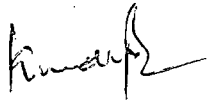
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11. We further mention that there is no denial by the Government of India or by the Government of NCT that all overall staff nurses are getting all the three allowances as per these circulars. So we find no reason as to how Government of NCT can deny the same benefit of allowances to the applicant. Since the nature of the duties of the applicant is also similar to the other staff nurses who are governed by these circulars and are getting the benefit of all the three allowances, so the denial of these benefits would definitely amount to discrimination against the applicant. It is a common knowledge that in all such like institutions the staff nurses are supposed to wear the uniforms and are also supposed to keep the uniform neat and tidy otherwise any nurse who is wearing this uniform loses his/her identity. The staff nurse can be identified only through their uniforms and such type of uniforms is a part and parcel for the staff nurse without which the efficiency of the staff nurse cannot be attained upto the mark. The wearing of the uniform by the staff nurse is compulsory so we find that the applicant is also entitled to all three allowances, i.e. uniform allowance, nursing allowance and washing allowance.

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12. The OA is allowed with a direction to the respondents to pay to the applicant the allowances from the date of filing of the OA as per the admissible rates as per the circular issued by the Government of India from time to time. No costs.

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(Kuldip Singh)
Member (J)


(S.R. Adige)
Vice Chairman(A)

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