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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

O.A.No. 1950/97

New Delhi this the 19th Day of May 1998

Hon'ble Shri R.K.Ahooja, Member (A)

1. P.N. Verma (Sr. Prosecutor/Addl. P.P.)
s/o Late Sh.B.D. Verma
r/o 35/5, Jaccub Pura, Gurgaon,
Haryana.
2. Sh. K.D. Bhardwaj (Sr. Prosecutor)
s/o Late Sh. Har Prashad Sharma
r/o F-3, Police Station Shahdara,
Delhi-110032.
3. Sh. D.P. Aggarwal (Sr. Prosecutor/ Addl. P.P.)
s/o Late Sh.R.S. Aggarwal
r/o 61, Bahubali Enclave, Delhi-92.
4. M.L. Jain (Sr. Prosecutor)
s/o Late Sh. Jiya Lal Jain
r/o 1406/2, Bhola Nath Nagar,
Shahdara, Delhi-110032.
5. Laxmi Narain (Sr. Prosecutor/ Addl. P.P.)
s/o Sh. Shiv Narain,
r/o 938, Kucha Pati Ram Bazar Sita Ram
Delhi.
6. S.C. Garg (Chief Prosecutor)
s/o Late Sh. Tarlok Garg
r/o A-5, Police Station,
Tilak Marg, New Delhi.
7. M.K. Sharma (Sr. Prosecutor)
s/o Late Sh. R.C. Sharma
r/o 148, Delhi Administration Flats,
Karkardooma,
Delhi-110092.
8. Jaswant Singh (Sr. Prosecutor)
s/o Late Sh. Darshan Singh
r/o 706, Asia House,
Kasturba Gandhi Marg,
New Delhi.
9. R.K. Manchanda (Chief Prosecutor)
s/o Late Sh. Kedar Nath Manchanda
r/o BG-110, Shalimar Bagh (East),
Delhi.

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10. Bakshi Singh (Sr. Prosecutor)
s/o Late Sh. Tirlok Singh
r/o C-58, Fateh Nagar,
Jail Road, Tilak Nagar,
Delhi.

11. Maha Singh (Chief Prosecutor)
s/o Sh. Ram Singh
r/o 1921, Outrain Lines
K.W. Camp, Delhi-110009.

12. Jawahar Lal Thukral (Sr. Prosecutor)
A/4, Rashmy Apartment, Harsh Vihar,
Pritampura, Delhi-34.

13. Bhagwan Dass/(Sr. Prosecutor)
s/o Late Sh. Vijay Singh M.R. Goel
r/o 17A, New Colony,
Model Basti, New Delhi-110015.

14. Partap Singh Tanwar (Sr. Prosecutor)
s/o Late Sh. Vijay Singh
r/o D-6, Delhi Administration Flats
Model Town I, Delhi-9.

15. Raj Pal NARULA (Sr. Prosecutor)
s/o Sh. Kishore Chand
r/o D-11/3, Model Town,
Delhi-110009.

16. OmD. Shankar Sharma (Sr. Prosecutor/ LA to CP
s/o Sh. Roop Lal
r/o 28, Delhi Administration Flats
Greater Kailash Part I,
Delhi.

Petitioners

(By Advocate: Shri Sunil Malhotra)

VERSUS

1. UNION OF INDIA:
(Ministry of Home Affairs)
North Block, New Delhi.

2. Ministry of Health and Family Welfare,
(Secretary Health),
Nirman Bhawan, New Delhi.

3. Chief Medical Officer,
(CGHS) Headquarters,
Nirman Bhawan,
New Delhi.

4. National Capital Territory,
(Through Chief Secretary)
Old Secretariate, Respondents

The applicants are aggrieved that facilities of CGHS have been denied to them by the impugned order dated 14.8.1995. The case of the applicant is that they were recruited as Public Prosecutors and were attached with the Delhi Police till 1974. At that time they were entitled to CGHS facilities. This facility was sought to be withdrawn when they were transferred from Delhi Police to the direct control of Delhi Administration. On representation, the facility, however, was restored vide Ministry of Health & Family Welfare dated 1.8.1981 Annexure 'B'. They say that the facility of Delhi Administration Health Services was already in existence at the time they were transferred to Delhi Administration and they continued to enjoy the CGHS facilities nonetheless on the basis of the aforesaid order at Annexure 'B'. They also say that many of their colleagues who have since ~~retired~~ are continuing to receive that facility and hence there should be no discrimination.

2. The respondents in their reply have stated that the National Capital Territory of Delhi Government has initiated its own Scheme with a monthly subscription and all NCT employees have to become member of that Scheme. It is on that basis that the impugned orders have been issued.

3. I have heard the counsel on both sides. Learned counsel for the applicants submits that this facility was being availed of only by such of the Public Prosecutors who had been recruited prior to 1974. He further submits

that at the time of transfer of these Public Prosecutors to Delhi Administration their option was also obtained. Availability of CGHS facility was one term of absorption. He also cites the case of S.S. Mayor Vs. Union of India in OA no. 835/95 decided on 8.11.1995, as a result of which the applicants were allowed to continue to avail the facilities of CGHS.

4. Shri KCD Gangwani, learned counsel for the respondents argued that the situation has changed as Delhi has become National Capital Territory with its own government. The Government has now taken a policy decision. He further submits that the applicants cannot avail of two separate Schemes i.e. NCT Delhi Scheme and CGHS.

5. I have considered the matter. The learned counsel for the applicants has stated that as far as his information goes the personnel of Delhi Police are still allowed to avail of CGHS facilities at their choice. If it is correct then the applicants herein who were also under the Control of DP before coming over in 1974 to Delhi Administration can also be allowed to avail of the same facilities. The position, will, however, change if later the NCT Government takes a decision that all persons working under the Government including the Delhi Police cannot avail CGHS facilities. ^{Accordingly} I quash the impugned letter No. 7-81/81-CD P/CGHS(9) dated 14.8.95 No. F-14/37/80-Jukdl. dated 23.2.1981 with the direction that in case CGHS facilities are being availed of by the DP personnel, the applicants may also be allowed to do so. Needless to say that they can avail of only one Scheme

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Concurred
in per
Govt's direction
dated 31.7.98

i.e. either the Delhi Government Scheme or CGHS and they will have to exercise an option if that has not already done.

O.A. is disposed of accordingly. No cost.

R.K. Ahoja

(R.K. Ahoja)
Member (A)

Mittal