

(11)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
N E W D E L H I

O.A.No.160/89

DATE OF DECISION 15-2-91

Shri Chiranjil Lal & Crs.

...Applicant

Vs.

Union of India

...Respondent

CURAM

SHRI P.C.JAIN, HON'BLE MEMBER (A)

SHRI J.P.SHARMA, HON'BLE MEMBER (J)

FOR THE APPLICANT

...SHRI B.SMAINEE

FOR THE RESPONDENT

...SHRI P.S.MAHENDRU

1. Whether Reporters of local papers may be allowed to see the Judgement? *Yes*
2. To be referred to the Reporter or not? *Yes*

J U D G E M E N T

(DELIVERED BY SHRI J.P.SHARMA, HON'BLE MEMBER (J))

Applicants who are working in the Central Hospital, Northern Railway, New Delhi have filed the application under Sec.19 of the Administrative Tribunals Act, 1985 challenging the failure of the respondents to implement the Ministry of Health and Family Welfare directive dated 25-1-1988

1

wherein Ministry of Health & Family Welfare has directed with concurrence of the Ministry of Finance that the President has accorded sanction to the grant of Hospital Patient Care Allowance to Group C & D (non Ministerial) hospital employees including Drivers of Ambulance Cars at the rate of Rs.80/- and Rs.75/- per month respectively from 1-12-1987 subject to the condition that no night weightage allowance will be admissible.

The Applicants have claimed the relief that the respondents be directed to extend the benefit of notification dated 25-1-1988 to the applicants also directing respondents No.1, 3 & 4 to pay Hospital Patient Care Allowance to the applicants w.e.f. 1.12.1987.

The facts of the case are as follows:-

The applicants about 55 in number are working in Northern Railway, Central Hospital, New Delhi as Safaiwalas, Hospital Attendants, Dressers, Operation Theatre Assistants etc. in Group C & D (non-Ministerial) posts. Ministry of Health issued a circular dated 25-1-1988 (Annexure A-1) granting Hospital Patient Care Allowance to Group C & D employees (non-Ministerial) working in the Central Government Hospitals & hospitals under Delhi Admn. The applicants made

.....3.....

Le

representation through their lawyer dated 21st November, 1988 to the Secretary, Ministry of Railway, General Manager, Northern Railway and Chief Hospital Superintendent, Central Hospital, Northern Railway for grant of similar Hospital Patient Care Allowance as has been granted to the similar staff posted in Central Government Hospitals. Since the allowance was not granted, the present application for the relief mentioned above has been filed.

The Respondents 1, 3 & 4 contested application and filed the reply stating as follows:-

The impugned directive (Annexure A-1) issued by the respondent No.2, is not applicable to the Railways and the hospitals under them as the said directive is restricted to Central Government hospitals and hospitals under Delhi Administration which are governed by the separate service conditions and rules which are not applicable to Railways as they are governed by Railways Establishment Codes and Railways Establishment Manual and Railway Medical Manual. The ^{aforesaid} directive is not applicable to the Ministry of Railways, as the Railways are distinct from other Ministries of Central Government or Delhi Administration. The Railways have got their

Je

own Budget. The employees of Railway Hospitals are provided with additional benefits of free passes of Railway journey for themselves and their dependent family members not only during their ^{active} services, even after the retirement they get their passes which are not available to the employees of the Central Government. The Applicants therefore are not entitled to any relief.

The Applicants have filed an additional affidavit to substantiate their contention for the grant of Hospital Patient Care Allowance. It is averred that the privilege of passes is not confined only to the staff working in the hospital but this privilege is available to each and every Railway employee, wherever he is working. It is also said that leave travel concession, according to rules is available to the Central Government employees. This facility, in addition to passes for journey by rail, is not available to the Railway employees.

We have heard the learned counsel of both the parties at length and have gone through the record of the case. The direction issued by the Ministry of Health and Family Welfare (Annexure 'H') is as follows:-

le

15

"Sub:- Grant of Hospital Patient care allowance
to Group 'C' & 'D' (Non-ministerial)
Hospital Employees.

- - -

Sir,

With reference of DGH5 No.8/12017/3/87-
MH dated 9/4/1987, on the subject mentioned
above, I am directed to convey the sanction^{of} the
President to grant of Hospital Patient care
allowance to Group 'C' & 'D' (Non-ministerial)
employees including drivers of ambulance Cars, but
excluding staff nurses at the rate of Rs.80/ and
75/- per month respectively, with effect from
1-12-1987, subject to the condition that no night
weightage allowance, if sanctioned by the
Central Government will be admissible to these
employees working in the Central Government
Hospital and Hospitals under Delhi Administration.

2. The expenditure involved will be met out of
the budget grant of the concerned hospital during
the financial year 1987-88.

3. This issues with the concurrence of Ministry
of Finance vide their Dy.No.1167/FM/87 dated
15/10/1987."

↓

This circular relates to Central Government hospital and hospitals under Delhi Administration. This does not cover the Railway hospitals or hospitals under other Central Organisations. It is needless to say that Railway is a commercial concern. There are different rules governing the service conditions of the Railway employees. Even the Disciplinary and Appeal Rules are some what different. The Railways have their own Budget and there is a specific amount the Railways have to contribute towards the consolidated fund of the Government of India. The rules for the award of bonus to the Central Government employees as well as to employees under the Railways materially differ regarding the amount to be paid to the employees thereon and the ceiling prescribed. Thus the employees of the Central Government hospitals group 'C' & 'D' (non-Ministerial) staff cannot be equated in terms of conditions of service with regard to those in the Railways, in as much as, the Railway employees are governed by different set of rules, etc. issued by Railways Board from time to time. The question before us does not relate to the doctrine of equal pay for equal work and no such contention has been urged before us. The totality of remuneration comprising of various elements in in form of pay, dearness allowance and several other allowances cannot, and in our view should not, be allowed to be tinkered with in piece meal. Comparing two sets of employees who are governed by different sets of service condition with a view to picking up the best would not be justified; the matter is to be in the

overall context, of totality of remuneration. As the applicants are not equally placed in all respects in the matter of their condition of service with the hospital employees of the Central Government and the Delhi Administration, their claim for giving to them the benefit of orders issued on 25-1-1988 (Annexure 'H') cannot be allowed.

We are therefore of the opinion that the application is devoid of merits and is therefore dismissed leaving the parties to bear their own costs.

Jonmar

(J.P. SHARMA)
MEMBER (J)

15/4/91

Devi 15/4/91

(P.C. JAIN)
MEMBER (A)