

(11)

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI.

O.A.No.931 of 1993.

New Delhi this 3rd day of February, 1994.

Hon'ble Shri P.T.Thiruvengadam, Member (A)

Shri T.M.Jose and Others
C/o Garg Roy & Association
14A/13,
W.E.A., Karol Bagh,
New Delhi-5

1. Shri T.M.Jose (Pharmacist)
S/o Mathai Mathai
Base Hospital - I (CRPF)
Jarodhakalan
New Delhi - 110 072
2. R.S.Yadav (Pharmacist)
S/o Jahar Singh
Base Hospital - I (CRPF)
New Delhi.
3. Sh. G.Viswanath Reddy (Pharmacist)
S/o G.Venkata Reddy
Base Hospital - I (CRPF)
New Delhi.
4. Mrs. G.Sumathi (Pharmacist)
W/o Sh.Gopalakrishnan
Base Hospital I, (CRPF)
New Delhi.
5. Sh.B.C.Bhatta (Pharmacist)
S/o Late Uday Bhatta
Base Hospital I, (CRPF)
New Delhi.
6. Sh. Shashidar Prasad Gupta (Pharmacist)
S/o Akleshwar Singh
Base Hospital I (CRPF)
New Delhi.
7. Mrs. S.Malhotra (Lab Technician)
D/o Rajpal
Base Hospital I (CRPF)
New Delhi.
8. Mrs. S. Samuel (Lab Technician)
W/o G.C.Samuel
Base Hospital - I (CRPF)
New Delhi.
9. Mrs. Mariamma George (Lab Technician)
W/o George Joseph
Base Hospital I (CRPF)
New Delhi.

10. Mrs. Lakshmi Virmani (Lab Technician)
W/o Rajesh Virmani
Base Hospital I (CRPF)
New Delhi.
11. Sh. R. Balasundaram (Steward)
S/o K. Ramakrishna Pillai
Base Hospital I (CRPF)
New Delhi.
12. Sh. Nathuram Saini (Radiographer)
S/o Jairam Saini
Base Hospital I (CRPF)
New Delhi.
13. Sh. Inderjeet Singh (X-Ray Assistant)
S/o Ranjeet Singh
Base Hospital I (CRPF)
New Delhi.
14. Sh. Roshan Lal (Dresser)
S/o Bhajan Lal
PKE, CRPF, GC,
Jarodhakalan,
New Delhi.
15. Smt. Saroj Devi (Ward Aya)
W/o Late Mandrup Singh
PKE, CRPF, GC,
Jarodhakalan
New Delhi.
16. Sh. Manchand Rana (Nursing Assistant)
S/o Gainda Ram Rana
BH.I, CRPF,
New Delhi.
17. Sh. Dayal Singh (Nursing Assistant)
S/o Late Guwar Singh
BH.I, CRPF,
New Delhi.
18. Sh. P.G. Samuel (Pharmacist)
S/o P.C. Varghese
3 BN CRPF. New Delhi.
19. Sh. M. Manivannan (Pharmacist)
S/o A.K. Mariappan
29, BN CRPF. New Delhi.
20. Sh. Md. Sulaiman (Pharmacist)
S/o Late Md. Shamsuddin
29 BN CRPF. New Delhi.
21. Sh. Reven Siddha (Pharmacist)
S/o Vittal Rao Siddha
47 BN CRPF. New Delhi.
22. Mrs. V. Betty (Pharmacist)
W/o Jose Thomas
88 BN CRPF. New Delhi.

23. Mrs. Vijaya (Pharmacist)
W/o Ramasubramanian
88 BN, CRPF. New Delhi.

24. Mrs. Ansamma Joseph (Pharmacist)
W/o Joseph
88, BN, CRPF. New Delhi.

25. Sh. Bindeshwari Prasad Sinha (Pharmacist)
S/o Late Kameshwar
119, BN. CRPF. New Delhi.

26. Sh. P. B. Sharma (Pharmacist)
S/o Late Shri . . . Sharma. M. N.
Base Hospital III,
Gawhathi.

27. Sh. P. J. Chacko (Lab Tech.)
S/o Late Sh. P. J. Joseph
Base Hospital III
Gawhathi.

28. Sh. Binod Singh (Pharmacist)
S/o Rajendra Pd. Singh
Base Hospital III
Gawhathi.

29. Sh. Anuj Kumar Sinha (Pharmacist)
S/o Tilok Dev Prasad
Base Hospital III
Gawhathi.

30. Sh. Apurka Kumar Roy (Pharmacist)
S/o J. N. Roy
Base Hospital III
Gawhathi.

31. Sh. S. Devasagayam (Lab. Technician)
S/o A. Samuel
Base Hospital III
Gawhathi.

32. Sh. Jagannath Das (Lab Assistant)
S/o Jatin Das
Base Hospital III
Gawhathi.

33. Sh. P. Ravi (Pharmacist)
S/o C. V. M. Parthasarathi
75, BN. New Delhi.

34. Sh. Raj Kumar Singh (Pharmacist)
S/o Ram Janam Singh
6 BN. New Delhi.

35. Sh. P. K. Sahu (Pharmacist)
S/o C. S. Sahu
6 BN. New Delhi.

.. Applicants

(By Garg Roy Association, Advocates)

Versus

1. Union of India represented by its
Secretary, Govt. of India,
Ministry of Home Affairs,
North Block, New Delhi.

2. The Director General,
CGO Complex No.1,
Central Reserve Police Force,
Lodi Road, New Delhi

.. Respondents.

(By Shri M. L. Verma, Advocate)

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ORDER

The applicants are working in various capacities like Pharmacist, Lab Technician, Steward, Radiographer, X-Ray Assistant, Dresser, Ward Aya, Nursing Assistant and Lab Assistant in Base Hospital, Delhi and Base Hospital-III, Guwahati and other places of the C.R.P.F. They belong to group 'C' & 'D' of the hospital staff (non-ministerial).

2. Government of India, Ministry of Health & Family Welfare have issued order No.Z.28015/60/87-H dated 25-1-1988 and order No.Z.28015/60/87-H dated 28-2-1990 conveying the sanction to the grant of Hospital patient care allowance to group 'C' & 'D' (non-ministerial) employees other than staff nurses on specified rates effective from 1-4-1987 and subject to certain conditions. This sanction is applicable to the relevant staff working in government hospitals in Delhi and outside Delhi and hospitals under union territory administrations having 30 beds or more. This O.A. has been filed with a prayer for a direction to grant the applicants the benefit of Hospital patient care allowance with effect from due date.

3. It is the case of the applicants that they should not be discriminated in the sanction of the allowance considering that the working atmosphere in C.R.P.F. hospitals is the same as in hospitals where such an allowance has been sanctioned. In support of their case, directions of this Tribunal (Cuttack Bench) in O.A. No.299 of 1989 (orders passed on 8-5-1990) have been referred. In this O.A. the applicants 1 & 2 who are para medical staff in the Group Centre Hospital, C.R.P.F. at Bhubaneshwar have been held to be entitled to the grant of the Hospital patient care allowance

at the appropriate rate and relevant date.

4. The respondents opposed the O.A. mainly on the ground of jurisdiction. However, this objection cannot be entertained as Section 2(a) of the Administrative Tribunals Act, 1985 only bars the jurisdiction of the Tribunal in regard to members of the armed forces of the Union in the cases cited ^{in the cases cited by the respondents} by the applicant. The concerned litigants happen ^{to} to be members of the relevant forces of the Union ~~or~~ are specifically governed by the provisions of the related Acts. In O.A. No. 1511/87 decided on 23-11-1990 by this Bench of the Tribunal, it has been observed as under:-

"Further, Section 2(a) of the Administrative Tribunals Act, 1985 referred to a member of the armed forces for the union. A civilian appointed in the defence service on a post connected with the defence, by such appointment does not become a member of the armed forces of the union and that has been clearly observed in Clause (a) and (b) of sub-section 1 of Section 14 of the Administrative Tribunals Act, 1985. Thus, it is in view of the above the matter which is sought to be agitated being a service matter concerning the applicant a civilian, though appointed to a post connected with the defence and in respect of a post which is claimed as one likely, to be filled by a civilian, though it be one connected with the Armed Forces or the defence service, is well within the jurisdiction of this Tribunal in view of the clear provision in sub-section 1 of Section 14 of the Act."

The applicants in this case are employees working in the hospitals attached to C.R.P.F. and the Cuttack Bench of this Tribunal has entertained a similar application by similar employees of such hospitals. In view of this, the plea regarding lack of jurisdiction cannot be entertained.

5. In the order passed by Cuttack Bench of this Tribunal on 8-5-90 in O.A. 299 of 1989, hospital patient care allowance has been sanctioned to those applicants who are para medical staff and not to other applicants not covered under the category of para medical staff. In the reply the respondents

state as under:-

"OA No.299/89 was filed by 12 hospital staff before C.A.T Cuttack Bench for payment of patient care allowance etc. but the Hon'ble Tribunal granted patient care allowance to respondents 1 and 2 only (A pharmacist and Lab Technician) vide judgement dated 8-5-90, holding that they come under the category of para-medical staff and hence were eligible for the allowance. Accordingly, the allowance was granted to them only."

6. It would be discriminatory if para-medical staff working in Bhubaneswar hospital, C.R.P.F. receive the benefit of this allowance and the other similar para-medical staff working in other hospitals and who have filed this application are not extended the same benefit. Accordingly, it would be fit and proper to direct that all those applicants in this O.A. who are para-medical staff should be granted hospital patient care allowance at the appropriate rate from the relevant date as per Govt. of India instructions dated 25-1-1988 and 28-2-1990 subject to the conditions stated therein. This order should be implemented within a period of three months from the date of receipt of the copy of this order. There will be no orders as to costs.

P.J. *[Signature]*

(P.T. THIRUVENGADAM)
Member (A).