

(7)

OPEN COURT

**CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH: ALLAHABAD.**

TUESDAY, THIS THE 24TH DAY OF JULY, 2007.

QUORUM : HON. MR. P.K. CHATTERJI, A.M.

ORIGINAL APPLICATION NO. 335 OF 2006.

1. Q.A. Siddiqui, Force No.920820038, Asstt. Sub. Inspector/Pharmacist, Son of, Shri A.S. Siddiqui.
2. Daljit Singh Force No.871280038 Constable/N.Asstt. son of Sri Chanan Singh.
3. Sunil Kumar 'M' Force No.910990654 Ward Boy, son of Late Madhwan Pillai.
4. Deepak Kumar Force No.035025098 Ward Boy son of Shri Mangal Das.
5. Vikraman Nair Force No.923180022 Hospital Cook son of Shri Rama Chandran Nair.
6. Pradeep Mahto Force No.941280015, Hospital Cook son of Late Ram Mahto.
7. Ajai Kumar Ram Force No.900890069, Hospital Safai Karamchari son of Shri Sughar Ram.
8. Babu Lal Force No.923165096 Hospital Safai Karmachari son of Shri Ram Lal.

Above all applicants are presently posted in Group Centre Hospital CRPF, Pandila Old Airport, Post Ismileganj, Allahabad.

9. Satish Kumar Tharoo Force No.953230016 Constable/N. Asstt. Son of Sri Jagdish Prasad.
10. Puran Chand, Force No.841170959, Hospital Cook son of late Shri Milkhi Ram.

Both are presently posted in 101-BN. RAF Shantipuram Phaphamau, Alld.

.....

.....Applicant.

Counsel for applicant: Shri A.S. Dubey.

Versus

1. Union of India through its Secretary Government of India, Ministry of Home Affairs, North Block, New Delhi.

Inuath

2. Director General of C.R.P.F., C.G.O. Complex Lodhi Road, New Delhi.
3. Director Medical, Directorate General, C.R.P.F., R.K. Puram, New Delhi.
4. Additional Deputy Inspector General of Police Group Centre C.R.P.F. Pandila Old Air Port Post Ismileganj, Allahabad.
5. Commandant 101, R.A.F. Bn. Shantipuram Phaphamau, Allahabad.

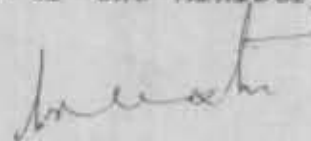
..... Respondents.
Counsel for Respondents: Sri S. Singh.

ORDER

Ten applicants in this O.A. work in the C.R.P.F. They have all been working in different capacities in the Hospital at Group Center Hospital C.R.P.F., Pandila, Allahabad. They have been praying for Hospital Patient Care Allowance quite for some time. As their prayer was not granted, they filed this O.A. praying for the intervention of the Tribunal for a direction to grant the Hospital Patient Care Allowance to the applicants on the basis of Ministry of Health and Family Welfare Letter No.2-28815/60/87.H dated 25.1.1988.

2. The applicants have referred to the orders of the Respondents No.J.II-2/2002-Med.II, MHA dated 18.1.2002 whereby hospital allowance was paid to a large number of staff working in the hospital. These officials were working in different capacities such as Cook, Pharmacist, Telephone Operator, Ward Boy etc. They were all civil employees working with the C.R.P.F. The applicants have stated that their case being at par with these officials, they should also be granted Hospital Care Allowance on the analogy of these officials.

3. The respondents have strongly objected to the claim stating that as per the orders of the Ministry



of Health, this allowance is payable only to the civil employees of the C.R.P.F. This is not applicable to the employees belonging to combatant force. Counsel for the respondents has also referred to the relevant section of the A.T. Act and Rules and procedures 2(a) and 3(2) as per which the Tribunal does not have any jurisdiction upon the combatant class workers on this Para Military organization. By Para 5 of the Counter, which is as follows, the respondents have controverted the claim of the applicants on the basis of this argument :-

"In reply to the contents of paragraph No.2 of the original application, it is submitted that since all the employees including applicants are combatised Group 'C' & 'D' Hospital Staff and governed under the CRPF (Central Reserve Police Force) Act. And Rules, as such the applicants should file a Writ Petition before the Hon'ble High Court of Allahabad instead of before the Hon'ble CAT, Allahabad which is applicable for non-combatised (Civilian) employees, as such this Hon'ble Court/Tribunal has no jurisdiction to decide the present controversy, hence the present original application is liable to be dismissed on this ground alone."

4. Further counsel for respondents has drawn my attention to Para 3A of the counter, which is as follows :-

"That the Government of India, MHA vide their order No.27011/44/88-PF dated 29-09-1998 had introduced a scheme for combatisation of Group 'C' and 'D' Hospital Staff. Since then all the posts are being filled by Combatised rank. However, those already serving were given the option to get combatised or to continue in Civilian posts till superannuation. Some therefore opted for combatisation."

By quoting this Para, Counsel for respondents has also stated that option was given to applicants ~~that~~

M. V. V.

whether they would like to opt for combatant force. In reply, the applicants have exercised their option for being treated as members of the combatant force and, therefore, counsel for the respondents says that the Tribunal do not have the jurisdiction to decide the application filed by these applicants. Counsel for the applicant also confirmed that the applicants opted for being included in the combatant force. However, counsel for applicant also says that by virtue of the orders passed by the Lucknow Bench of this Tribunal, which is as follows, no distinction is to be made among the staff working in hospitals and Hospital Care Allowance has to be given to all of them across the board. The relevant Para of the Judgment is as follows :-

"In the above view of the matters, over ruling the objection of jurisdiction taken by respondents, applicant who are para Medical staffs of C.R.P.F. are observed to be civilians and amenable to the jurisdiction of this Tribunal as similar claim has been allowed and the applicant on all fours covered by the decision (Supra) which as attained finality are also entitled to the relief prayer for. Accordingly OA is partly allowed. Respondents are directed in accordance with directions issued by the Guwahati Bench of this tribunal as affirmed by the Apex court to accord hospital patient care allowance with effect from the date (s) of their appointments within a period of three months from the date of receipt of a copy of this order. However no interest is allowed no costs."

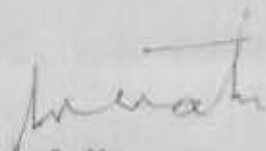
5. Counsel for the respondents, on the other hand, brings to my notice the Judgment passed by the Ahmedabad Bench of this Tribunal dated 11.9.2006. In this Judgment, the Ahmedabad Bench has referred to the decision of the Madras Bench in S. Jagannathan and others Vs. Union of India and others and also the decision of the Hon'ble Supreme Court in the case of Vedanand Singh and others Vs. Director Gen., C.I.S.F.

M. V. K.

and others, 1989 SCC (L&S) 120. According to the decision of Ahmedabad Bench in O.A. No.76/06, officials belonging to combatant force within the C.R.P.F. do not come under the jurisdiction of the Tribunal and, therefore, the Tribunal does not have any authority to consider their petition. It would appear from the decision of the Ahmedabad Bench, which has also relied on the Judgment of Hon'ble Supreme Court that the Tribunal is not authorized to consider the petitions by the officials or members of the combatant force within the C.R.P.F. In the admission of the learned counsel, the applicants themselves opted for the combatant force of C.R.P.F. when they were asked to exercise their option.

6. On a plain reading of the relevant Judgment of the Tribunal and after hearing counsel for both the parties, I am of the view that the Tribunal will be beyond its jurisdiction if it considers this petition for its disposal. As it is without jurisdiction, the applicants are advised to seek redressal of their grievances at the appropriate forum. The O.A. is, therefore, not allowed and dismissed for being without jurisdiction.

No order as to costs.


A.M.

Asthana/