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O.A.NO.313/2000.

ORDER NO.16, DATED 08-01-2003.

A group of 5(five) Applicants, who are working under the administrative control of Regional Director, Health & Family Welfare Department, Bhubaneswar (Res. No. 4) as Statistical Assistant and Computer, have filed this Original Application, Under section 19 of the Administrative Tribunals Act, 1985 claiming removal of disparity/discrimination in the matter of payment of "Patient Care Allowances".

It is the case of the Applicants that while similarly placed persons/employees in the same organisation/establishment are being paid the "Patient Care Allowances", they have been discriminated unreasonably. They have specifically averred in para 6.7. of the Original Application with regard to the extending such benefits to others, which are re-produced below:-

*6.7. That it will be evident from perusal of Annexures 5 & 6 that not only the similarly situated persons, performing similar duties as that of the Applicants, of other two wings under the Respondent Nos. 2 & 4 have been extended the benefit of such allowance but also similarly situated persons of other Departments including the Head Office (DF of NAMP & RHTC) are also getting such benefits".

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Respondents, though have filed their counter, no satisfactory reason has been explained/given for such disparity/discrimination in the matter of payment of

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Contd...Order No.16, dated 8-1-2003.

"Patient Care Allowances". No specific explanation/reason has also been advanced by the Respondents in their counter with regard to the specific averments made in paragraph 6.7. of the Original Application that performing similar duties as that of the Applicants, of other two wings under the Respondent Nos. 2&4 have been extended the benefit of such allowance and that similarly situated persons of other Departments including the Head Office are getting such benefits.

Having heard Mr.A.K.Ojha, learned Counsel for the Applicants and Mr.A.K.Bose, learned Senior Standing Counsel for the Union of India, appearing for the Respondents, I have gone through the pleadings of the parties.

It is to be noted that discrimination among the employees working in one establishment/organisation in the matter of payment of allowances/wages is a great concern. This, not only creates disharmony in the mind of the discriminated employees/persons, but also leads to un-healthy atmosphere to run the administration smoothly. As stated earlier, no justifiable/convincing reason has been adduced by the Respondents, in their counter, for the alleged discrimination in the matter of payment of "patient Care Allowances" to these

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Applicants. The Honourable Apex Court of India, in the case of GOKIKA RANJAN CHOUDHARY VRS. UNION OF INDIA AND OTHERS, (reported in AIR 1990 SC 1212), while dealing with a similar issues and the constitutional rights of those Applicants, as available under Arts.14 & 16 of the Constitution of India, have been pleased to observe as follows:-

....
The payment of higher emoluments to the said staff merely on the ground that the establishment is at the place where the Headquarters is situated is discriminatory as against the staff at the Units/ Battalions since it is in no way different from the other Units. xx xx*.

Like-wise, in the case of DR.MS. O.Z.HUSSAIN VRS.UNION OF INDIA AND OTHERS while interpreting Arts.311, 39(d) and 14 of the Constitution of India, the Hon'ble Apex Court of India have been pleased to caution that there should not be any discrimination in the matter of payment of different allowances. This Tribunal in O.A.No.374/2000, disposed of on 06-01-2003, (basing on the averments made by the Respondents in the counter as also during the argument) disposed of a similar matter directing the Respondents to remove the discrimination in the matter of payment of *patient Care Allowances & (in the same Department/organisation as in the present case) as it was reported that the matter is under active consideration of the Respondents/Headquarters.

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In the aforesaid premises, this Original Application is disposed of with direction to the Respondents to remove the disparity/discrimination in the matter of payment of

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of the *Patient Care Allowances to the Applicants
as is being given to their counterparts, in the same
Organisation/Establishment, at the earliest. There shall
be no order as to costs.

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Manant
08/01/2003
(MANORANJAN MCHANTY)
MEMBER (JUDICIAL)

KNM/CM.