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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

ORIGINAL APPLICATION No.63 OF 2002
CUTTACK this the 19th day of November, 2003

Bijaya Sahoo Applicant(s)

- VERSUS -

Union of India & Ors. ... Respondent (s)

FOR INSTRUCTIONS

1. Whether it be referred to reporters or not? ✓
2. Whether it be circulated to all the Benches of the Central Administrative Tribunal or not?

Bharati R.
(BHARATI RAY)
MEMBER (JUDICIAL)

Sy Manickavasagam
(S. MANICKA VASAGAM)
MEMBER (ADMINISTRATIVE)

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO. 63 OF 2002
Cuttack this the 19th day of November, 2003

CORAM:

THE HON'BLE MR. S. MANICKA VASAGAM, MEMBER (ADMN.)
AND
THE HON'BLE MRS. BHARATI RAY, MEMBER (JUDICIAL)

Bijaya Sahoo, aged about 40 years,
W/o. Kailash Chandra Sahoo, working as
Staff Nurse, Government of India Text Book
Press Dispensary, Orissa, Bhubaneswar

Applicant

By the Advocates

M/s. N.C. Mohanty
D.K. Dey

-VERSUS-

1. Union of India represented through Secretary to Government, Ministry of Urban Development and Poverty Alleviation, Nirman Bhawan, New Delhi-110 001
2. Director of Printing, B Wing, Nirman Bhawan, New Delhi-110 011
3. Manager, Government of India Text Books Press, Orissa, Bhubaneswar

Respondents

By the Advocates

Mr. S. Behera, A.S.C.

O R D E R

MRS. BHARATI RAY, MEMBER (JUDICIAL): Heard the learned counsel for the parties.

2. It is the case of the applicant that he has been working as Staff Nurse in the Government of India Text Book Press Dispensary, Orissa, Bhubaneswar under Res. No. 3 since 1985. As per the recommendation of the 5th Central Pay Commission, the nursing allowance enhanced from Rs.150/- to Rs.300/- per month. Ministry of Health & Family Welfare by its order dated 2.7.1998 notified that the existing Nursing Allowance fixed at Rs.150/- per month was revised

to Rs.300/- per month and the same is applicable to the Nursing Personnel of all categories at all levels working in Central Govt. Hospitals/Institutions/Hospitals run by the Delhi Administration including Municipal Corporation of Delhi and New Delhi Municipal Committee and Centrally funded Autonomous Bodies like All India Institute of Medical Sciences, New Delhi, Post Graduate Institute of Medical Education and Research, Chandigarh etc. However, by subsequent notification issued by the Ministry of Health and Family Welfare, Govt. of India dated 28.7.1998 it was notified that in pursuance of the recommendations by the 5th Central Pay Commission, the President has been pleased to sanction the nursing allowance at the enhanced rate from the existing rate of Rs.300/- to Rs.1600/- per month in respect of all the Nursing personnel working in the Central Government hospitals with effect from 15.07.1998. In support of her contention, the applicant has enclosed the orders dated 2.7.1998 and 28.7.1998 as Annexures-A/1 and A/2, respectively to the O.A. Pursuant to the order dated 28.7.1998 the applicant made a representation to the Director of Printing, New Delhi (Respondent No.2) requesting to revise the nursing allowance. This representation is followed by reminders with regard to revision of nursing allowance. When the matter stood thus, the Deputy Director, Govt. of India (Directorate of Printing), New Delhi vide Office Memorandum dated 7.8.2000 indicated that nursing personnels working in the dispensaries in the presses/Branches of Directorate of Printing would not be eligible for nursing allowance

at the enhanced rate of Rs.1600/- per month with effect from 15.7.1998 as they are not working in any of the Central Government hospitals. A copy of the said Office Memorandum is annexed as Annexure-5 to the O.A. The applicant thereafter made another representation dated 11.7.2001 to the Secretary, Ministry of Urban Development and Poverty Alleviation, Govt. of India, New Delhi mentioning therein that she is being deprived of her legitimate claim and is losing Rs.1300/- per month since 15.7.1998 in terms of order dated 28.7.1998. The applicant's representation was disposed of through letter dated 11.10.2001 by the Respondent No.3 intimating her that her representation was considered at the appropriate level, but could not be acceded to as revised nursing allowance applicable to the Nurses attached to the dispensary of the Directorate of Printing has been conveyed vide O.M.No.30/199/A.III dated 14/17.9.2001. Thus, nursing personnel working in dispensary of the Directorate of Printing would not be eligible for nursing allowance at enhanced rate of Rs.1600/- per month with effect from 15.7.1998 as she is not working in any of the Central Government hospitals. Being aggrieved by the said order, the applicant has approached this Tribunal seeking an order to quash the order dated 11.10.2001 issued by Respondent No.3 and the order dated 14/17.9.2001 issued by Respondent No.2 and for further direction to Respondents to revise nursing allowance of the applicant from Rs.300/- to Rs.1600/- per month with effect from 15.7.1998. The learned counsel for the

applicant strenuously argued that since in no uncertain terms the Respondents have issued order dated 2.7.1998 revising the nursing allowance from Rs.150 to Rs.300 in respect of the nursing personals working in the Central Govt. hospitals/institutions etc. as mentioned therein, the applicant working in the dispensary under the Directorate of Prining, Orissa, Bhubaneswar cannot be deprived of the benefit that has been extended by the Respondents in pursuance of the Office Memorandum dated 28.7.1998 (Annexure-A/2). The contention of the Respondents that since the applicant is working in the dispensary other than the hospitals depriving her the benefit of enhanced nursing allowance from Rs.300 to Rs.1600 per month is discriminatory. Learned counsel for the applicant further drew our attention to Annexure-A/9 dated 3.9.1998 and submitted that the same benefit having been extended to the nursing personnel of Central Govt. Health Services, who are working in the dispensary only, denial of such benefit in case of the applicant merely on the ground that she is working in the dispensary is discriminatory attracting Articles 14 and 16 of the Constitution of India.

We have gone through the facts of the case and the counter reply filed by the Respondents. We find that the enhancement of existing rate of nursing allowance from Rs.300 to Rs.1600/- per month by the Government of India, Ministry of Health & Family Welfare is only meant for the nursing staff who are working in the Central Government hospitals. A perusal of Annexure-A/1

would go show that as per the recommendation of 5th Central Pay Commission, nursing allowance of Rs.150 per month has been revised to Rs.300 per month. It is the admitted fact that the applicant has been in receipt of revised allowance at the rate of Rs.300/- per month. From the order dated 28.7.1998 it is noticed that the said revised nursing allowance at the rate of Rs.300/- has been enhanced to Rs.1600/- per month in respect of nursing staff, who are working in the Central Government hospitals. The said order does not speak of anything that the revised rate of Rs.300/- would be enhanced to Rs.1600/- in respect of nursing personnel working in the dispensary. It is restricted to Central Government hospitals only. Therefore, this order dated 28.7.1998 does not support the case of the applicant that she is entitled to get the nursing allowance at the enhanced rate of Rs.1600/- per month. In so far as the contention of the applicant that the nursing personnel working under C.G.H.S. are... in receipt of nursing allowance at the rate of Rs.1600/- per month is concerned, we find that the Ministry of Health & Family Welfare has enhanced the same. The applicant does not belong to the said Ministry. Since the nursing allowance of the applicant has been enhanced to Rs.300 as per the recommendation of the 5th Central Pay Commission and the nursing allowance enhanced vide order dated 28.7.1998 to Rs.1600 with the stipulation that the said enhancement would be applicable in respect of nursing personnel working in the Central Govt. Hospitals, we find no irregularity in the action of the Respondents

in not revising and/or enhancing the nursing allowance as claimed by the applicant. Viewed from this angle, discrimination cannot be attributed.

In view of the above facts and circumstances and the observations made above, we are of the view that the applicant is not entitled to any of the reliefs as prayed for in this O.A. and therefore, the O.A. being devoid of merit is dismissed, leaving the parties to bear their own costs.

Bharati R.
(BHARATI RAY)
MEMBER (JUDICIAL)

S. Manicka Vasagam
(S. MANICKA VASAGAM)
MEMBER (ADMINISTRATIVE)
19.11.03.

Bij/