

CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH

O.A.No.468/93

Monday, this the 17th day of January, 1994.

C O R A M

HON'BLE MR PV VENKATAKRISHNAN, ADMINISTRATIVE MEMBER

....

1. TI Mohammed, Laboratory Attendant,  
Indira Gandhi Hospital,  
Kavaratti.
2. KC Nusaimath, Female Nursing Orderly,  
Government Primary Health Centre,  
Kalpeni Island.
3. KK Abdullah Manaff Koya,  
Male Nursing Orderly,  
Government Primary Health Centre,  
Kalpeni Island.
4. A Abubaker, Male Nursing Orderly,  
Indira Gandhi Hospital,  
Kavaratti.
5. TK Khadisabi, Female Nursing Orderly,  
Indira Gandhi Hospital,  
Kavaratti.
6. MK Zamarath, Male Nursing Orderly,  
Indira Gandhi Hospital,  
Kavaratti.
7. P Sakinabi, Female Nursing Orderly,  
Indira Gandhi Hospital, Kavaratti.
8. P Anashaji, Male Nursing Orderly,  
Indira Gandhi Hospital, Kavaratti.
9. PJ Elia, Female Nursing Orderly,  
Indira Gandhi Hospital, Kavaratti.

....Applicants.

By Advocate Shri MR Rajendran Nair.

Vs.

1. Union of India represented by  
Secretary, Ministry of Health & Family Welfare,  
New Delhi.
2. The Administrator,  
Union Territory of Lakshadweep,  
Kavaratti.
3. The Director of Medical & Health Services,  
Directorate of Medical & Health Services,  
Union Territory of Lakshadweep,  
Kavaratti.

....Respondents

By Advocate Shri MVS Nampoothiry for R.2 & 3.

contd.

O R D E R

PV VENKATAKRISHNAN, ADMINISTRATIVE MEMBER

Applicants are Laboratory Attendants/Nursing Orderlies under the Lakshadweep Administration. They have stated that they have been receiving nursing allowance, uniform allowance, and washing allowance etc as per entitlement under Annexure VI, VI(a) and VI(b) with effect from 1.10.1986. They have been receiving these allowances till a clarification was issued as in Annexure I order dated 16.2.1993, that Nursing Orderlies are not nursing personnel, and as such, they are not entitled to these allowances. Applicants are aggrieved by the withdrawal of these allowances being received by them, and pray for a declaration that Nursing Orderlies are also Nursing Personnel, and are entitled to these allowances aforesaid.

2. In the reply statement, respondents 2 & 3 state that applicants are only Group D staff, their counterparts are not being paid these allowances in some of the Islands, and where the allowances have been paid to applicants, they have been so paid on the condition that if found ineligible, they would be recovered and that the stoppage of these allowances has been as a result of the clarification issued by the Government of India in Annexure I. As such, stoppage of the allowances is claimed by the respondents to be in order.

3. Applicants have sought to show that Nursing Orderlies are to be classified as Nursing Personnel in view of the training they have undergone, and the general practice in this profession as evidenced by Annexure III extract of "Hand Book for Nurse's Aides". The fact that they are Group D personnel would have no bearing on the issue according to applicants. Learned counsel for applicants submits that as seen from Annexure VII, which is the order dated 29.1.1992 relied upon for the clarification issued in Annexure I.

contd.

"It is clarified that all registered Auxiliary Nurse/Mid-wives/Female Health Workers, Lady Health Visitors, Multi-purpose Health Workers, etc. etc. are also nursing personnel....."

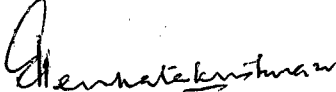
Learned counsel for applicants also submits that he would be satisfied with a direction to the Government of India to reconsider the matter in the light of their own orders issued in Annexure VII.

4. It cannot be denied that Government of India are perfectly within their right to decide which personnel should get allowances of the nature stated in these orders in Annexures VI, VI(a) and VI(b). However, such a decision should be based on the facts of the case, and in consonance with normal professional practice so as to avoid any charge of arbitrariness, and unfair treatment. As of today, there is no representation pending before Government of India on this issue. I consider that before a judicial decision is pronounced as to whether the applicants are Nursing Personnel within the meaning of Annexure VII, it would be better for the matter to be considered by the competent authorities in the Government, and for this purpose, applicants are directed to file their joint representation before 1st respondent within one month of this order. The 1st respondent is directed to dispose of such representation, if received, within four months thereafter, after affording an opportunity to the applicants or their representatives to put forward their case in person.

5. The interim order already issued, under which applicants are continuing to receive uniform allowance, nursing allowance, and washing allowance shall be in force till the representation submitted by the applicants in pursuance to this order, is disposed of by the competent authority. If, however, no such representation is made by the applicants as herein directed, the interim orders shall stand vacated at the end of one month from the date of this order.

6. Application is disposed of as above. No costs.

Dated the 17th January, 1994.

  
PV VENKATAKRISHNAN  
ADMINISTRATIVE MEMBER