

**CENTRAL ADMINISTRITIVE TRIBUNAL
LUCKNOW BENCH**

O.A.No.261/2006
This the ¹¹ day January 2007

HON'BLE SHRI. A.K. SINGH, MEMBER (A)
HON'BLE SHRI M. KANTHAIAH, MEMBER (J)

Awanish Kumar Mishra , Force No.025211128, Nursing Assistant aged about 25 years S/o Sri Tripti Shanker Mishra, 33 B.N. CRPF, Faizabad (U.P.),.

... Applicant.

By Advocate:-Shri A. Misra.

Versus.

1. Union of India through Secretary, Govt. of India Ministry of Home Affairs North Block, New Delhi and Ors.
2. Director General of C.R.P.F., (CGO Complex Lodhi Road, New Deli.
3. Director Medical Directorate General , C.R.P.F. R.K. Puram, New Delhi.
4. C.O. 33 B.N. C.R.P.F., Faizabad.

... Respondents.

By Advocate:-Shri Ajmal Khan.

ORDER

BY MR. M. KANTHAIAH, MEMBER (J)

The applicant has filed the Original application with the prayer to issue direction to the respondents for payment of penitent care allowance (PCA) to him from ~~30.7.2001~~ ¹³⁻⁰⁷⁻²⁰⁰² on wards with the following averements.

2. The applicant is a member of Hospital Staff, 33 BNCRPF, Faizabad in the the Central Reserve Police Force. He joined as Ward Boy (Group-D) on ~~30.7.2003~~ ¹³⁻⁰⁷⁻²⁰⁰² and presently working as Nursing Assistant since 29.8.2005. 3rd and 4th Central Pay Commission have made certain recommendation for payment of patient care allowances



(PCA) to the government employees. The Government of India after careful consideration of the matter issued several orders granting such allowances to its hospital staff. Though the hospital staff working in the other central govt. hospital are being paid these allowances but the applicant who is working in the CRPF Hospital in Faizabad is not being paid such allowances though they are similarly situated and their working is similar to the other Central Govt. hospitals. Annexure -1 dt. 28.9.1998 and dt. 2.1.1999 are such of the Govt. of India orders under which payment of patient care allowances and its revision from time to time was allowed to Central Government hospital employees in Group-C and D posts. The applicant also relied on Judgment in O.A.No.580/2005 Dt. 2.5.2006 on the file of Central Administrative Tribunal, Lucknow, allowing similar claims of CRPF hospital staff. It is also the case of the applicant who is working as hospital staff in CRPF is also entitled for patient care allowances @ Rs. 695/- per months from 13.7.2003 and Rs. 700/- per month from 29.8.2005. Inspite of several demands from him, the respondents have not allowed such patient care allowance (PCA) to him which is highly arbitrary, illegal, discriminatory and violative of Article 14, 15 and 16 of the Constitution of Indian and hence filed this O.A.

3. The respondents filed Counter affidavit stating that the applicant who is working in the CRPF is not entitled for patient care allowances and his service matter will not come within the jurisdiction of this tribunal. They stated that the Government of India, Ministry of Health and Family Welfare vide letter dt. 25.1.1988 has issued orders for payment of PCA to group-C and D (Non- ministerial employees) including drivers of ambulance, cars working in the Central Govt. hospital and the hospital in the Delhi Administration only and not to the para-medical staff of CRPF. They further stated

that the applicant never made any representation to the respondents and also stated that there is delay in filing the application thus, prayed to dismiss the OA.

4. Heard both sides.

5. The point for consideration is whether the applicant is entitled for the relief as prayed for.

6. The main objection of the respondents is that the applicant is working in Central Reserve Police Force and as such, this Tribunal has no jurisdiction to entertain his claim. Though the applicant is working in Central Reserve Police Force but he is working in as Nursing Assistant which is a Para-medical staff, which is purely a civilian job and as such , the objection of the respondents ousting the Jurisdiction of this Tribunal is not at all maintainable.

7. Further the applicant also relied on the following decision wherein similar claims of some of combatised hospital staff (Non-Ministerial Staff) in Group- Central hospital, CRPF, Lucknow has been entertained and allowed. Annexure-7 is the copy of Judgment in O.A.580/2005 Dt. 2.3.2006 on the file of Central Administrative Tribunal , Lucknow Bench, which is also supporting the claim of the applicant.

8. In view of the above circumstances there are no merits in the objections of the respondents that this tribunal had no Jurisdiction.

9. The applicant is claiming patient care allowance (PCA) at the rate of Rs. 695/ per month from 13.7.2005 in group- D cadre as ward boy and Rs.700/- per month from 29.8.2005 as a Nursing Assistant basing on the letter dt. 22.1.1999 under which the Government of India , Ministry of Health and Family Welfare revised the rate of hospital patient allowance /patient care allowance payable to group-c and D ministerial and Non-ministerial Hospital employees w.e.f. 29.12.1998. The applicant also filed the said letter dated. 2.1.1999



mentioned as Annexure-1. The said revision of patient care allowance was made as per the terms and condition for payment of hospital care allowance/ patient care allowances mentioned in Ministry letter No.Z28015/60/87-H dt.25.1.1988, 28015/102/88-H dt. 30.8.1989 and B-11011/1/90 CGHS (P) dt. 10.7.1991. The applicant also filed certified copy of in O.A.No. 580/2005 on the file of Central Administrative Tribunal, Lucknow dated 2.3.2006 which reveals that similar claim of patient care allowance (PCA) was allowed to Group-C and D employees working in central Hospital CRPF, Lucknow .

10.The applicant who is working as Nursing Assistant which is paramedical staff is also claiming for such patient care allowances (PCA) as ward boy (Group-D) from 13.7.~~2005~~²⁰⁰² and nursing Assistant (Group -C) since 29.8.2005 basing on O.M. Dt. 2.1.1999 of Government of India subject to the terms and condition of the Ministry letter dated 25.1.1988 , 30.10.1989. 10.7.1990.

11.The main objection of the learned respondents counsel is that there was no representation from the application, claiming such patient case allowance (PCA) and on that ground he opposed the claim of the applicant.

12.Admittedly th applicant has not filed any documents to show that he made any such representation to the respondent authority and without any such claim from the applicant, he is not justified to seek any direction from the tribunal, for allowing his claim. It clearly shows that the applicant has filed this application, without exhausting remedies available to him and in such circumstances the claim of the applicant, to issue any direction to the respondents for payment of patient care allowances (PCA) to him in not at all maintainable. Thus the application is premature.

13.In the result, the application is disposed of with a direction to the



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applicant to exhaust his remedies by way of representation, before claiming such allowances of payment of patient care allowances. No order as to costs.


(M.KANTHAIAH)
MEMBER (J) 11-1-07


(A.K. SINGH)
MEMBER (A)

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