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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

DA 65/90.

Dt. of Order: 24-9-91.

1. P.Wilson Mathew
2. R.M.R.Naidu
3. N.Babu
4. G.L.Nageswara Rao

....Applicants

Vs.

1. The Union of India, rep. by its Secretary, Ministry of Home Affairs, North Block, New Delhi.
2. The Union of India, rep. by its Secretary, Ministry of Health & Family Welfare, New Delhi.
3. The Director General of Police, Central Reserve Police Force, New Delhi-3.
4. The Inspector General of Police, Central Reserve Police Force, Road No.12 Banjara Hills, Hyderabad.
5. The Chief Medical Officer, 28H, Central Reserve Police Force, Kesavgiri, Hyderabad.

....Respondents.

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Counsel for the Applicants : Ms.J.Chamanthi, Advocate

Counsel for the Respondents : Shri N.V.Ramana, SC for Rlys

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CORAM:

THE HON'BLE SHRI J.NARASIMHA MURTHY : MEMBER (J)

THE HON'BLE SHRI R.BALASUBRAMANIAN : MEMBER (A)

(Judgment of the Division Bench delivered by
Hon'ble Shri J.N.Murthy, Member (J)).

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This is an application filed for a relief to declare the action of the Respondents in not paying the allowances due to the applicants as discriminatory and violative of Articles 14 and 16 of the constitution of India and to direct the Respondents to extend all the

benefits and pay all the allowances that are being paid to the employees working in other Central Government hospitals in accordance with the recommendations of the 3rd and 4th Pay Commission and in accordance with the government of India orders and to grant promotional benefits to the applicants

Brief facts of the case are as follows :-

The applicants are members of the Hospital Staff working in the Central Reserve Police Force Base Hospital. The 1st applicant is working as Lab Technician in the 2nd Base Hospital, CRPF, Hyderabad. The 2nd Applicant is working as cook in the same hospital. The 3rd applicant is working as Carpenter in the same hospital. The 4th applicant is working as Lab Technician in the same hospital. All the applicants are governed by the Central Civil Services Rules and such other rules as framed from time to time by the Union of India under Article 309 of the Constitution of India and they belong to 'C' and 'D' Category of employees,

In order to better the conditions of the Government employees, the 3rd and 4th Pay Commissions have made certain recommendations regarding some allowances such as washing allowance, patient care allowance, risk allowance, night duty allowance, extraduty allowance and additional charge duty allowance. The Government of India also after careful consideration of the recommendations of the Pay Commissions issued several orders granting allowances to 'C' and 'D' employees. Though the employees working in other Central

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Government Hospitals are being paid all these allowances, the applicants who are working in the 2nd Base Hospital, CRPF, Hyderabad are not being paid these allowances through they are similarly situated and their work is similar to those working in other Central Government Hospitals. The action of the Respondents in not paying the above mentioned allowances to the applicants is highly arbitrary, illegal and violative of Articles 14, 16 and 39(d) of the constitution of India.

The applicants are being paid at the rate of Rs.4-50 per month towards washing allowance whereas the 4th Pay Commission recommended at the rate of Rs.15/- per month and employees working in other Central Government Hospitals are being paid the same.

The applicants are entitled for patient care allowance at the rate of Rs.80/- per month. The Ministry of Health & Family Welfare issued an order that sanction of the President was given for payment of patient care allowance at the rate of Rs.80/- per month. This allowance is not being paid to the applicants whereas employees working in other Central Government Hospitals are getting the benefit.

It is submitted that the 4th Pay Commission recommended overtime allowance to be paid as Honorarium for compensating over stayal. The Government of India also accepted the recommendation and allowed extra work allowance. The employees who are working in other Government Hospitals are being paid

the extra work allowance whereas the applicants are deprived of the said benefit though they have to perform extra duties whenever required. The 4th Pay Commission also recommended "Night Duty Allowance" and also recommended refixation of the rates of 'Night Duty Allowance'. Though this allowance is being paid/in the other Government Hospitals, the applicants are not being paid the night duty allowance whenever they are to do the same. It is submitted that the 4th Pay Commission recommended the appointment of expert committee to examine the need for grant of risk allowance for different categories, also recommended increase of allowance by 100%. The applicants submit that they are entitled for risk allowance as the Base Hospital in which they are working is having isolated wards for T.B., Jaundice, Skin diseases and other infectious deseases. The Additional Dy. Inspector General of Police, CRPF, Avadi Group Centre in his notification for recruitment informed that usual allowances admissible to Central Government employees will be given to employees recruited in the CRPF Hospital. The applicants also are governed by the Central Civil Services Regulations as that of the Central Government employees and others who are working in Central Government Hospitals and these applicants are also entitled to the same allowances as are being paid to the other employees working in Central Government Hospitals. Hence this petition.

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A counter has been filed on behalf of the Respondents, wherein it is averred that the applicants are non-combatised CRPF hospital staff and attached to CRPF hospitals as such and not to the Civil Hospitals under the Ministry of Health. The performance of same work has no relevance in so far as grant of allowances to the CRPF hospital staff is concerned as this is considered having regard to the terms and conditions of service and the quantum of work performed by the staff. These staff are governed by distinct terms and conditions of service and as such they are not similarly situated for the purpose of these allowances. The distinction is proper, valid and justified and is in accordance with law. It is further stated that the provisions of the constitution in articles 14, 16 and Article 39(d) have not been violated in any manner. It is further stated that the Respondents have yet to take a decision to revise the washing allowance.

In regard to the payment of patient care allowance, it is stated that this allowance is applicable exclusively to the hospital staff of Ram Manohar Lohia Hospital, Safdar-jung Hospital, Sucheta Kripalani Hospital and other Hospitals under the control of Delhi Administration and not applicable to these staff.

In regard to the night duty allowance, it is stated that the night duty allowance as sanctioned in terms of OM No.12012/4/86.Estt(Allowances) dt.4-10-89 was duly taken into consideration while granting pay scales and as such

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the night duty allowance was duly taken into account in the pay scales of the applicants. It is further submitted that as the extra duty allowance, risk allowance and additional charge allowance are not considered relevant having regard to the quantum of work and assigned duties of the CRPF hospital staff and accordingly not being paid to them. The duties of the CRPF hospital have been laid down in the Medical Manual and as such they are not similarly situated as that of Hospital Staff of Civil Hospitals under the Ministry of Health. With these contentions the Respondents say that the application is liable to be dismissed.

We have heard Ms. J.Chamanthi, learned counsel for the applicants and Shri N.V.Ramana, learned Standing Counsel for the Respondents. The respondents have stated that the applicants are non-combatised CRPF hospital staff and belong to the CRPF which is an armed force according to Section 3 of CRPF Act, 1949. It is, therefore, contended that this Tribunal has no jurisdiction to adjudicate their cases. The applicants have filed a reply affidavit in which it is stated that a similar case was adjudicated upon by the Guwahati Bench of this Tribunal. We have seen ^{that} the Judgment dated 13.4.1990 in O.A.No.122/89. There, the respondents had only taken a plea that the claim of the petitioners therein had not found favour with the Government. The question of jurisdiction was not raised there. It is surprising that all of a sudden, the question of jurisdiction is raised now. Again, against the Judgment of the Guwahati Bench, the respondents went in appeal to the Supreme Court. The Hon'ble Supreme Court while disposing of Special Leave Appeal (Civil) No.9605/90 relating to the judgment of the Guwahati Bench in O.A.No.122/89, dismissed the case of the Union of India on merits. We find that the nature of duties performed by the applicants is the same as similar staff

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in other establishments under the Ministry of Health. Hence, the following the Guwahati Bench judgment as upheld by the Supreme Court, we direct the respondents that the enhanced rates of allowance be paid to the applicants also with effect from 1.10.1986 on par with similar staff in other establishments in the respective areas. The order may be complied with within a period of three months from the date of receipt of this order. There is no order as to costs.

MS

(J. Narasimha Murthy)
Member (Judl).

R. Balasubramanian
(R. Balasubramanian)
Member (Admn).

880991
Dated: 24/9 September, 1991.

Registrar.

To

1. The Secretary, Union of India, Ministry of Home Affairs, North Block, New Delhi.
2. The Secretary, Union of India, Ministry of Health & Family Welfare, New Delhi.
3. The Director General of Police, Central Reserve Police Force, New Delhi-3.
4. The Inspector General of Police, Central Reserve Police Force, Road No. 12 Banjara Hilla, Hyderabad.
5. The Chief Medical Officer, 2 BH, Central Reserve Police Force, Kesavgiri, Hyderabad.
6. One copy to Mr. J. Chamanti, Advocate, HNo. 3.4.574/1, Borkatipura, Hyderabad.
7. One copy to Mr. N. V. Ramana, SC for Rlys, CAT. Hyd.
8. One spare copy.

pvm

RVS.
TYPED BY
CHECKED BY

COMPARED BY
APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR.

V.C.

AND

THE HON'BLE MR.

M(J)

AND

THE HON'BLE MR. *T. Nagasimha Rao* M(J)

AND

THE HON'BLE MR. R. BALASUBRAMANIAN: M(A)

DATED: 24-9-1991

ORDER / JUDGMENT:

M.A./R.A./C.A. No.

in

O.A. No. 65/90

T.A. No.

(W.P. No.)

Admitted and Interim directions
Issued.

Allowed.

Disposed of by direction.

Dismissed.

Dismissed as withdrawn.

Dismissed for Default.

M.A. Ordered/Rejected

No order as to costs.