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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL JAIPUR BENCH: JAIPUR.

OA No.266/1994

Date of order: 21.5.1996

Madhe Singh and others

: Applicants

vs.

The Union of India and others

: Respondents

None present for the applicants

Mr.M.Rafiq, counsel for the respondents

CORAM:

HON'BLE SHRI GOPAL KRISHNA, VICE CHAIRMAN
HON'BLE SHRI O.P.SHARMA, MEMBER (ADMINISTRATIVE)

ORDER

(PER HON'BLE SHRI GOPAL KRISHNA, VICE CHAIRMAN)

Applicants Madhosingh, Rambir Rai, Pannalal, Ratanlal, Rekha Devi, R.Chandrika Nair, Dukhan Devi, P.Mohini, Madanlal, Moolraj, Zamir Ahmed and Kalicharan have filed this application under Section 19 of the Administrative Tribunals Act, 1985 seeking a direction to the respondents for the grant of Patient Care Allowance from 1.12.1987 onwards.

2. The case of the applicants is that applicants No.1,2 & 3 are Cooks, applicants No.4,5 & 9 are Safai Karamcharies, applicant No.6 is a Ward Girl, applicant No.7 is a Ward Aya, applicant No.8 is a Nursing Assistant, applicants No.10 & 12 are Pharmacists and applicant No.11 is a Ward-boy. These applicants are governed by the Central Civil Services Rules and other rules framed from time to time by the Central Government under Article 309 of the Constitution. They

belong to categories 'C' and 'D' of the Central Government employees. The main contention of the applicants is that in order to improve the conditions of the Government employees, the IVth Central Pay Commission made certain recommendations for payment of some allowances such as Patient Care Allowance etc., and the Government of India also after careful consideration of the matter issued several orders granting these allowances. Though the Hospital staff working in other Central Government Hospitals are being paid all these allowances, the applicants who are working in the Central Reserve Police Force (for short 'CRPF') hospitals at Ajmer are not being paid these allowances despite the fact that they are similarly situated and their working is similar to those working in other Central Government Hospitals. The Ministry of Health and Family Welfare, Government of India, had issued an order sanctioning Patient Care Allowance to Pharmacists at Rs. 30/- per month but this allowance is not being paid to the applicants. The applicants, therefore, claimed grant of Patient Care Allowance at Rs.30/- per month from 1.12.1987 and they have assailed the action of the respondents in not extending the benefit of Patient Care Allowance to the applicants as being arbitrary and discriminatory.

3. On the contrary, the respondents have contested this application on the ground of delay and have alleged that the applicants are not entitled to the grant of Patient Care Allowance since the hospitals of the

CRPF do not fall within the purview and control of the Central Government Health Scheme or for that matter under the purview of the Ministry of Health and Family Welfare. These hospitals are exclusively meant for the Central Reserve Police Force Personnel. The benefits which are being allowed ^{of the hospitals} under the control of other departments cannot be extended to the C.R.P.F. Hospitals such as ration money and detachment allowance etc., which are not granted to the employees of the hospitals falling under the control of the Central Government Health Scheme and Directorate of Health Services.

4. None is present for the applicants. We have heard the learned counsel for the respondents and have carefully perused the records.

5. The orders in the decided OAs referred to in the application by the applicants and relied upon by them have not been placed on the record. It cannot be, therefore, assumed that the matter of grant of Patient Care Allowance was an issue in the aforesaid decisions and that the facts of those cases were identical with that of the case in hand. Reliance has also been placed by the applicants on a decision rendered in the OA No.456/92 decided on 7.3.1994 by a single Member Bench of this Tribunal. In this order dated 7.3.1994 there is no categorical finding that the facts and circumstances of the cases decided by the Hyderabad ^C and Guwahati benches of the Tribunal referred to in

this order, are identical with those of the present case. The operative part of the order dated 7.3.1994 reads as follows:-

"5. In the result, this Bench will not take the other view and I direct that the decision of the Hyderabad Bench given in OA No.65/90, decided on 24.9.91, may also be applied to the present applicants. In case, the Special Leave is accepted or any order is passed against the employees the same will apply in the instant case and this application is decided on the above terms and conditions, subject to the decision of the Hon'ble Supreme Court.

6. The O.A. stands disposed of accordingly, with no order as to costs."

The above directions show that there is in fact no categorical finding in the order dated 7.3.1994 regarding the issue raised by the applicants. The applicants are holding different posts and they are discharging different functions as per their own averments. The onus of establishing that they are discharging identical duties and responsibilities as those of the staff in other Central Government Hospitals lay heavily upon the applicants but they have not been able to discharge this onus successfully. The staff working in the CRPF hospitals and the staff working in the Central Government hospitals are members of separate services with different conditions of service. The nature of their work differ qualitatively and quantitatively. The personnel of the CRPF hospitals are entitled to certain allowances which are not payable to the employees of the Central Government

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Hospitals. In the circumstances, it cannot be held that the applicants are being subjected to any arbitrary or discriminatory treatment. In the result, there appears to be no force in this OA and the same is hereby dismissed.

6. No order as to costs.

O.P.SHARMA
MEMBER (A)

G.Krishna
(GOPAL KRISHNA)
VICE CHAIRMAN