

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
JAIPUR BENCH, JAIPUR

Date of order: 21-5-1996

OA No. 267/94

Jose Thomas and others

.. Applicants

Versus

Union of India and others

.. Respondents

None present on behalf of the applicants

Mr. M.Rafiq, counsel for the respondents

CORAM:

Hon'ble Mr. Gopal Krishna, Vice Chairman

Hon'ble Mr. O.P.Sharma, Administrative Member

ORDER

Per Hon'ble Mr. O.P.Sharma, Administrative Member

Applicants, Shri Jose Thomas, Smt. Betty Jose, Shri Madhosingh, Shri Rambir Rai, Shri Pannalal, Shri Ratanlal, Smt. Rekha Devi, Ms R.Chandrika Nair, Smt. Dukhan Devi, Smt. P.Mohini, Shri Madanlal, Shri Moolraj, Shri Zamir Ahmad, Shri S.Randhawa, Shri S.K.Singh and Shri Kali Charan, all serving in Central Reserve Police Force (CRPF) Hospital Group, Centre ~~Commission~~ at Ajmer have in this application under Section 19 of the Administrative Tribunals Act, 1985 prayed that the respondents may be directed to pay the ration money allowance to the applicants from 6-10-1987 and onwards.

2. The facts as stated by the applicants are that they are non-gazetted ministerial hospital staff of CRPF under the Ministry of Home Affairs. From 1968 onwards they have been getting ration money allowance under various orders passed from time to time and the amount of ration money has also been increased

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from time to time under various orders. Some distinction has been drawn regarding the quantum of the ration money payable on the basis of the areas where the personnel were serving after the recommendation made by the Fourth Central Pay Commission. The distinction between various areas, described as qualifying and non-qualifying/static areas, on the basis of which the quantum of ration money payable was determined was removed. However, by a fresh order dated 6-10-1987 passed by the Ministry of Home Affairs, the grant of ration money was sanctioned only to non-gazetted combatised personnel. However, the earlier orders under which such amount was payable to all non-gazetted ministerial and hospital staff was not cancelled or modified. Therefore, the case of the applicants is that they are also entitled to ration money allowance. Their request to respondents in this regard has, however, been of no avail.

3. The Guwahati Bench of the Central Administrative Tribunal in OA No. 17/1988, Ram Gopal Agrawal and other Vs Union of India and others, decided on 30-3-1990, had directed that the applicants may be paid ration money allowance on identical terms and conditions as ordered for the combatised non-gazetted personnel of CRPF, as per the Ministry of Home Affairs' letter dated 6-10-1987. Similar view was taken by the Hyderabad Bench of the Tribunal in OA No. 193/90, P. Wilson Mathew and others Vs Union of India and others, decided on 24-9-1991 and in OA No. 2305/93, M. Sarojam Gopi and others Vs Union of India and others, decided by Ernakulam Bench of the Tribunal (the date of the order has not been mentioned). A Single Member Bench of this Tribunal

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in OA No. 455/1992, R.R.Amolik and others Vs Union of India and others, decided on 7-3-1994 has also taken a similar view. Copy of the order passed by this Bench of the Tribunal has been annexed as Annexure-A2 to the OA. The applicants have assailed the action of the respondents in not paying the ration money to them as arbitrary and discriminatory and have claimed that since the nature of duties performed by them is the same as ^{by} other similar staff in other establishments of the Ministry of Health, they are entitled to the ration money.

4. The respondents in their reply have not denied that earlier ration allowance was being paid without drawing a distinction between combatised and non-combatised staff. However, by order dated 6-10-1987 issued by the Ministry of Home Affairs non-gazetted hospital staff who were not combatised and some members of the non-gazetted ministerial staff who had not opted for combatisation, ceased to draw ration money which they had been drawing earlier. They have denied the averment of the applicants that the order dated 6-10-1987 did not cancel the earlier orders, because the order dated 6-10-1987 was issued after reviewing the earlier orders. Subsequently vide Ministry of Home Affairs' letter dated 24-2-1989, ration money was allowed to be paid even to non-gazetted members of hospital and ministerial staff who were not combatised, when they were posted in CRPF Battalions/Detachments deployed on internal security duties and placed at the disposal of State Governments/Union Territories and when they were posted in static formations including training institutions located in Assam, Tripura, Mizoram,

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Meghalaya, Nagaland, Manipur, J & K, Lakshdweep and Andaman and Nicobar Islands, Arunachal Pradesh, areas of District Srikakulam, Warrangal, Phammam and Karim Nagar of Andhra Pradesh, West Bengal and Sikkim.

Since the applicants remained posted in ineligible areas, they were not paid the ration money because they were not combatised. They have added that they have filed a Special Leave to Appeal before the Hon'ble Supreme Court challenging the order of the Guwahati Bench of the Tribunal and the SLP is still pending before the Hon'ble Supreme Court. The applicants cannot compare themselves with other similar staff serving in other establishments of Ministry of Health who are governed by separate set of rules.

5. None is present on behalf of the applicants. We have heard the learned counsel for the respondents and have perused the material on record.

6. The learned counsel for the respondents stated that after passing of the order dated 6-10-1987, a clear distinction was drawn between combatised and non-combatised staff for payment of ration money and this was a rational ~~distinction~~ distinction. The position was subsequently relaxed by order dated 24-2-1989 whereby certain categories of non-combatised staff were also paid ration allowance provided they were posted in certain states. The list of states and areas referred to by them in their reply are obviously those which can be broadly categorised as disturbed areas and ^{and also comparatively remote areas.} where risk to life and limb is greater. He added that since the payment of ration money had been made

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contingent on a valid and rational distinction, firstly on combatisation and secondly on the basis of areas in which non-combatised staff may have been posted, the denial of ration money to other than those covered by the above categories cannot be questioned by the Tribunal.

6. We have carefully considered the matter. A clear distinction has been drawn between combatised and non-combatised staff for making payment of ration money by order dated 6-10-1987. By a subsequent order dated 24-2-1989 even certain non-combatised staff have been allowed ration money, provided that they were posted in areas which can be broadly termed as disturbed areas^{etc.} The distinction made by Ministry of Home Affairs in granting the ration money is rational. As seen from the scheme of payment of ration money after 1986, it seems to us that it is payable to the combatised non-gazetted staff and non-combatised non-gazetted staff who are all exposed to greater risk. The principle of equal pay for equal work cannot be applied in a mechanical manner merely on the basis of designation of the employees. The nature of the duties performed by them and the places where the duties were performed are equally relevant considerations for deciding whether equal pay and allowance should be paid for equal work.

7. The orders of the Guwahati, Hyderabad and Ernakulam Benches have not been filed by the applicants & to them merely a reference has been made. The applicants have not stated that these are reported judgements. We, therefore, do not know the facts and circumstances of those cases. We have carefully gone through the order dated 7-3-1994 passed by a Single Member Bench

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Bench of this Tribunal (Annexure-A3). This order is based on the judgements of Hyderabad, ~~Ernakulam~~ and other Benches of the Tribunal but facts of those cases have not been described in detail in the order dated 7-3-1994. The order dated 7-3-1994 also does not grant any relief to the applicants unconditionally. The operative part of the order reads as under:

"3. In the result, we accept the petition subject to the decision of the Hon'ble Supreme Court in Civil Appeal No.15728/90- Union of India represented by the Secretary, Ministry of Home Affairs, Government of India, New Delhi and Others Vs. Shri Ram Gopal Agrawal & Ors. The benefits which may be extended under the final judgement of Hon'ble Supreme Court should also be extended in the same way to the applicants. In the meanwhile, in the light of the interim relief granted by the Hon'ble Supreme Court, it is directed that 50% of the amount due to them shall be paid to the applicants, subject to the result of the Original Application. In case, the Original Application is decided against the applicants, the applicants will be liable to refund the same."

3. After considering the facts and circumstances of the present case and for the reasons given by us above, we cannot hold that the applicants are entitled to grant of ration money as paid to combatised staff and the non-combatised staff working in disturbed areas etc. The OA is, therefore, dismissed. No order as to costs.

(O.P.Sharma)

Administrative Member

(Gopal Krishna)
Vice Chairman