

(5)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH
JAIPUR.

O.A No.323/99

Date of order: 12.8.1999

Beena Goswami, W/o Sh. Nirmal Goswami, aged about 40 years, R/o 207, M Old Railway Colony, Kota Junction, Kota, at present employed on the post of Auxiliary Nurse cum Midwife/field worker under CMS Kota.

...Applicant.

Versus

1. Union of India through General Manager, Western Railway, Church Gate, Mumbai.
2. General Manager (Estab.), Western Railway, Church gate, Mumbai.
3. Divisional Railway Manager (Estab.) Western Railway, Kota Division, Kota.

...Respondents.

Mr. Shiv Kumar - Counsel for applicant.

Mr. T.P. Sharma - Counsel for respondents.

CORAM:

Hon'ble Mr. Gopal Krishna, Vice Chairman

Hon'ble Mr. N.P. Nawani, Administrative Member.

PER HON'BLE MR. GOPAL KRISHNA, VICE CHAIRMAN.

Smt. Beena Goswami has filed this application under Section 19 of the Administrative Tribunals Act, 1985 assailing the impugned orders dated 23.6.99 and 30.12.98 at Annexures A1 & A2 respectively by which her entitlement to Nursing Allowance, Uniform Allowance and Washing Allowance has been denied and a sum of Rs.42,000/- already paid on account of the aforesaid allowances is sought to be recovered from her pay.

2. We have heard the learned counsel for the parties and have carefully perused the records.

3. The applicant's case is that she is a registered Auxiliary Nurse cum Midwife and her Registration NO. is 6422 dated 4.9.1980 vide the Registration Certificate at Annexure A-4. It is admitted by the parties that she served as Midwife from 1.10.1981 to 16.11.1983, as a Field Worker (Female) from 17.11.83 to 10.4.88 and she has been serving as a Senior Field Worker (Female) from 11.4.88 till date. Her contention is that she is entitled to Nursing Allowance, Uniform Allowance and Washing Allowance, in terms of Railway Board's letters dated

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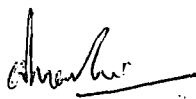
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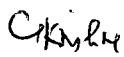
13.4.1975, 13.5.1992, 20.12.1996 and 3.11.1998 at Annexures at A-5, A-11, A-6 and A-7 respectively. It is vehemently argued on behalf of the applicant that once the benefit of Nursing Allowance, Uniform Allowance and Washing Allowance was extended to the applicant and the amount paid on account of these Allowances have been utilised by her without there being any misrepresentation on her part, the same is not recoverable in view of the decisions of Hon'ble the Supreme Court of India, reported in 1995 SCC(L&S)248 Sahib Ram Vs. State of Haryana & Ors, and 1995 SCC(L&S) 522 State of Orissa & Ors. Vs. Adwait Charan Mohanty & Ors. It is further contended that the applicant wears the Uniform and the aforesaid amount of Rs.42,000/- is not recoverable from her.

4. The respondents have, on the other hand, contended that the applicant having been appointed as a Field Worker (Female) ~~and~~ she is not entitled to any Nursing Allowance vide the Railway Board's letter dated 4.5.89 at Annexure R-2. It has also been stated by the respondents that no Uniform is supplied to the applicant and that she is not required to wear any Uniform while discharging her duties as a Field Worker (Female) and she is therefore not entitled to any Nursing, Uniform and Washing Allowances.

5. The learned counsel for the applicant has stated that the applicant intends to make a fresh representation to respondent No.2 in regard to her grievances.

6. In the circumstances we direct the applicant to make a fresh representation to respondent No.2 in regard to her grievances within a period of one month from the date of this order and respondent No.2 shall take a decision afresh on the representation through a detailed speaking order on merits in the light of the submissions made by the learned counsel for the parties, stated above. The respondents are directed not to make any further recovery from the applicant's pay till a decision is taken by respondent No.2 on the representation made by the applicant. If the applicant does not make any representation within one month from the date of this order, the stay granted shall cease to operate. The applicant shall however be at liberty to file a fresh application if she is aggrieved by any decision taken on her representation. The O.A stands disposed of accordingly with no order as to costs.


(N.P. Nawani)
Member (A).


(Gopal Krishna)
Vice Chairman.