

50/100

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

O.A./T.A No. 318/2005

R.A/C.P No. 4/2007

E.P/M.A No.

1. Orders Sheet. OA-318/2005 Pg. 1 to 4 ^{Order-3-Dissolved 13/07/07}
CP-4/2007 Pg. 1 to 11 ^{allowed}
2. Judgment/Order dtd. 13/07/2006 Pg. 1 to 11
3. Judgment & Order dtd. Received from H.C/Supreme Court
4. O.A. 318/2005 Pg. 1 to 28
5. E.P/M.P. Pg. to
6. R.A/C.P. 4/2007 Pg. 1 to 20
7. W.S. Filed by Respondents Pg. 1 to 8
8. Rejoinder Filed by Applicants Pg. 1 to 8
9. Reply Pg. to
10. Any other Papers Pg. to
11. Memo of Appearance
12. Additional Affidavit
13. Written Arguments
14. Amendment Reply by Respondents
15. Amendment Reply filed by the Applicant
16. Counter Reply

SECTION OFFICER (Judl.)

FORM NO. @
(See Rule 42)
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH.

ORDER SHEET

Original Application No. 318/05
Misc. Petition No. _____
Contempt Petition No. _____
Review Application No. _____

Applicant(s) Smt. S. Medhaboli and 10 others
Respondent(S) W.O. 12018

Advocate for the Applicants Mr C. Choudhury, R. Mazumdar and B. Gogoi

Advocate for the Respondent(S) _____ CGSC
Rly St. Counsel

Notes of the Registry Date Order of the Tribunal

This application is in form
is filed (C. P. R. Rs. 50/-
deposited vide IPC/BD
No. 26 G 317624
Dated 12-12-05

[Signature]
Dy. Registrar

Steps taken without
Emplop.

Pl. comply the order
dated 22.12.05.

22.12.05.

22.12.2005 Present : Hon'ble Mr. Justice G.
Sivarajan, Vice-Chairman.

Heard Mr. Chinmoy Choudhury,
learned counsel for the applicants and
Ms. U. Das, learned Adml. C.G.S.C. for
the respondents.

Admit. Issue notice to the
respondents.

Post on 8.2.2006. Written
statement, if any, in the meantime.

There will be interim stay on
recovery of the alleged excess payment
of nursing allowances so far the
applicants are concerned for a period
of three months. It is made clear
that the payment of the nursing
allowances at present will be made
only as per orders now in force.

[Signature]
Vice-Chairman

mb

Contd.....

✓
Notice & order
sent to D/section
for issuing to
resp. Nos. 1 to 3
by regd. A/D
post. D/No = 31 to 34
6/1/06 Dt = 9/1/06. 1m

When the matter came up for hearing
Ms. U. Das, learned Addl. C.G. S.C. seeks for
some more time to file written statement.
Post the matter on 9.3.06. for filing
of written statement and further orders.

Vice-Chairman

Notice duly served
on resp. nos 1, 2, 3.
25/1/06.

09.03.06. When the matter came up for
hearing the learned counsel for the
applicant has submitted that he would
like to have file the rejoinder.
Post the matter on 12.3.06. Interim
order shall continue.

Service Completed

Vice-Chairman

Vice-Chairman

1m

7-2-06

No written statement
has been filed.

08.05.2006

Ms. U. Das, learned Addl. C.G.
S.C. for the respondents submitted
that she has already filed written
statement, which is on record.
Counsel for the applicant wanted time
to file rejoinder.

Post on 24.05.2006.

No W/S has been
filed.

Vice-Chairman

Pl comply order dated

mb

9.3.06

13.3.06

13.3.06

W/S filed by the
Respondents.

PAI

order dt. 9/3/06 issuing
to learned advocate's
for both the parties. 5.5.06

13/3/06. No rejoinder filed.

24.05.2006

Learned counsel for the applicant submitted that she has filed rejoinder today. Since pleadings are completed, let the case be posted for hearing ~~thereafter~~ on 09.06.2006.

Interim order will continue till such time.

Vice-Chairman

mb

9.6.2006

When the matter came up for hearing Ms. U. Das, learned Addl. C.G.S.C. submits that she would like to get instruction on the rejoinder filed by the applicant. Learned counsel for the applicant submits that respondents had started recovery of the alleged excess amount i.e. Rs. 1300/- p.m. which was earlier paid to the applicant. He also produced salary slips which shows that right from the month of December 2005 to March 2006 respondents are recovering the said amount which had been granted to the applicant as per order of this Tribunal.

Considering the above submissions and perusing the produced documents I direct the respondents that no such recovery will be made from the applicant till the pendency of the O.A. Since the case is at the hearing stage applicant is directed to get ready with the case. Copy of the salary slips produced before this Tribunal will be furnished to the counsel for the respondents.

post the matter on 22.6.2006 for hearing.

Vice-Chairman

bb

23-5-06

No rejoinder has been filed.

Pl. comply order dt. 24.5.06.

NS
25.5.06

25.5.06

Rejoinder filed by the Applicant.

At,

order dt. 24/05/06 issuing to learned advocates for both the parties.

25/5/06.

The case is ready for hearing.

8.6.06

Received copy.
Usha Das
Addl. C.S.C.
13/6/06.

order dt. 9/6/06 issuing to learned advocates for both the parties. 15/6/06.

XXXXXXXXXXXXXXX

21-6-06

The case is ready
for hearing...

7706.

When the matter came up

Post on 10.07.2006 for
hearing.

Vice Chairman

mb

One of the relatives of

the learned counsel for the respondents said to be in hospital. Personal inconvenience is reported.

Let the case be posted on

13.07.2006.

Vice-Chairman

mb

Heard Mr C. Choudhury, learn-

ed counsel for the applicants and Mr. U. Das, learned Addl. C.G.S.C. for the respondents. Hearing concluded.

Judgment delivered in open Court, kept in separate sheets. The application is allowed in terms of the order. No order as to costs.

Received
Lisha Das.
Add chsc
20/7/06

24,7,06

Copy of the budget
has been sent to
the office for
disburse the same to
the applicant by post.
y^{rs}

mb

Vice-Chairman

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH, GUWAHATI

318 of 2005

O.A. No.

13.07.2006

DATE OF DECISION

Smt. S. Medhaboti & Ors.

Applicant/s

Mr C. Choudhury, Mr R. Mazumdar, Mr B. Gogoi

Advocate for the
Applicant/s.

- Versus -

Union of India & Others

Respondent/s

Ms U. Das, Addl. C.G.S.C.

Advocate for the
Respondents

CORAM

HON'BLE MR K.V. SACHIDANANDAN, VICE-CHAIRMAN

1. Whether reporters of local newspapers
may be allowed to see the Judgment ? Yes/~~No~~
2. Whether to be referred to the Reporter or not ? Yes/~~No~~
3. Whether to be forwarded for including in the Digest
Being complied at Jodhpur Bench ? Yes/~~No~~
4. Whether their Lordships wish to see the fair copy
of the Judgment ? Yes/~~No~~

Vice-Chairman
18/7/06

7

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 318 of 2005.

Date of Order: This the 13th day of July 2006.

The Hon'ble Sri K.V. Sachidanandan, Vice-Chairman.

1. Smt. S. Medhaboti
Force No. 751550115
2. N. Jibonmala
Force No. 751560124
3. Ms. Sushama
Force No. 811570033
4. Ranjta Tudusona
Force No. 832100203
5. Kalyanee Bhowmic
Force No. 84210081
6. Meera Purty
Force No. 842100099
7. Sugana Dorai Samy
Force No. 892070014
8. Silviamma
Force No. 872070055
9. Sheela
Force No. 861520134
10. Asha Horo
Force No. 881560024
11. Asha Wankhede
Force No. 862080022.

(All the above are serving as non-combatised Nursing personnel in Base hospital III, Group Center Guwahati, Central Reserve Police Force).

... Applicants

By Advocates Mr. C. Choudhury, Mr R. Mazumdar, Mr B. Gogoi.

- Versus -

1. Union of India, represented by the
Secretary, Ministry of Home Affairs,
New Delhi.
- L

2. Union of India, represented by the Director (PHS), Ministry of Health and Family Welfare,
3. The Director (Medical) Directorate General, CRPF, East Block, 10, R.K. Puram, New Delhi - 110 066.
4. The Director (Police and Finance) Ministry of Home Affairs, Government of India, New Delhi.

.... Respondents.

By Advocate Ms. U. Das, Addl. C.G.S.C.

ORDER (ORAL)

K.V. SACHIDANANDAN. (V.C.)

The application is made against the order dated 07.10.2004 passed by the Director (Police/Finance), Government of India, Ministry of Home Affairs, by which the nursing allowances of Nursing Personnel of the Central Reserve Police Force has been revised on illegal wrong basis and against the orders dated 06.10.2005 and 20.10.2005 by which recovery sought to be made from the pay of the applicants. Aggrieved by the said action of the respondents, the applicants have filed this application seeking the following reliefs: -


"8.1 Set aside and quash the impugned order No. II.27012/6/99-1 dated 7th October 2004, passed by the Director (Police/Finance), Government of India, Ministry of Home Affairs, and also order No. II-27012/6/2/699-PF I/II dated 6th October 2005, and order No. A-11-2005/MED:II (MHA) dated 20/10/2005 (annexure - IV, V and VII to this application); and

8.2 Direct the respondents to continue to pay the nursing allowances to the applicants @ Rs. 1600 per month as per orders dated 9-11-2000 and 10-11-2000; and

8.3 Grant the cost of this application in favour of the applicants and against the respondents; and

8.4 To grant such further or other reliefs as this Hon'ble Tribunal may deem fit, proper and necessary in the interests of justice and in the circumstances of the case."

2. So far as the facts of the case are concerned, the applicants, 11 in number, are serving as non-combatised nursing personnel in Base Hospital III located at Group Centre Guwahati, Central Reserve Police Force. Their contention is that they are entitled to get all the benefits and allowances in addition to their salary as are applicable to the nursing personnel serving in the other Central Government Health Services. On the basis of the recommendation of the 5th Central Pay Commission, the President of India was pleased to sanction the enhancement of nursing allowance from Rs. 300/- per month to Rs. 1600/- per months to all nursing personnel working in the Central Government Hospital with effect from 15.07.1998 (Annexure - I). Vide order dated 09.11.2000 the competent authority passed order granting payment of nursing allowance to nursing personnel in the Central Reserve Police Force on the scale admissible to Central Health Services nursing personnel as indicated therein. The Director (Medical), Central Reserve Police Force vide order dated 10.11.2000 had announced the sanction of the revised rates of nursing allowances to the Nursing Personnel to the Central Reserve Police Force as admissible to Nursing Personnel serving in the Central Health Services. As per the said letter, the nursing allowance payable to the Nursing Personnel of the Central Reserve Police Force would be Rs. 300/- per month with effect from



01.08.1997 and Rs. 1600/- per month with effect from 15.07.1998. (Annexure - III). Thereafter, the respondents have been continuously paying the nursing allowance @ Rs. 1600/- per month to all the nursing personnel including the applicants herein till November 2005 in terms of the aforesaid letter. Surprisingly, nursing allowances were revised from the existing rate of "Rs. 150/- p.m." to "Rs.300/- p.m." with effect from 01.08.1997 as per letter dated 07.10.2004 (Annexure - IV), which is under challenge. There is no whisper about the earlier revision dated 09.11.2000. The applicants were never informed about the letter dated 07.10.2004. Now attempt is made to reduce the nursing allowance from Rs. 1600/- to Rs. 300/- per month.

3. The respondents have filed a detailed reply statement contending that on the basis of the 5th Central Pay Commission recommendation, Government of India, Ministry of Health & Family Welfare (Department of Health) vide their O.M. No. Z.28015/86/97.N dated 28.07.1998 enhanced the nursing allowance from the existing rate of Rs. 300/- per month to Rs. 1600/- per month to all the nursing personnel working in Central Government Hospitals with effect from 15.07.1998. Other allowances, viz. uniform allowance and washing allowance were also revised by the Government of India with effect from 15.07.1998 @Rs. 3,000/- p.a. and Rs. 150/- per month respectively. The Government of India, Ministry of Home Affairs vide their O.M. No. 27012/6/99-PF.I/II dated 09.11.2000 conveyed the decision for payment of nursing allowance, washing allowance and uniform allowance to nursing personnel of Central Reserve Police Force on the scale admissible to Central Health Services nursing personnel, which was @Rs.300/- per month with effect from 01.08.1997 and Rs. 1600/- per month with effect from 15.07.1998 and

sanction was conveyed vide Ministry of Home Affairs O.M. dated 07.10.2004 in respect of nursing personnel in the Central Police Forces on admissible to Central Health Service personnel. On receipt of the said instructions, vide order dated 09.02.2005 initiated the case for revision of nursing allowance @Rs. 300/- per month with effect from 01.08.1997 and Rs. 1600/- per month with effect from 15.07.1998 instead of Rs. 300/- in accordance with the O.M. dated 09.11.2000. In turn, the Ministry of Home Affairs vide O.M. dated 06.10.2005 clarified that nursing allowances have been revised to Rs. 300/- for all Central Police Forces. Since, the rates of Rs. 300/- per month are applicable for nursing personnel of all CPFs including CRPF with effect from 07.10.2004, the amount paid in excess of Rs. 300/- per month to nursing personnel beyond 07.10.2004 is to be recovered. The rates of nursing allowance have been revised as a policy to bring uniformity amongst the Central Police Forces as well as Central Health Services personnel.

4. Heard Mr C. Choudhury, learned counsel for the applicants and Ms. U. Das, learned Addl. C.G.S.C. for the respondents.

5. Learned counsel for the parties has taken my attention to the pleadings and materials placed on record. Learned counsel for the applicants argued that the applicants were working as non combatised nursing personnel in the Central Reserve Police Force has equated with the Central Health Services personnel and considering the said contention the respondents had already passed the order dated 09.11.2000 enhancing the nursing allowances from Rs. 300/- to Rs. 1600/- per month with effect from 15.07.1998. Learned counsel for the respondents, on the other hand, persuasively argued that the

impugned order has been introduced to maintain uniformity amongst the Central Police Forces personnel including Central Reserve Police Force personnel. The applicants were working in the Central Reserve Police Force cannot be considered otherwise. They are equated with BSF/ITBP/CISF/SSB, Assam Rifles etc. and therefore, this allowance has been revised to Rs. 300/- per month with effect from 01.08.1997.

6. I have given due consideration to the arguments, pleadings and materials placed on record. It is admitted fact that the applicants are working as non-combatised nursing personnel in the Central Reserve Police Force and they have been agitated their case before the various Courts including the High Court of Judicature, Andhra Pradesh in Writ Petition No. 15637 of 1999 and on 19.04.2000 the Hon'ble Andhra High Court considered the case of the applicants on the same issue and the prayer of the applicants was to give the Nursing Allowance Rs. 300/- p.m. w.e.f. 01.08.1997 and Rs. 1600/- w.e.f. 15.07.1998 to the nursing staff working in the Central Government Hospitals. The relevant portion of the order of the Hon'ble High Court is quoted below for better illustration: -

"The petitioners who are 14 in number and working as nursing staff in various categories in the hospitals attached to CRPF Hospitals which comes under the purview of Ministry of Health and Family Welfare, filed this writ petition seeking Writ of Mandamus directing the respondents to pay nursing allowance @Rs. 300/- per month with effect from 1-8-1997, Rs. 1600/- per month with effect from 15-7-1998, uniform allowance @ Rs. 3000/- per annum with effect from 1-8-1997 and washing allowance @Rs. 150/- per month with effect from 1-8-1997 and also to pay interest on the arrears due to them.

It is pertinent to note that the Vth pay revision commission was constituted to consider all the aspects including grant of

nursing allowance, uniform allowance and washing allowance as prayed in this writ petition. The said commission also submitted its report to the Government. The Government though accepted the recommendations of the pay revision commission with regard to the Central Government Hospitals employees, as far as the nursing staff working under CRPF hospitals are concerned, the matter was preferred to the Ministry of Home Affairs for its decision.

The respondents in the counter affidavit stated that a decision is yet to be taken by the Ministry of Home Affairs with regard to grant/sanction of revised rates of various allowances to the nursing/other para medical staff attached to the CRPF hospitals. It is therefore, stated that the extra ordinary jurisdiction of this Court cannot be invoked in this case since the matter is pending before the Government for its consideration.

Since a decision has to be taken by the Ministry of Home Affairs and the same is pending from 1988 onwards, in the facts and circumstances of the case, I deem it just and proper to direct the first respondent herein to take a decision in the matter as expeditiously as possible, preferably within a period of three months from the date of receipt of a copy of this order.

With the above direction, the writ petition is disposed of. No costs."

Obviously, the Hon'ble High Court did not enter into a finding and taken any decision since the decision was to be taken by the Ministry of Home Affairs. Therefore, the Hon'ble High Court directed to take a decision in the matter by the Respondents. Incidentally, the applicants in the instant application were in the party arrayed before the Hon'ble High Court as well. The Court has given direction to consider the case since the matter is pending before the Ministry of Home Affairs. The Hon'ble High Court also directed to take an appropriate decision considering the case of the applicants and in furtherance, probably

the annexure - II order dated 09.11.2000 has been passed by the respondents, which is quoted below: -

"To

Director General,
Central Reserve Police Force,
CGO Complex, Lodhi Road,
New Delhi.

Subject:- Enhancement in rate of Nursing allowance, washing allowance and Uniform allowance.

Sir,

Sanction of the competent authority is hereby conveyed to the payment of Nursing Allowance, washing Allowance and Uniform Allowance to Nursing personnel of CRPF only on the scale admissible to CHS personnel as indicated below: -

Nursing Allowance @Rs.300/- p.m. w.e.f. 1.8.97 and Rs. 1600/- p.m. w.e.f. 15.7.98.

Uniform Allowance @ Rs. 3000/- p.a. w.e.f. 1.8.97.

Washing Allowance @Rs. 150/- p.m. w.e.f. 1.8.97 (Nurses).

2. The additional expenditure due to enhancement of the above allowance will be met by CRPF from out of their sanctioned budget grant.

3. This issues with the approval of Ministry of Finance vide their L.D. No. 11013/E-IV/2000 dated 30.10.2000 and IFD vide their letter Dy. No. 3016/DFA(P)/2000 dated 1.11.2000."

The aforesaid letter dated 09.11.2000 indicates two things, i.e., nursing allowance has been fixed @Rs. 300/- p.m. w.e.f. 01.08.1997 and Rs. 1600/- p.m. w.e.f. 15.07.1998 and this order particularly meant for nursing personnel of CRPF as par with CHS personnel. It was also made clear that the revised rate has been granted to such personnel admissible to CHS personnel. The very contention of the

respondents in granting such benefits to equate with the CHS personnel was taken consciously and with due application of mind by virtue of the annexure - II order. According to the applicants, they have been receiving the said allowance till the annexure - IV order dated 07.10.2004 has been passed by the respondents, which is quoted below: -

"To

DGs - BSF/CRPF/ITBP/CISF/SSB/
Assam Rifles.

Subject: Revision of rates Nursing Allowances, Uniform Allowances and washing Allowances to the Nursing personnel of Central Police Forces.

Sir,

The proposal for revision of rates of various allowances in respect of nursing personnel in Central Police Forces as admissible to CHSS personnel has been considered in consultation with Ministry of Finance. The undersigned is directed to convey the sanction of the President for revised rates of following allowances :-

Sl. No.	Allowances	Existing Rate	Revised Rate
(i)	Nursing Allowance (for Nurses only)	Rs. 150/- p.m.	Rs. 300 p.m. w.e.f. 01.8.97
(ii)	Uniform Allowance (for Nurses Only)	Rs. 1500/- p.a.	Rs. 1500/- p.a. upto 01.8.97 and Rs. 3000/- p.a. w.e.f. 01.8.97
(iii)	Washing Allowance (for Nurses Only)	Rs. 60/- p.m.	Rs. 75/- p.m. upto 01.8.97 and Rs. 150/- p.m. w.e.f. 01.8.97
(iv)	Washing Allowance (For other Group C & D Staff)	Rs. 30/- p.m.	Rs. 60/- p.m.

2. These allowances shall be admissible subject to the following conditions: -

(i) Nursing Personnel who are serving in dispensaries/hospitals without any in-patient facility are not entitled for Nursing Allowances.

(ii) The Allowance shall be admissible to those Nursing/Para Medic personnel whose service conditions are similar to those personnel working in analogous posts in CHS dispensaries.

3. This issues with the approval of Ministry of Finance, Department of Expenditure vide their I.D. No. 495/EIV/04 dated 07.10.2004 and Integrated Finance Division of this Ministry vide their Dy. No. 2407/AS&FA(II)/04 dated 30.9.2004."

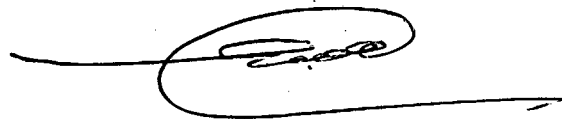
7. Though the learned counsel for the respondents argued that this order has been issued to bring the uniformity amongst the nursing personnel of Central Police Force Personnel including the Central Reserve Police Force, nothing has been mentioned of the earlier order, wherein benefits has already been granted to the Central Reserve Police Forces in equation with CHS Personnel. The applicants are drawing Rs. 1600/- per month as nursing allowance with effect from 15.07.1998 and the rate was revised to Rs. 300/- per month, no reason has been given either in the said letter or no materials placed on record to show that as to why the allowance of Rs. 1600/- per month should be reduced so far as the applicants are concerned. The contesting case of the learned counsel for the applicant is that similarly situated nursing personnel of the Central Health Services are drawing @ Rs. 1600/- per month with effect from 15.07.1998 as nursing allowance. The factual case being so since the applicants are enjoying higher nursing allowance in furtherance of filing a Court case, no reduction on the same is justified. The right of

the applicants has become final and no reason has been given to revise the same. The Apex Court also did not entertain the Special Leave Petition. Benefit/~~right~~, which has become final/crystalised cannot be withdrawn without cogent and justifiable reasons.

8. Moreover, no notice was given to the applicants before the benefit was withdrawn which is per se illegal, prior opportunity should have been given. {Reference (i) 1994 SCC (L&S) 1320, Bhagawan Shukla Vs. U.O.I. & Ors. (ii) JT 2002 SJSC 189, State of Haryana Vs. Haryana Civil Secretariat Staff Association (Recovery without notice not allowed)}.

9. In the circumstances, the impugned order annexure - IV dated 07.10.2004, so far as the applicants are concerned, will not stand in its legs. Therefore, the order is set aside to that extent. It is further directed that since the earlier order dated 09.11.2000 (annexure - II) is still governing field, the applicants are entitled to get the said allowance as per the said order. The recovery made, if any, and the benefit of the said order will be restored (without interest).

The O.A. is allowed with the observations made above. In the circumstances no order as to costs.



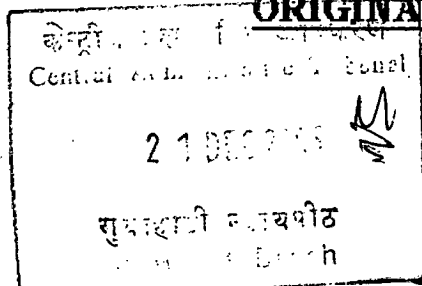
(K. V. SACHIDANANDAN)
VICE CHAIRMAN

18

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: GUWAHATI
BENCH: GUWAHATI

(An application under section 19 of the Central Administrative Tribunal Act, 1985)

ORIGINAL APPLICATION NO.....318...../2005



Smt. S Medhaboti and 10 others

.....APPLICANTS

VS

UNION OF INDIA AND OTHERS.

.....RESPONDENTS.

Index

Sl NO	PARTICULARS	PAGE NO.
1.	List of dates and synopsis	A
2.	ORIGINAL APPLICATION	1-17
3.	Annexure I True copy of the order dated 28 th July 1998	18-19
4.	Annexure II True copy of the order no 27012/6/99-PF/I/II/664 dated 9 th November 2000	20
5.	Annexure III True copy of the order No A IX. 1/200. Med, II (MHA) dated 10 th November 2000	21-22
6.	Annexure IV True copy of the order No. II, 27012/6/99-1 dated 7 th October 2004	23-24
7.	Annexure V True copy of the order No. II, 27012/6/99-1 dated 6 th October 2005	25
8.	Annexure VI True copy of the order no. A- IX/2005 MED. II(MHA) dated 20 th October 2005	26
9.	Annexure VII True copy of the order A.IX-1/2004-MED II (MHA) dated 31/12/04	27-28

Filed by

Rajesh Kumar
(Advocate)

19

2

LIST OF DATES AND SYNOPSIS

The applicants are serving as non-combatised nursing personnel in Base hospital III, Group Center Guwahati, Central Reserve Police Force.

- 28th July 1998 Ministry of Health and Family Welfare announced enhancement of Nursing Allowance from Rs. 300/- per month to Rs 1600/- per month to all Nursing personnel working in the Central Government hospital with effect from 15.07. 1998. (Annexure I.)
- 9th November, 2000 Ministry of Home Affairs vide their order no 27012/6/99-PF/I/II/664 dated 9th November, 2000 had conveyed the sanction of the competent authority at the following rates @Rs. 300 pm with effect from 1.8.1997 And @ Rs. 1600 pm with effect from 15.7.98
- 10th November 2000 Order No A IX. 1/200. Med, II (MHA) the Director, (Medical) Central Reserve Police Force, had announced the sanction of revised rates of Nursing allowances to the Nursing Personnel of the Central Reserve Police Force as admissible to Nursing personnel serving in the Central Health services.
- Thereafter, the respondents have been continuously paying the Nursing allowance @Rs. 1600/- p.m. to all the nursing personnel including the applicants herein till November 2005 in terms of the aforesaid letter.
- 7th of October, 2004 Director (Police/Finance), Ministry of Home Affairs, conveys the sanction for revision of the Nursing allowance in respect Nursing Personnel in Central Police Forces from the existing rate of "Rs 150/-p.m." to "Rs 300/- p.m." The nursing personnel were drawing Rs. 1600/- per month.
- 6.10.05 and 20th Recovery of "excess amount" paid as nursing allowance was directed to be recovered.
October 2005

21 DEC 2005

गुवाहाटी न्यायपीठ

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL:
GUWAHATI BENCH: GUWAHATI**

(An application under section 19 of the Central Administrative
Tribunal Act, 1985)

ORIGINAL APPLICATION NO.....318...../2005

1. Smt. S Medhaboti
Force no 751550115
2. N. Jibonmala,
Force no 751560124
3. Ms. Sushama, /
Force no.811570033
4. Ranjita Tudu Sona,
Force no 832100203
5. Kalyanee Bhowmic,
Force no 84210081
6. Meera Purty, /
Force no 842100099
7. Sugana Dorai Samy,
Force no 892070014
8. Silviamma,
Force no 872070055
9. Sheela,
Force no 861520134
10. Asha Horo,
Force no 881560024
11. Asha Wankhede,
Force no 862080022

(All the above are serving as non-combatised Nursing personnel in Base hospital III, Group Center Guwahati, Central Reserve Police Force.)

.....APPLICANTS

-Vs-

1. Union of India represented by the
Secretary, Ministry of Home
Affairs, New Delhi.
2. Union of India represented by the
Director (PHS), Ministry of Health
and Family Welfare.

20

Filed by the Applicant
through Rajar Majumdar
(Adv)

Fig-6

3. The Director (Medical) Directorate
General, CRPF, East Block, 10,
R.K. Puram New Delhi, 110066
4. The Director (Police and Finance),
Ministry of Home Affairs,
Government of India, New Delhi.

..... Respondents

1. Particulars of the orders against which the application is made.

This application is made against the order No. II, 27012/6/99-1 dated 7th October 2004, passed by the Director (Police/Finance), Government of India, Ministry of Home Affairs, by which the nursing allowances of the Nursing Personnel of the Central Reserve Police Force has been revised on an illegal wrong basis, and also against order No. II-27012/6/2/6/99- PF I/II dated 6th October 2005, and order No. A-11-2005/MED: II (MHA) dated 20/10/05 by which recovery sought to be made from the pay of the applicants, with pray for orders quashing of the order dated 7/10/2004 passed by the Director (Police/Finance), Government of India, Ministry of Home Affairs revising the nursing allowance of the Nursing personnel serving the Central Reserve Police Force and also for orders quashing the consequent recovery orders dated 6/10/2005 and 20/10/2005.

J. S. S.

2. Jurisdiction of the Tribunal

The applicants declare that the subject matter of this application is within the Jurisdiction of the Hon'ble Tribunal.

3. Limitation

The applicants declare that this application is filed within the period of limitation prescribed under the Administrative Tribunal Act, 1985.

4. Facts of the case.

4.1. That the applicants being citizens of India are entitled to all the rights and privileges and protections granted by the Constitution of India.

4.2. That as the applicants have a common cause of action, they have approached this Hon'ble Tribunal through a common application. The applicants have authorised N. Jibonmala to sign and verify the contents of the present application filed before this Hon'ble Tribunal.

4.3. That the applicants are serving as Non-combatised Nursing Personnel in Central Reserve Police Force Base Hospital- III located at Group Center Guwahati, Central Reserve Police Force, Guwahati, Assam.

Tribunal

4.4. That the applicants, in addition to their salary are entitled to all the benefits and allowances as are applicable to the Nursing personnel serving in the other Central Government Health Services. As such, the applicants are also entitled to Nursing Allowance at the same rate as is applicable to the nursing Personnel serving under the Central Health Services.

4.5. That On the basis of the recommendations of the 5th pay Commission, the President of India was pleased to sanction the enhancement of Nursing Allowance from Rs. 300/- per month to Rs 1600/- per months to all Nursing personnel working in the Central Government hospital with effect from 15.07.1998.

A true copy of the order dated 28th July 1998 issued by the Ministry of Health and Family Welfare is annexed hereto and marked as **Annexure I**.

4.6. That pursuant thereto, the Ministry of Home Affairs vide their order no 27012/6/99-PF/I/II/664 dated 9th November, 2000 had conveyed the sanction of the competent authority for payment of Nursing allowance to Nursing personnel in the Central Reserve Police Force on the scale admissible to Central Health Services nursing personnel as indicated below:

Nursing Allowance @Rs. 300 pm with effect from 1.8.1997

And @ Rs. 1600 pm with effect from 15.7.98

A True copy of the order no 27012/6/99-PF/I/II/664 dated 9th November 2000 is annexed hereto and marked as **Annexure II.**

4.7. That vide order No A IX. 1/200. Med, II (MHA) dated 10th November 2000, the Director, (Medical) Central Reserve Police Force, had announced the sanction of revised rates of Nursing allowances to the Nursing Personnel of the Central Reserve Police Force as admissible to Nursing personnel serving in the Central Health services. As per the said letter, the Nursing allowance payable to the Nursing Personnel of the Central Reserve Police Force would be admissible as follows:

@Rs. 300/- p.m. w.e.f. 1/8/97.

@Rs. 1600/-p.m. w.e.f. 15/7/98.

A True copy of the order No A IX. 1/200. Med, II (MHA) dated 10th November 2000 is annexed hereto and marked as **Annexure III.**

File

4.8. That thereafter, the respondents have been continuously paying the Nursing allowance @Rs. 1600/- p.m. to all the nursing personnel including the applicants herein till November 2005 in terms of the aforesaid letter.

4.9. That in the month of December 2005, the applicants have come to know that vide order No. II 27012/6/99-I dt. 7th of October, 2004, the Director (Police/Finance), Ministry of Home Affairs, had conveyed the sanction of President for revision of the Nursing allowance in respect Nursing Personnel in Central Police Forces. Surprisingly, as per the said order, the nursing allowance were revised from the existing rate of "Rs 150/-p.m." to "Rs 300/- p.m." with effect from 01.8.97. In the said letter there is no whisper about the earlier revision dated 9.11.2000 enhancing the Nursing Allowance from Rs. 300/- to Rs. 1,600/-

A true copy of the order No. II, 27012/6/99-1 dated 7th October 2004 is annexed hereto and marked as Annexure IV.

4.10. That it is stated here that the applicants were never informed about the said order dated 07.10.2004 till the month of November 2005 nor the same was implemented for reasons best known to the authorities.

J.S.O.

4.11. That vide letter No II- 27012/6/99-PF I/II dated 6.10.05, the Director (Police/Finance) had written to the Director General, CRPF, that amount in excess of Rs. 300/- p.m. to Nursing personnel beyond 7/10/04 as Nursing allowance is to be recovered without there being any explanation as to at whose instance the Nursing Allowance had been lowered from Rs. 1,600/- p.m. and from when.

A true copy of the order No. II,
27012/6/99-1 dated 6th October
2005 is annexed hereto and
marked as Annexure V.

4.12. That it is stated here that even this communication dated 6-10-05 was never brought to the notice of the applicants till November 2005.

4.13. That vide order no. A- IX/2005 MED. II (MHA) dated 20th October 2005, the Director /IGP (Medical) has directed the Inspector General of Police, North-East Sector to recover from the nursing personnel of the Central Reserve Police Force, the amount, if paid, in excess of Rs. 300/- per month w.e.f. 7/10/04 to nursing personnel as Nursing Allowance. While doing so, it was not considered that the Nursing

Personnel had been drawing Nursing Allowance @ Rs. 1,600/- p.m. at the sanction of the competent authority.

A true copy of the order no. A-IX/2005 MED. II(MHA) dated 20th October 2005, is annexed hereto and marked as **Annexure VI.**

4.14. That it is relevant to mention here that vide order no A.IX-1/2004-MED II (MHA) dated 31/12/04, the Director of IGP (Medical) Directorate general, CRPF had conveyed "Enhancement of rate of Nursing allowance" while referring to OM dated 7/10/2004 (Annexure IV). While quoting the nursing allowance to have been revised to Rs. 300/= with effect from 1/8/1997, at Paragraph 2 of the said order dated 31/12/2004, the Director/IGP (Medical) had stated that

" Necessary orders for drawal of allowances at Sl. (i) to (iii) above have already been issued vide this Directorate letter no A.IX-1/2000-Med.II(MHA) dated 10/11/2000".

Ironically the order dated 10/11/2000 had sanctioned nursing allowance @ Rs. 300/- with effect from 1-8-1997 and

@Rs. 1600/- with effect from 15-7-1998. It is not explained as to what happened to the sanction given effect from 15-7-98.

A true copy of the order A.IX-1/2004-MED II (MHA) dated 31/12/04 is annexed hereto and marked as Annexure VII.

4.15. That it is stated here that as soon as the applicants herein come to know about the arbitrary and illegal action of the respondents of attempting to reduce the Nursing Allowance afforded to the applicants with retrospective effect and the proposed recovery from their pay, the applicants filed representations before the competent authority bringing out their grievances. The said representation have not been considered or disposed of as yet. The applicants have reliable information that the order inflicting recovery on the applicants will be effected from the months of December, 2005. The applicants has no other alternative remedy except to approach this Hon'ble Tribunal and thus this application is being made bonafide and for the ends of Justice.

5. That the applicants are challenging the order dated 7/10/04, which has reduced the Nursing allowance in the pretext of enhancing the allowance, and the subsequent orders dated 31/12/04, 6/10/05 and 20/10/05 on the following amongst other

Island

29

Grounds.

5.1. For that the impugned actions of the respondents are illegal and arbitrary and are being executed without application of mind and, as such, are not tenable in Law.

5.2. For that the order dated 9th November 2000 bearing No. 27012/6/99-PF. I/II/664, issued by the Ministry of Home Affairs, Government of India had conveyed the sanction of the competent authority for enhancement of Nursing Allowance on the following scale.

@Rs. 300/- p.m. with effect from 1/8/97.

@Rs. 1600/- p.m. with effect from 15/7/98.

As such, the revision dated 7/10/04, passed without considering the order dated 9th November 2000, is unwarranted and without the force of Law.

5.3. For that the order dated 7/10/04 has been passed without due application of mind and in a totally mechanical manner. This is evident from the fact that as per order dated 9th of November, 2000 and subsequent order dated 10th of November, the Nursing Allowance applicable to the Nursing personnel of the Central Reserve Police Force had been enhanced from the then existing amount of Rs. 300/- p.m. to Rs. 1600/- w.e.f. 15/7/98. As such, as on 7/10/04, the

H. A. H.

existing rate of Nursing Allowance was Rs. 1600/- p.m. However, in a totally arbitrary manner, the order dated 7/10/2004 has stated that the Nursing Allowances had been revised from the existing rate of Rs. 150/- p.m. to Rs. 300/- p.m. w.e.f. 01/8/97. The Director (Police and Finance) without applying his mind has brought on record an imaginary figure of Rs. 150/-p.m. to be the existing rate of nursing allowance, when actually the existing rate was of Rs. 1600/-p.m. While on the one hand, the order dated 9/11/2000 is in consonance with the scale admissible to Central Health service Nursing personnel, and also as per recommendation of the of the 5th Pay Commission by virtue of which the allowances were enhanced to Rs 1600/- p.m., on the other hand the order dated 7/10/2004 does not give any reason for quoting the existing allowances as on 7/10/2004 to be Rs 150/- p.m. It is reiterated that the existing allowance as on 7.10.2004 was Rs 1600/- p.m. and not Rs. 150/- p.m. as quoted in the order dated 7/10/2004.

5.4. For that the order dated 7/10/04 is bad, in Law and is wholly unconstitutional. inasmuch as, it has sought to revise the rate of Nursing allowance to Rs. 300/- p.m. w.e.f 01.8.97 whereas the other similarly situated Nursing Personnel of the Central Health service are drawing allowance @ Rs. 1600/- p.m. w.e.f. 15/7/98. Though the order dated 7/10/2004

speaks of revising the allowance of the Nursing personnel in Central Police Forces as admissible to Central health service personnel, in effect, it is discriminatory in nature. The impugned order has sought to defeat the very purpose of revising the rate of allowances i.e. to maintain the "Principle of equal pay for equal work" between the personnel serving in the Hospital of the Central Police Force and the personnel of the Central Health Services.

5.5. For that the purpose of revising the allowances has been defeated by order dated 7-10-2004, inasmuch as, the intent behind the said order was to enhance the rate of nursing allowances (from Rs. 150/- per month to Rs. 300/- per month with effect from 1-8-1997) whereas in effect it has reduced the nursing allowance from the existing rate of Rs. 1600/- per month. It is, therefore, evident that the order has been passed without considering the previous orders and circumstances and therefore the order dated 7-10-2004 is liable to be set aside and quashed.

5.6. For that as per orders dated 9-11-2000 and 10-11-2000 the nursing allowance permissible to the Nursing personnel of the Central Reserve Police Force stood revised to Rs. 1600/- per month with effect from 15-7-1998 and, as such, the question of revising the rates from "the existing rate of

Rs. 150/- per month to Rs. 300/- per month with effect from 1-8-1997" vide order dated 7-10-2004 cannot arise at all. The action of the respondents, besides being unreasonable, is wholly arbitrary and against the principles of administrative fairplay.

J. S. S.

5.7. For that the enhancement of the nursing allowance vide orders dated 9-11-2000 and 10-11-2000 were implemented by the respondents themselves to maintain equality among the nursing personnel in the hospitals of the force and the nursing personnel serving in the other Central Government Health Services. The sudden reduction in the allowance admissible to the nursing personnel of the Central Reserve Police Force, without there being any change/revision in the allowance applicable to the Nursing personnel of the Central Health Services is contrary to law and principles of equity.

5.8. For that, the respondents have failed to applicants that the order dated 7/10/04, could be at best, said to be informing about the previous enhancement of Nursing Allowance from Rs. 150/- to Rs. 300/- per months with effect from 1.8.97. The respondents have tried to twist the intention behind the revision the allowance thus have construed it to mean that the rate of Nursing allowance has

been brought down from Rs. 1,600/- to Rs. 300/-p.m when actually the intention was to regularize the enhancement from Rs. 150/- to Rs. 300/-

5.9. For that, since the order dated 7/10/04 is not tenable in law, the subsequent order dated 6/10/05 and 20/10/05 ordering recovery also are not tenable in law and are liable to be set aside and quashed.

5.10. For that the allowances @Rs. 1,600/- were being drwn by the applicants on specific sanction being granted to the said allowances at the said rate. He respondent on misunderstanding are illegally trying to recover the allowances which were paid earlier on the basis of circular issued legally by the competent authority.

5.11. For that the Hon'ble Apex Court had held that order revising allowances/ pay, thus reducing them, can not be given effect to retrospectively and, as such, the attempts of the respondents to impose is against all canons of law.

6. DETAILS OF REMEDIES EXHAUSTED: -

There is no other alternative and efficacious remedy available to the applicants except invoking the Jurisdiction of

Isa

this Hon'ble Tribunal under section 19 of the Administrative Tribunal Act. 1985.

7. MATTERS NOT PREVIOUSLY FILED OR PENDING WITH ANY OTHER COURT:

The applicants further declare that they have neither filed any application, writ petition or suit in respect of the subject matter of the instant application before any other Court nor any such application, writ petition or suit is pending before any of Court or Tribunal.

8. RELIEF SOUGHT FOR:

Under the facts and circumstances stated above the applicants most respectfully pray that your Lordships may be pleased to grant the following reliefs to the applicant.

8.1 Set aside and quash the impugned order No. II, 27012/6/99-1 dated 7th October 2004, passed by the Director (Police/Finance), Government of India, Ministry of Home Affairs, and also order No. II-27012/6/2/6/99-PF I/II dated 6th October 2005, and order No. A-11-2005/MED: II (MHA) dated 20/10/05 (annexures IV V and VI to this application); and

T. S. D.

- 8.2 Direct the respondents to continue to pay the nursing allowances to the applicants @ Rs. 1600/- per month as per orders dated 9-11-2000 and 10-11-2000; and
- 8.3 Grant the cost of this application in favour of the applicants and against the respondents; and
- 8.4 To grant such further or other reliefs as this Hon'ble Tribunal may deem fit, proper and necessary in the interests of justice and in the circumstances of the case.

9. INTERIM RELIEF PRAYED FOR

In the interim, it is humbly prayed that Your Lordships would be graciously pleased to direct the respondents not to give effect to the impugned orders No. II, 27012/6/99-1 dated 7th October 2004, passed by the Director (Police/Finance), Government of India, Ministry of Home Affairs, and further not to effect the recovery pursuant to order No. II-27012/6/2/6/99- PF I/II dated 6th October 2005, and order No. A-11-2005/MED: II (MHA) dated 20/10/05 (annexures IV V and VI to this application), till final disposal of this application.

10. PARTICULARS OF BANK DRAFT/POSTAL ORDER IN RESPECT OF THE APPLICATION FEE

- (i) I P O number: 26 G 317624
- (ii) Date: 12/12/05
- (iii) Issued by the Guwahati post office
- (iv) Payable at Guwahati.

11. LIST OF ANNEXURES:

As stated in the Index to the application.

-VERIFICATION-

36

VERIFICATION

I, Smti. N. Jibonmala, w/o Sri Arjun Singh, aged about 55 years, serving in the Base hospital III, Group Centre Guwahati, Central Reserve police Force, being authorised by the other applicants in the instant application do hereby solemnly verify that the statements made in paragraphs no 2, 3, 4, 1, 4, 2, 4, 4, 4, 10, 6, 8, 9..... are true to the best of my knowledge and the statements made in paragraphs 1, 6, 3, 4, 5, 4, 9, 4, 11, 4, 13, being 4, 14, 4, 15, 10, 11 matters of records are true to my information derived therefrom and which I believe to be true and the rest are my humble submissions before this Hon'ble Tribunal.

And I sign this verification on this 21st..... day of December, 2005 at Guwahati.

Tibonmala

No. Z 28015/86/97-N
Government of India
Ministry of Health & Family Welfare
(Department of Health)

Nirman Bhavan, New Delhi.
dated the 28th July, 1998

ORDER


To:

Director General of Health Services,
Nirman Bhavan
New Delhi

Subject: Enhancement of Nursing Allowance - regarding

I am directed to state that the question of enhancing Nursing Allowance from the existing amount of Rs.300, as recommended by the 5th Pay Commission, has been under consideration of the Government. After careful consideration of the matter, sanction of the President is hereby conveyed to enhance the Nursing Allowance from the existing rate of Rs.300 per month to Rs.1600 per month to all the Nursing personnel working in the Central Government hospitals with effect from 15. 07. 1998

2. Nursing Allowance will not be treated as a part of 'pay'.
3. The additional expenditure due to enhancement of Nursing Allowance will be met by the respective institutions from their sanctioned budget.
4. This issues with the approval of JS(FA) vide Dy. No. 3095/98-JS(FA) dated the 23. 07. 98.


(R.M. BHATTACHARYA)
DIRECTOR (PMS)

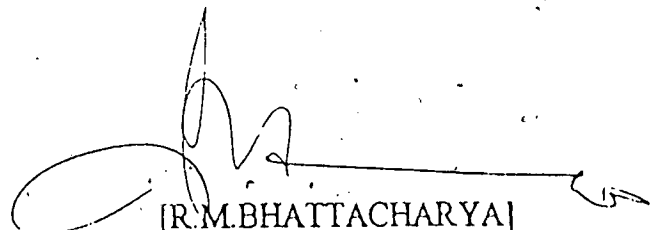
Copy to:

1. The Medical Superintendent, Dr. R.M.L. Hospital, New Delhi
2. The Medical Superintendent, Safdarjung Hospital, New Delhi

Certified to be true Copy

Rajesh Mehta
Advocate

3. The M.S. & Principal, Lady Hardinge Medical College(S.K.Hospital)
4. The Principal & MS, K.S.C.Hospitals, New Delhi.
5. The Director, JIPMER, Pondicherry.
6. The Director, CIP < Kanke, Ranchi.
7. The Director, CLT&RI, Chengalpattu.
8. The Secretary (Health), Govt. of NCT of Delhi.
9. The Commissioner, MCD, Town Hall, Delhi.
10. The Administrator, NDMC, Palika Kendra, New Delhi.
11. The Director, Central Government Health Scheme, New Delhi
12. The Director, ESI, Kotla Road, New Delhi.
13. Nursing Adviser, Dte.G.H.S.
14. Finance Division, Ministry of Health & Family Welfare.
- ✓ 15. The General Secretary, Delhi Nurses' Union, New Delhi
16. Department of Expenditure, Ministry of Finance.
17. PS to Minister of State for H&FW.
18. PPS to Secretary (H)/Secretary (FW)/Secretary (ISM)
19. PS to AS(H)/PS to JS(SR)


[R.M.BHATTACHARYA]
DIRECTOR (PMS)

No. 27012/99-PF. I/II/667
Government of India
Ministry of Home Affairs

.....
New Delhi the 9th November, 2000

To

Director General.
Central Reserve Police Force,
CGO Complex, Lodhi Road,
New Delhi.

Subject: - Enhancement in rate of Nursing allowance,
Washing allowance and Uniform allowance.

Sir,

Sanction of the competent authority is hereby conveyed to the payment of Nursing Allowance, washing Allowance and Uniform Allowance to Nursing personnel of CRPF only on the scale admissible to CHS personnel as indicated below:-

Nursing Allowance	@ Rs. 300/- p.m. w.e.f. 1.8.97 and Rs. 1600/- p.m. w.e.f. 15.7.98.
Uniform Allowance	@ Rs. 3000/- p.a. w.e.f. 1.8.97.
Washing Allowance	@ Rs 150/- p.m. w.e.f. 1.8.97 (Nurses)

2. The additional expenditure due to enhancement of the above allowance will be met by CRPF from out of their sanctioned budget grant.

3. This issues with approval of Ministry of Finance vide their L.D. No 11013/E-IV/2000 dated 30.10.2000 and IFD vide their Dy No. 3016/DFA (P)/ 2000 dated 1.11.2000.

Your Faithfully

Sd/-

Under Secretary Government of India

Tel. No. 3012214

Certified to be true Copy

Rajesh Mehta
Advocate

DIRECTORATE GENERAL, CRPF EAST BLOCK 10, R.K.
PURAM, NEW DELHI 110 066.

No.A.IX.1/2000. MED.II (MHA) Dated, the 10 Nov' 2000.

To,

The Addl. DG, NWZ,
CRPF Chandigarh.

The IGP, S/S, SPL. Sec, M&N, W/S, N/S, B/S, E/S,
C/S, NES, Ops Jammu, Ope Srinagar, RAF at
Locations.

The IGP, ISA, M/ Abu (Raj).

Subject: ENHANCEMENT IN RATE OF NURSING
ALLOWANCE, WASHING ALLOWANCE AND
UNIFORM ALLOWANCE.

GOI, MHA vide their OM No. 27012/6/99PF.I/II dated
9/11/2000 (Copy enclosed) has sanctioned the revised rates
of Nursing, Uniform, Washing allowance to the Nursing
personnel as admissible to CHS Nursing Personnel as per
details given below:

Nursing Allowance - @ Rs. 300/- p.m. w.e.f. 1/8/97
Rs. 1600/- p.m. w.e.f. 15/7/98.

Uniform Allowance- @ Rs. 3000/- p.m. w.e.f. 1/8/97.

Washing Allowance- @ Rs. 150/-p.m. w.e.f/8/97.
(Nurses)

2. Nursing Allowance is admissible to both combatised and
non-Combatised Nursing personnel whereas the uniform
allowance and washing allowance as given above are
admissible only to non- combatised Nursing staff. Combatised
Nursing Staff will continue to get free Uniform and washing
allowance as hereto.

Certified to be true Copy
Rajesh Mazumdar
Advocate

3. Copy of above orders may be provided/circulated to all the Offices/Gcs/Units under your Adm. Control for implementation.

Encl: (1 to each)

(Dr. K.K. SAINI)
DIRECTOR (MEDICAL)

No.A.IX.1/2000. MED.II (MHA)

Dated, the Nov 2000.

Copy forwarded to:

The CMO, BHI, II, III and comp. Hospital, New Delhi, Huiderabad, Guwahati and Banalab (Jammu) for Information and taking action to sanction/ grant the above allowance to all the eligible nursing personnel.

(Dr. K.K.SAINI)
DIRECTOR (MEDICAL)

Encl: (1 to each)

INTERNAL
DIG (TRG) for similar action.

No.II.27012/6/99-I
Government of India
Ministry of Home Affairs

New Delhi, the 7th October 2004.

To

DGs- BSF/CRPF/ITBP/CISF/SSB/Assam Rifles

Subject: **Revision of rates Nursing Allowances, Uniform Allowances and washing Allowances to the Nursing personnel of Central Police Forces.**

Sir,

The proposal for revision of rates of various allowances in respect of nursing personnel in Central Police Forces as admissible to CHSS personnel has been considered in consultation with Ministry of Finance. The undersigned is directed to convey the sanction of the President for revised rates of following allowances: -

16007-1
7/10/04

Sl.No.	Allowances	Existing Rate	Revised Rate
(i)	Nursing Allowance (for Nurses only)	Rs. 150/-p.m.	Rs. 300/-p.m. w.e.f. 01.8.97
(ii)	Uniform Allowance (for Nurses only)	Rs. 1500/-p.a.	Rs. 1500/-p.a. upto 01.8.97 and Rs.3000/-p.a. w.e.f. 01.8.97..
(iii)	Washing Allowance (for Nurses only)	Rs. 60/-p.m.	Rs. 75/-p.m. upto 01.8.97 and Rs. 150/- p.m. w.e.f. 01.8.97..
(iv)	Washing Allowance (for other Group C&D Staff)	Rs. 30/- p.m.	Rs. 60/- p.m.

1-8-97 ✓

2. These allowances shall be admissible subject to the following conditions: -

Certified to be true Copy

Rajesh Mehta
Advocate

(i) Nursing Personnel who are serving in dispensaries/hospitals without any in-patient facility are not entitled for Nursing Allowances.

(ii) The Allowance shall be admissible to those Nursing / Para Medic personnel whose service conditions are similar to those personnel working in analogous posts in CHS dispensaries.

3. This issues with the approval of Ministry of Finance. Department of Expenditure vide their I.D. No. 495/EIV/04 dated 07.10.2004 and Integrated Finance Division of this Ministry vide their Dy. No. 2407/ AS&FA (II)/04 dated 30.9.2004.

Your Faithfully

(Manoj Agarwal)
Director (Police/ Finance)
Tele- 2309-2123

Copy to: -

1. PAOs- BSF/CRPF/ITBP/CISF/SSB/Assam Rifles.
2. IFAs- BSF/CRPF/ITBP/CISF/SSB/Assam Rifles.
3. Ministry of Finance, Dept. of Expenditure, (E. IV Desk).
4. PF. I/III/& IV, MHA.
5. Fin.II/III/IV & V, MHA.
6. LOAR, North Block, New Delhi.
7. Guard File, PF.II Desk, MHA.

Copy for Information to:-

1. Sr. PPS to HS.
2. PPS to JS (P)

(Nirmala Dev)
Desk Officer

-25-

Annexure D
31/10/05
44

Most Immediate

No.II-27012/6/99-PF.I/II
Government of India
Ministry of Home Affairs

New Delhi dated the 6th October, 2005.

To

✓ DG CRPF

Subject:-Revision of rates of Nursing Allowances to the
Nursing personnel of Central Police Forces.

Sir,

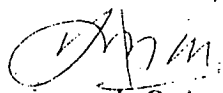
Please refer to earlier letter of even number dated 7.10.2004 and CRPF U.O. No.A9-1/2004-Med.-2 dated 9.2.2005 on the subject mentioned above.

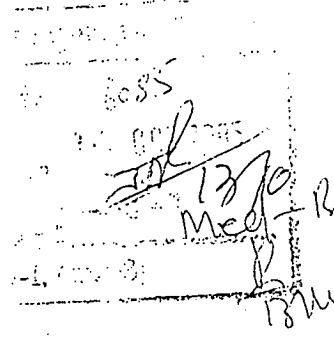
2. As per order of MHA dated 7.10.2004 rates of Nursing Allowance have been revised to Rs.300/- p.m. for all Central Police Forces. The matter has been considered again in consultation with Ministry of Finance. Since the rates of Rs.300/- p.m. are applicable for Nursing personnel of all CPFs including CRPF, w.e.f. 7.10.2004, the amount paid in excess of Rs.300/- p.m. to Nursing personnel beyond 7.10.2004 is to be recovered.

3. It is requested to recover the amount, if paid, in excess of Rs.300/- p.m. w.e.f. 7.10.2004 to Nursing personnel of CRPF. Action taken in this respect is to be intimated to the Ministry urgently.

4. This issues with the approval of Ministry of Finance vide their Dy.No.254/E.IV/05 dated 6.6.2005 and Integrated Finance Division of this Ministry vide their Dy.No. 896/Fin.II/05 dated 4.10.2005

Yours faithfully,


(Ranjanesh Sahai)
Director (PF)
Tel.No.2309-2123


Certified to be True Copy
Rajesh Mehta
Advocate

16
14/10
DA-2

DIRECTORATE GENERAL, CRPF, OLD SPG DISPENSARY
BLOCK, SECTOR 4, PUSHP VIHAR, M.B. ROAD, NEW
DELHI- 110017.

No. A.IX-/ 2005. MED.II (MHA) Dated, the 20 October, 05.

To,
The Inspector General of Police
SS/NS/ES/WS/CS/BS/SPL. SEC/NES/
NWS/ JMU/M&N/ SNR/TPA/RAF/ISA/(OPS) JMO& JHT,
CRPF, At Location.

Subject REVISION OF RATES OF NURSING ALLOWANCE
TO THE NURSING PERSONNEL OF CENTRAL
POLICE FORCE.

Sir,

Please refer to earlier letters of even number dated 10/11/2000 and 31/12/2004 on the Subject mentioned above.

2. GOI, MHA vide their OM No. II - 27012/6/99PF.I/II dated 06/10/05 (Copy enclosed) have clarified that rates of Nursing Allowance have been revised to) 300/- P.M. for all Central Police Force including CRPF, w.e.f. 7/10/04, the amount paid in excess of Rs. 300/-p.m. to nursing personnel beyond 7/10/04 is to be recovered.

3. It is requested to recover the amount, if paid, in excess of Rs. 300/- p.m. w.e.f. 7/10/04 to nursing personnel. Action taken in respect is to be intimated to Directorate.

Encl. 4 to each.

(DR.KULBHUSHAN)

Directorate/ IGP (MEDICAL)

INTERNAL:

DIG Training/ Communication for similar action.

Addl. DIG (Adm.) for record.

DA.IV for placing in instruction file.

Enclosure 1 to each.

Certified to be true Copy
Rajesh Kumar
Advocate

DIRECTORATE GENERAL, CRPF EAST BLOCK 10, R.K.
PURAM, NEW DELHI 110 066.

No.A.IX.1/2004- MED.II (MHA) Dated, the 31 Dec' 2004

To,

The Addl. DG, NWZ,
CRPF Chandigarh.

The IGP, E/S, W/S, N/S, S/S, SPL. Sec, NES, JMU,
M&N B/S, RAF at Locations.

The Principal/IGP, ISA, CRPF, Mount Abu.

Subject: ENHANCEMENT OF RATE OF NURSING
ALLOWANCE, WASHING ALLOWANCE AND
UNIFORM ALLOWANCE.

GOI, MHA vide their OM No. II- 27012/6/99/PF.I,PF.II
(Vol II) dated 7/10/2004 (Copy enclosed) has sanctioned the
revised rates of Nursing, Uniform, Washing allowance to the
Nursing personnel as admissible to CHS Nursing Personnel
as per details given below:

- (i) Nursing Allowance (for Nurses only) Rs. 300/-
w.e.f. 1/8/97.
- (ii) Uniform Allowance (For Nurses only) Rs.
1500/- p.a. upto 1/8/97 and Rs.3000/- p.a.
w.e.f. 1/8/97.
- (iii) Washing Allowance (For Nurses only) Rs. 75/-
p.m. upto 1/8/97 and Rs. 150/- p.m. w.e.f.
1/8/97.
- (iv) Washing Allowance (for other Group c & d
staff) Rs. 60/- p.m.

2. Necessary orders for drawl of allowances at sl. No. (i) to (iii)
above have already been issued vide this Directorate letter No.
A.IX-1.2000-MED.II (MHA) dated 10/11/2000.

3. Clarification for drawal of washing Allowance to other Group
C & D Staff (Except Nurses) has been sought but outcome is
still awaited. Therefore, washing allowance @ Rs. 60/- p.m.

may be sanctioned to Non- combatised Group C & D Hospital staff only. Combatised Group C & D Hospital staff will continue to draw washing Allowance at par with other Combatised personnel of the Force.

4. Copy of the above orders may be provided / circulated to all the Offices/ GCs/ Units under your Adm. Control for implementation.

Encl: 1 to each

Sd/-
(Dr. K.K. SAINI)
DIRECTOR/ IGP (MEDICAL)

NO.A.IX. -1/2004-Med. II (MHA) dated, the 31
December 2004

Copy forwarded to: -

The CMO I/C BH-I, II, III and composite Hospital, CRPF, at locations for information and taking action to sanction/grant the above allowances to all the eligible personnel.

Encl:1 to each

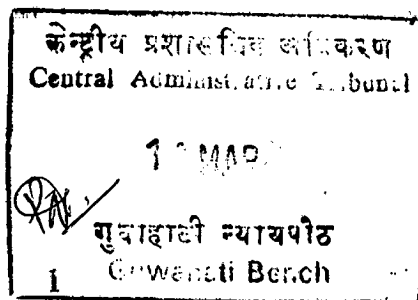
(Dr. K.K.SAINI)
DIRECTOR/IGP (MEDICAL)

Internal

DIG (TRG) and COMMN. For similar action.

DA.IV for placing in Instrn. File

Encl. 1 to each.



48

Filed by
the Respondents Through
Alleha Das.
Addl. Secy.
9/3/06.

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH GUWAHATI

OA NO. 318/2005

SMT S. MEDHABOTI & 10 OTHERS

.....APPLICANTS

-VERSUS-

UNION OF INDIA & OTHERS

.....RESPONDENTS

WRITTEN STATEMENT FILED BY THE RESPONDENTS

- 1) That the respondents have received a copy of the OA and have gone through the same. The respondents have understood the contentions made thereof. Save and except the statements, which are not specifically admitted herein below, rests may be treated as total denial. The statements, which are not borne on records, are also denied and the applicants are put to the strictest proof thereof.
- 2) Those before giving parawise reply the respondents beg to give the Brief History of the case.
 - (a) On the basis of 5th pay Commission Recommendations GOI, Ministry of Health & Family Welfare (Dept. of Health) vide their OM No. Z 28015/86/97.N dated 28/07/98 enhanced the Nursing Allowance from the existing rate of Rs.300/- per month to 1600/- per month to all the Nursing personnel working in Central Govt. Hospitals with effect from 15/07/1998. Other allowances viz. Uniform Allowance and washing Allowance were also revised by Govt. of India w.e.f. 15/07/1998 @ Rs. 3,000/- p.a. and Rs. 150/- p.m. respectively.
 - (b) Since the Allowances were not extended to the nursing personnel working CRPF Hospitals, Writ Petition No. 15637 of 1999 was filed by Mrs. Calina Horo & 13 Others -versus- Union of India & others in the Hon'ble High Court of AP at Hyderabad for granting the following allowances to the petitioners from the respective dates from which the allowances extended to the Nursing Staff working in Central Govt. Hospitals: -

(i) Nursing Allowance Rs. 300/- p.m. w e f 1/8/97 and Rs. 1600/- p.m. w e f 15/7/1998.

(j) Uniform Allowance @ Rs. 3000/- p.a. w. e .f 1/8/1997.

(k) Washing Allowance @ Rs. 150/- p.m. w. e .f 1/8/1997.

Since the case for grant of these benefits was already under consideration with the Govt., the Hon'ble High Court vide judgment dated 19/04/2000, disposed of the WP No. 15637 of 1999, directing the first respondents to take the decision in the matter as expeditiously as possible preferably within a period of three months from the date of receipt of orders.

(c) Govt. of India, Ministry of Home Affairs vide their O.M. No. 27012/6/99- PF.I/II dated 09/11/2000 conveyed decision for payment of Nursing Allowance, Washing Allowance and Uniform Allowance to Nursing Personnel of CRPF only on the scale admissible to CHS nursing personnel as indicated below: -

(i) Nursing Allowance: - @ Rs. 300/- p. m w .e .f 1.8.1997 and Rs.1600/-p.m w e .f 15.7.1998

(ii) Uniform Allowance: - @ Rs.3000/- p.a w. e .f 1.8.1997

(iii) Washing Allowance: - @ Rs. 150/- p .m w. e .f 1.8.1997 (Nurses)

(d) Govt. of India, Ministry of Home Affairs vides their O.M. No. II-27012/6/99/PF-I/II (Vol .II) dated 7.10.2004 conveyed sanction for revision of the rates of various allowance in respect of Nursing personnel in the Central Police Forces on admissible to CHG personnel as under:-

	<u>Existing Rates</u>	<u>Revised Rates</u>
(i) Nursing Allowance (For Nurses only)	@ 150/- p.m.	Rs. 300/-p.m w e f 1.8.97
(ii) Uniform Allowance (For Nurses only)	@1500/ p. a	Rs.1500/- p.a. up to 1/8/97 and 3000/- p.a. w e f 15.7.98

(iii) Washing Allowance @60/- p.m. Rs. 75. P.m. up to 1.8.97
and Rs 150/- p.m. w e f
1.8.97

(e) On receipt of above instructions, Dte. Genl. CRPF vides U O No. A. IX 1/2004. Med-II dated 9.2.2005 initiated the case for revision of Nursing Allowance @ Rs. 300/- p.m. w e f 1.1.1997 and Rs. 1600/- p. m w e f 15/7/98 instead of Rs. 300/- in accordance with the OM dated 9.11.2000. In turn MHA, vide their O M No. II-27012/6/99-PF-I/II dated 6.10.2005 clarified that Nursing Allowances have been revised to Rs. 300/- p.m. for all Central Police Force. Since the rates of Rs. 300/- p.m. are applicable for Nursing personnel of all CPFs including CRPF w e f 7.10.2004, the amount paid in excess of Rs. 300/- p. m to Nursing personnel beyond 7.10.04 is to be recovered. The decision was conveyed to all Sector HQrs vide this Dte. Ltr No. A.IX/med-II (MHA) dated 20.10.05 for compliance.

(f) It is further submitted that a representation for revision of Nursing Allowance submitted by Smt Celina Horo (IRLA No. 4867) which is addressed to the Hon'ble Union Home Secretary has been received by this Directorate, which has been examined and sent to MHA vide UO No., A-EX-1/04-05-Med.II dated 20.12.05 for consideration/revision of rates of Nursing Allowance @ Rs. 1600/- p.m. w e f 15.7.98.

PARAWISE COMMENTS

1) That with regard to the statement made in paragraph 1 of the AO, the respondents beg to state that as brought out above in brief history, benefits of various allowance viz. Nursing, Washing & Uniform Allowance were extended to Nursing personnel of CRPF vide GOI, MHA OM No. 270 12/6/99/PF-I/II dated 9.11.2000 as per following rates: -


- | | |
|-------------------------|---|
| (i) Nursing Allowance | Rs. 300/- p.m. w e f 1.8.97 &
1600/- p.m. w e f 15.7.1998. |
| (ii) Uniform Allowance | Rs. 3000/- p.a. w e f 1.8.97 |
| (iii) Washing Allowance | Rs. 150/- p.m. w e f 1.8.97 |

The Nursing Allowance³ revised by MHA vide their OM No. 27012/6/99/PF-II/III dated 7.10.2004 @ Rs. 300/- p.m. w e f 1.8.97 in respect of Nursing personnel in Central Police Forces as admissible to CHS personnel. The facts about sanction of Nursing Allowance @ Rs. 300/- w e f 1.8.97 and Rs. 1600/- p. m. w e f 15.7.98 was informed to MHA vide this Dte. Genl. UO No. A. IX.1/05-Med-II (MHA) dated 9.2.2005 and requested for revision accordingly. But to bring uniformity among the Central Police Forces the rates not revised and ordered to recover Nursing Allowance paid in excess of Rs. 300/- p.m. beyond 7.10.2004 vide O.M. No.II-27012/6/99.PF-I/II dated 6.10.2005.

2) That with regard to the statement made in paragraph 2, 3, 4.1, 4.2 & 4.3 of the OA, the respondents do not admit anything contrary to the records of the case.

3) That with regard to the statement made in paragraph 4.4 of the OA, the respondents beg to state that the Nursing Allowance revised by MHA vide their OM No. 27012/6/99/PF-I/II dated 7.10.2004 @ Rs. 300/- p.m. w e f 1.8.97 in respect of Nursing personnel in Central Police Forces as admissible to CHS personnel. The facts about sanction of Nursing Allowance @ Rs. 300/- p.m. w e f 1.8.97 and Rs. 1600/- p. m. w e f 15.7.98 was informed to MHA vide the Dte Genl. UO No. A.IX 1/05-Med-II (MHA) dated 9.2.2005 and requested for revision accordingly. But to bring uniformity among the Central Police Forces the rates were not revised and ordered to recover nursing Allowance paid in excess of Rs. 300/- p. m. beyond 7.10.2004 vide O.M. No. II-27012/6/99.PF-I/II dated 6.10.2005.

4) That with regard to the statement made in paragraph 4.5, 4.6 & 4.7 of the OA, the respondents begs to state that these are matter of records and the respondents do not admit anything contrary to the records of the case.

5) That with regard to the statement made in paragraph 4.8 of the OA, the respondents beg to state that this is matter of fact. The applicants have continuously drawn Nursing Allowance @ Rs. 1600/- p. m. w e f 15.8.98 onwards till revision of the Allowance by MHA. 

- 6) That with regard to the statement made in paragraph 4.9 of the OA, the respondents beg to state that the Nursing Allowance revised by MHA vide their OM No. 27012/6/99/PF-I/II dated 7.10.2004 @ Rs. 300/- p. m. w e f 1.8.97 in respect of Nursing personnel in Central Police Forces as admissible to CHS personnel.
- 7) That with regard to the statement made in paragraph 4.10 of the OA, the respondents while denying the contentions made therein beg to state that the contention of the applicants is not tenable. The information regarding revision of rates of Nursing Allowance, Uniform Allowance and Washing Allowance issued vide Dte. Genl. CRPF, letter No. A.IX.1/2004.Med.II (MHA) dated 31.12.2004.
- 8) That with regard to the statement made in paragraph 4.11 of the OA, the respondents beg to state that the rates of Nursing Allowance revised MHA as admissible to CHS personnel to bring the uniformity amongst the CPFs.
- 9) That with regard to the statement made in paragraph 4.12 of the OA, the respondents beg to state that the contentions of the applicants is not tenable. The orders for revision of rates of any allowances received from MHA is communicated to lower formation by this Directorate for needful.
- 10) That with regard to the statement made in paragraph 4.13 of the OA, the respondents beg to state that the orders for recovery of overpaid allowance issued by the Directorate Genl. CRPF vide order No. A.IX/2005.Med.II (MHA) dated 20.10.05 on receipt of orders from MHA.
- 11) That with regard to the statement made in paragraph 4.14 of the OA, the respondents beg to state that the contention of the applicants is not tenable. On receipt of the orders from MHA, the facts regarding sanction of Nursing Allowance @ Rs. 1600/- p. m. 15.7.98 to CRPF personnel vide MHA O.M. No. 27012/6/99.PF.I/II/664 dated 9.11.2000 was intimated to MHA vide UO No. A.IX.1/2004.Med.II dated 9.2.2000 and reiterated to revise the allowance accordingly. In turn MHA conveyed the outcome vide OM dated 6.10.2005.

- 12) That with regard to the statement made in paragraph 4.15 of the OA, the respondents beg to state that the contention of the applicants is not tenable. As brought out in brief history a representation for revision of Nursing Allowance submitted by Smt. Celina Horo (IRLA No. 4867), which is addressed to Hon'ble Home Secretary, has been received by this Directorate, which has been examined and sent to MHA vide UO No. A-IX-1/04-05-Med.II dated 20.12.2005 for /consideration/revision of rates of Nursing Allowance @ Rs. 1600/- p. m. 15.7.98.
- 13) That with regard to the statement made in paragraph 5.1 of the OA, the respondents beg to state that the contentions of the applicants is not tenable. On receipt of the orders from MHA, the facts regarding sanction of Nursing Allowance @ Rs. 1600/- p. m. w e f 15.7.1998 to CRPF personnel vide MHA O.M. 27012.6.99.PF.I/II/664 dated 9.11.2000 was intimated to MHA vide UO No. A.IX.1/2004.Med, II dated 9.2.2000 and reiterated to revise the allowance accordingly.
- 14) That with regard to the statement made in paragraph 5.2 of the OA, the respondents beg to state that the rates have been revised to bring the uniformity among the CPFs as well as CHS personnel vide MHA OM No. 27012/6/99.PF.I/II/664 dated 9.11.2000.
- 15) That with regard to the statement made in paragraph 5.3 & 5.4 of the AO, the respondents beg to state that the contention of the applicants is incorrect. The rates of Nursing Allowance have been revised as a policy to bring uniformity among the CPFs as well as CHS personnel.
- 16) That with regard to the statement made in paragraph 5.5 of the OA, the respondents beg to reiterate and reaffirm the statements made in paragraph 16 above.
- 17) That with regard to the statement made in paragraph 5.6 of the AO, the respondents beg to state that the decision for revision of rates have been taken by the MHA to bring uniformity among the CPFs as well as CHS personnel.

- 18) That with regard to the statement made in paragraph 5.7 & 5.8 of the AO, the respondents beg to state that the decision for revision of rates have been taken by the MHA to bring uniformity among the CPGs as well as CHS personnel. However a case for revision of Nursing Allowance has already been taken p with MHA as stated in brief history.
- 19) That with regard to the statement made in paragraph 5.9 & 5.10 of the OA, the respondents beg to state that the contention of the applicants in incorrect. Overpaid amount of Nursing Allowance beyond Rs. 300/- is to be recovered unless it is revised by MHA.
- 20) That with regard to the statement made in paragraph 5.11 of the AO, the respondents beg to state that the contention of the applicants is not tenable. The rates have been revised by MHA to bring uniformity among the CPFs as well as CHS personnel.
- 21) That with regard to the statement made in paragraph 6 of the OA, the respondents beg to state that the case for revision of Nursing Allowance has already been taken up with MHA and the applicants have not submitted any representation to the competent authority and directly knocked the door of the Hon'ble Tribunal, which is not permissible under the Administrative Tribunal Act, 1985. Since the applicants have nit exhausted the alternative remedy, thus the case is premature and needs rejection.
- 22) That with regard to the statement made in paragraph 7 of the OA, the respondents do not offer any comment.
- 23) That with regard to the statement made in paragraph 8.1 of the AO, the respondents beg to state that the decision for revision of rates have been taken by the MHA to bring uniformity among the CPFs as well as CHS personnel.
- 24) That with regard to the statement made in paragraph 8.2 of the OA, the respondents beg to state that as stated above the case for revision of Nursing

Allowance has already been taken up with MHA and rates will only be revised on receipt of decision.

- 25) That with regard to the statement made in paragraph 8.3^{8.4} of the OA, the respondents beg to submit that the application is premature and needs rejection.
- 26) That with regard to the statement made in paragraph 9^{8.4} of the OA, the respondents beg to state that the Hon'ble High Court vide order dated 22.12.2005 have already ordered for interim stay to recover further amounts from the applicants for a period of three months and to pay Nursing Allowance @ Rs. 300/- p. m. until the case is decided by the Hon'ble Tribunal. The order has been complied with and instructions issued vide this Directorate Signal No. J-II-0.5/2005-LWP dated 04.1.2006.
- 27) That with regard to the statement made in paragraph 10 & 11 of the OA, the respondents beg to offer no comment.
- 28) That in view of the statement made above the respondents beg to submit before this Hon'ble Tribunal that by the orders challenged in the present application no legal as well as efficacious rights of the applicants have been violated hence there is no merit in this application and same is liable to be dismissed.

VERIFICATION

I Shri K. K. SIVA PRASAD

aged 53 years at present working as

ADDL DIGP, GC, C.R.P.F. GUNAWATI

.....who is one of the respondent and taking steps in this case, being

duly authorized and competent to sign this verification, do hereby solemnly

affirm and state that the statement made in paragraph

1, 22, 27, 28 are true

to my knowledge and belief, those made in paragraph

2 to 21, 23, 24, 25, 26 being matter of records, are

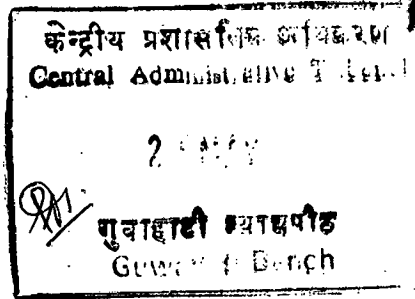
true to my information derived there from and the rest are my humble

submission before this Humble Tribunal. I have not suppressed any material

fact.

And I sign this verification this 10 the day of March 2006 at Gunwahati


(K. K. SIVA PRASAD)
DEPONENT



Filed by the
Applicants
through
Mrs. Banabee Cooper,
Advocate.
24.5.06

Jibonmala

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: GUWAHATI BENCH:

GUWAHATI

O A. NO 318/05

Smt. S Medhaboti and others

Applicants

-Vs-

The Union of India and others

Respondents

-AND-

In the matter of

**Rejoinder filed for and on behalf of the
applicants to the written statement filed by the
respondents.**

Rejoinder to the written statement filed by the respondents.

I, Smti. N. Jibonmala, w/o Sri Arjun Singh, aged about 55 years, serving in the Base hospital III, Group Centre Guwahati, Central Reserve police Force, being authorised by the other applicants in the OA no 318/2005 do hereby state as follows:-

1. That I am one of the applicants in the present Original Application and I have gone through copy of the written statement filed by the respondents.

2. That the applicants do not make any comments on the contents of paragraph 1 of the written statement.

150
300

38

3. That with regard to the contents of paragraph 2 and its sub-paragraphs, the applicants beg to state as follows:

(a) It is a matter of record that the Ministry of Health and Family Welfare (Department of Health) vide their OM no Z28015/86/97.N dated 28/7/98 enhanced the Nursing allowance from the then existing rate of Rs. 300/- to Rs. 1600/-.

(b) The contents of sub-paragraph (b) of paragraph 2 are matters of records.

(c) The contents of sub-paragraph (c) of paragraph 2 of the written statement are matters of records. It would be pertinent to mention here that vide the OM under reference, the Ministry of Home Affairs had enhanced the nursing allowance @ Rs. 300/- pm w.e.f. 1.8.1997 and Rs. 1600/- pm w.e.f 15.7.1998. Thus the effect of enhancement of Nursing allowance to Rs. 300/- was given effect from 1.8.1997 itself.

(d) The contents of the OM dated 7-10-2004 referred to in the corresponding paragraph of the written statement is under challenge in the present application. It is stated that the existing rates of Nursing allowance has been shown to be Rs. 150/- pm and the same have been shown to be revised to Rs. 300/- pm with effect from 1-8-1997. This OM in fact corresponds to the first half of the OM dated 09-11-2000. Further, as on 7-10-204, the eligible Central Government Health employees were drawing nursing allowance @ Rs. 1600/- pm. Thus the contention of the respondents that the rates had been revised to Rs. 300/- pm "as admissible to CHG personnel" is patently incorrect and devoid of any merits.

(e) The contents of the corresponding sub-paragraph of the written statement are matter of record. It is reiterated that the contents of OM dated 7-10-2004 is under challenge in the present Application.

(f) The contents of the corresponding paragraph of the written statement are not within the knowledge of the applicants.

Reply to parawise comments:

1. That as would be evident from the statements made by the respondents in the corresponding paragraph of the written statement, the rates of nursing allowance were revised to Rs. 300/- pm w.e.f 1.8.1997 and to Rs. 1600/- w.e.f 15.7.1998. The OM dated 7-10-2004 speaks of revising the rates from Rs.150/- pm to Rs. 300/- and not of revising the rates from Rs. 1600/-. There is no statement or averment in the written statement as to when and by which orders the rates were revised to Rs. 150/- from Rs. 1600/-. It is reiterated that the Employees of the Central Government hospitals are drawing Rs. 1600/- as nursing allowance. It is stated that the contention of the respondents that the rates have been revised as admissible to CHS personnel is patently incorrect.

2. The applicants reiterate and reaffirm the contents of paragraph 2,3, 4.1, 4.2 and 4.3 of the Original Application.

3. With regard to the contents of the corresponding paragraph of the written statement, the applicants reiterate and reaffirm the contents of paragraph 4.4 of the OA. It is further submitted that the eligible personnel of the Central Police Forces are drawing Rs. 1600/- as nursing allowance.

4. The applicants reiterate and reaffirm the contents of paragraph 4.5, 4.6 and 4.7 of the Original Application.

5. The applicants reiterate and reaffirm the contents of paragraph 4.8 of the Original Application.

6. With regard to the contents of the corresponding paragraph of the written statement it is Employees of the Central Government hospitals are drawing Rs. 1600/- as nursing allowance. It is stated that the contention of the respondents that the rates have been revised as admissible to CHS personnel is patently incorrect.

7. With regard to the statements made in the corresponding paragraph of the written statement, the applicants reiterate and reaffirm the statements made in paragraph 4.10 of the OA.

8. With regard to the statements made in the corresponding paragraph of the written statement, the applicants reiterate and reaffirm the statements made in paragraph 6 of this reply .

9. With regard to the statements made in the corresponding paragraph of the written statement, the applicants reiterate and reaffirm the statements made in paragraph 4.12 of the OA.

10. With regard to the statements made in the corresponding paragraph of the written statement, the applicants submit that the OM dated 7-10-2004 being illegal and patently incorrect, the order of recovery passed by the respondents are also liable to be quashed.

11. With regard to the contents of paragraph 11 of the written statement, it is submitted that the same are not correct. It would not be

possible for the respondents to have intimated the MHA vide their UO dated 9-2-2000, the fact regarding the sanction of Nursing Allowance @ Rs.1600 pm w.e.f. 15-7-1998 which was communicated by MHA vide OM dated 9-11-2000. It would appear that the written statement has been signed by the deponent without going through the contents of the same and without verifying the contents thereof. The written statement has been signed in a perfunctory manner and the same may be not taken into account by this Hon'ble Court.

12. The applicants refrain from commenting on the contents of paragraph 12 of the written statement due to lack of knowledge.

13. With regard to the contents of the corresponding paragraph of the written statement, the applicants reiterate and reaffirm the contents of paragraph 5.1 of the OA. Further it would appear that the written statement has been signed by the deponent without going through the contents of the same and without verifying the contents thereof. The written statement has been signed in a perfunctory manner and the same may be not taken into account by this Hon'ble Court.

14. With regard to the contents of the corresponding paragraph of the written statement, it is submitted that the uniformity in the quantum of Nursing allowance between the Central Police Forces and the Central Health Services was brought about by the OM dated 9th of November 2000 and the alleged revision dated 7/10/2004 is passed without considering the order dated 9-1-2000 and as such is unwarranted and without application of mind.

15. With regard to the contents of the corresponding paragraph of the written statement, the applicants reiterate and reaffirm the averments made in paragraph 5.3 and 5.4 of the OA.

16. With regard to the contents of paragraph 16 of the written statement, the applicants would like to point out that the respondents have stated that they "beg to reiterate and reaffirm the statements made in paragraph 16 above". This again shows that the written statement has been signed and filed in a mechanical and perfunctory manner without going through the contents thereof.

17. With regard to the contents of the paragraph 17 and 18 of the written statement, the applicants reiterate and reaffirm the contents of paragraph 14 of this affidavit-in-reply.

18. With regard to the contents of paragraph 19 of the written statement, the applicants reiterate and reaffirm the contents of paragraph 5.9 and 5.10 of the OA.

19. With regard to the contents of the paragraph 20 of the written statement, it is submitted that the uniformity in the quantum of Nursing allowance between the Central Reserve Police Forces and the Central Health Services was brought about by the OM dated 9th of November 2000 and the alleged revision dated 7/10/2004 is passed without considering the order dated 9-1-2000 and as such is unwarranted and without application of mind.

20. With regard to the contents of paragraph 21 of the written statement, the applicants reaffirm that they have represented to the appropriate authorities but the same are yet to be disposed of.

21. With regard to the contents of paragraph 22 of the written statement, the applicants reaffirm the contents of paragraph 7 of the OA.

22. With regard to the contents of paragraph 23, 24 and 25 of the written statement, the applicants reaffirm and reiterate the contents of paragraph 8 and its sub-paragraphs of the OA.

23. With regard to the contents of paragraph 26 of the written statement, the applicants submit that the order dated 22-12-2005 has not been complied by the respondents and they are recovering Rs. 1300/- from the pay of some of the applicants despite the order of stay of recovery. The respondents are thus liable to be held responsible for willful disobedience of the orders of this Hon'ble Court.

24. With regard to the contents of paragraph 28 of the written statement, it is submitted that in view of the statements made hereinabove and those made in the OA, the respondents have violated the principles of equality and have also passed the impugned order without any application of mind and in a perfunctory manner which has perpetrated in grave injustice to the applicants. It is further submitted that the written statement has itself been filed in the most perfunctory manner without going through the contents of the same. The conduct of the respondents would speak for itself. It is further submitted that the applicants are entitled to the relief prayed for in the OA.

VERIFICATION

I, Smti. N. Jibonmala, w/o Sri Arjun Singh, aged about 55 years, serving in the Base hospital III, Group Centre Guwahati, Central Reserve police Force, being authorised by the other applicants in the OA no 318/2005 do hereby affirm that the statements made in the foregoing reply are true to the best of my knowledge and belief.

And I sign this verification on this the²⁴...th May
2006 at Guwahati.

Jibonmala