

**CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:**

CALENDAR SHEET

1. Original Application No. _____
2. Misc Petition No. _____
3. Contempt Petition No. _____
4. Review Application No. _____

Applicant(s) Shri S. Medhabati & Ors vs Union of India & Ors

Advocate for the Applicant(s) Rayib Majumdar

P. Rani

Mr. G. Basu

Advocate for the Respondent(s) Sr. C. A. S. G. Basu

Notes of the Registry	Date	Order of the Tribunal
This Contempt petition has been filed by the Counsel for the Applicants under Contempt of Court Act, 1971 and praying for punishment of the Contemnor No. 192 for willful non-compliance of the order dated 13.7.06 passed by this Hon'ble Tribunal in O.A. 318/05.	15.3.07	<p>This Contempt Petition has been filed for non compliance of the order dated 13.7.2006 passed by this Tribunal in O.A.318/05. The operative portion of the said order is quoted below :</p> <p>"In the circumstances, the impugned order Annexure-IV dated 7.10.2004, 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 9.11.2000 (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)."</p>

Laid before the
Hon'ble Court for further
order.

for Section 87(2)(a)

Since this being the first time notice may be issued to the respondents with a direction to make submission whether the

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CP. 4/07 (OA. 318/05)

Notice & order sent
to D/Section for
issuing to resp.
nos. 1 and 2 day
regd. A/D post.

pg

orders of this Tribunal has been complied
with or not on the next date.

Post on 27.4.07 for order.

Member(A)

Vice-Chairman

D/No. - 394,395

10/4/07. Dt = 17/4/07

27.4.2007

Present: The Hon'ble Mr.G.Shanthappa
Member (J)

The Hon'ble Mr.G.Ray, Member (A).

Mr.R.Mazumdar, learned counsel for the
petitioners is present. Mr.G.Baishya, learned
Sr.C.G.S.C. submits that he has received
Wakalatnama today. He is permitted to file it
before the Registry. He sought for some time to
get instruction regarding compliance and also to
file Affidavit. Registry is directed to show the
correct names of the petitioners in the cause list.

Call the case on 13.06.2007.

Member (A)

G.Shanthappa
Member (J)

IV b Affidavit has
been filed.

/bb/

13.6.2007

Mr.G.Baishya, learned Sr. C.G.S.C.
wanted further time to file affidavit. Let the
case be posted after three weeks. It is
made clear that if the same is not filed and
orders of this Tribunal is not complied
with, contempt notice will be issued to the
alleged contemners/respondents.

Post on 03.07.2007.

Vice-Chairman

No Affidavit filed
by the parties.

21/7/07

/bb/

3.7.2007

Mr.R.Mazumdar, learned counsel for

the Petitioners submitted that substantial compliance of the order dated 13.7.2006 passed in O.A.318/2005 has been made by the Respondents/alleged contemners.

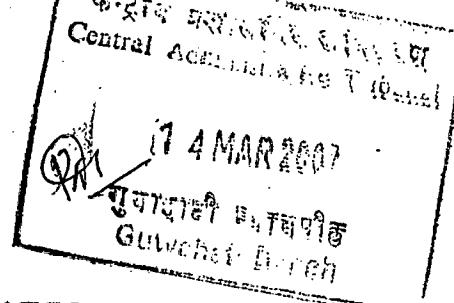
Mr.G.Baishya, learned Sr. C.G.S.C. for the alleged contemners also endorsed the same.

Therefore, I am of the view that the C.P. will not stand and is liable to be dismissed. Accordingly, the C.P. is dismissed.

However, liberty is granted to the Applicant to agitate in the appropriate forum for further grievances, if any.


Vice-Chairman

/bb/



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL:

GUWAHATI BENCH

CONTEMPT PETITION (CIVIL) NO.4.... / 2007
IN
ORIGINAL APPLICATION NO 318/2005

IN THE MATTER OF:

A petition under section 17 of the
Administrative Tribunal Act, 1985 read
with the Contempt of Courts Act 1971
praying for punishment of the
Contemnors/respondents No. 1 and 2
for willful non-compliance of the order
dated 13th day of July 2006 passed by
the Hon'ble Tribunal in Original
Application no 318/2005

-AND-

IN THE MATTER OF

OA NO 318/2005
Smt. S Medhaboti and others

-VS-

Union of India and others

-AND-

IN THE MATTER OF

1. Ms. Sushama,
Force no.811570033
2. Ranjita Tudu Sona,
Force no 832100203

*Filed by
Kalyani Bala Bhonne
through Rajesh Hegde, Esq.*

Kalyanee Bala Bhownimik

3. Kalyanee Bhownimik,
Force no 84210081

4. Sugana Dorai Samy,
Force no 892070014

5. Silviamma,
Force no 872070055

6. Sheela,
Force no 861520134

7. Asha Horo,
Force no 881560024

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

.....APPLICANTS

-Vs-

1. Dr. Kulbhushan

Director (Medical) Directorate General,
CRPF, East Block, 10, R.K. Puram New
Delhi, 110066

2. WADHWA G.R.

The Director (PF), Ministry of Home
Affairs, Government of India, New
Delhi.

..... Respondents/Contemnors.

The humble application of the
applicants above named

Most respectfully Sheweth:

Kalyani bala Bhownek

1. That the applicants above named along with other non-combatised hospital staff of the Central Reserve Police Force had approached this Hon'ble Tribunal vide OA no 318/2005, challenging the order dated 07-10-2004 passed by the Director (Police/Finance), Government of India, Ministry of Home Affairs, by which the nursing allowance of Nursing personnel of the Central Reserve Police Force was revised on a wrong and illegal basis and also challenging the orders dated 06-10-2005 and 20-10-2005 by which recovery was sought to be made from the pay of the applicants. The applicants had inter alia prayed for the following relief:

- 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; 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. That upon perusal of pleadings, upon hearing the 1d. Counsel for the parties and upon consideration of the matter had held that the order dated 07-10-2004, so far as the applicants were concerned, would not stand on its legs. Therefore, the order was set aside to that extent. Further it was held that the applicants would be entitled to get the nursing care allowance as per order dated 09-11-2000 as it was still governing field and the respondents were directed to restore the recovery made, if any, and the benefit of the said order dated 09-11-2000 to the applicants.

As certified copy of the order dated 13-7-2006 passed by this Hon'ble Tribunal in OA no 318/2005 is annexed hereto as Annexure I.

3. That the respondents/alleged contemnors herein ought to have initiated immediate steps to comply with the orders passed by this Hon'ble Tribunal so as to restore the benefits of the order dated 09-11-2000, which had granted the payment of Nursing allowance to the nursing personnel in the Central Reserve Police Force on the scale admissible to Central Health Services Nursing personnel i.e. at the rate of Rs. 1600/- per month with effect from 15-7-1998. however, it is stated herein that the respondents have willfully disobeyed the order of this Hon'ble Tribunal and instead of granting the

Kalyan kala
Bhoomik

nursing allowance at the rate of Rs. 1600/- per month to the applicants as per order dated 09-11-2000, are granting the same at the rate of Rs. 300/- only on the basis of the order dated 7-10-2004, which has already been quashed by this Hon'ble Tribunal. The willful disregard/disobedience of the respondents to the order dated 13-7-2006 passed by this Hon'ble Tribunal in OA no 318/2005 is indicated in the amount of nursing allowance paid to the applicants after passing of the order.

4. That it would be pertinent to mention here that more than 7 months have passed since this Hon'ble Tribunal had passed the directions to the respondents but the respondents have willfully abstained from initiating any steps to comply with the order/obey the directions of this Hon'ble Court, thus making themselves liable for punishment for committing the offence of the Contempt of the Hon'ble Tribunal.

5. That in view of the deliberate and willful disregard/disobedience of the order dated 13-7-2005 passed by this Hon'ble Tribunal in OA no 318/2005, the

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contemnors/respondents are liable to be punished by this Hon'ble Tribunal. For the same reason, the present case is fit enough for this Hon'ble Tribunal to direct the contemnors/respondents to appear personally appear before this Hon'ble Tribunal to explain as to why they shall not be punished on the ground of committing the offence of Contempt of Court.

6. That this application is filed bonafide and for the ends of justice.

In the premises aforesaid, it most respectfully prayed before this Hon'ble Tribunal that Your Lordships may be pleased to admit this petition, and issue notices to the contemnors / respondents to show cause as to why they should not be held guilty of Contempt of Court and as to why they should not be punished under Section 17 of the Administrative Tribunals Act, 1985 read with the Contempt of Courts Act 1971 and upon consideration of the causes shown, if any and upon perusal of records and upon hearing

Kalyani Kela Bhonsle

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the parties, be pleased to punish the contemnors / respondents for contempt of Court and/or be pleased to pass any other order / orders or directions as this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the case

Kalyani Salo Phansalkar

-AND-

It is further prayed that this Hon'ble Tribunal may be graciously pleased to direct the forthwith implementation of order dated 13-7-2006 passed by this Hon'ble Court in OA no 318/2005.

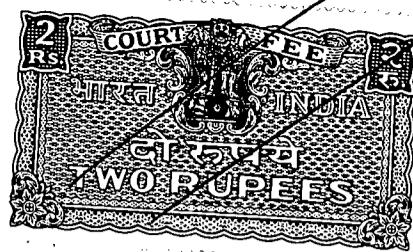
And for this act of kindness the applicants as in duty bound shall ever pray.

Draft charge.....

DRAFT CHARGE

The applicants are aggrieved by the willful and deliberate disregard / disobedience exhibited by the contemnors / respondents to the order dated 13-7-2006 passed by the Hon'ble Central Administrative Tribunal, Guwahati Bench in Original Application no 318/2005. The contemnors / respondents have willfully disregarded the order aforesaid and as such are liable to be tried and punished under Section 17 of the Administrative Tribunals Act 1985 read with Contempt of Courts Act, 1971.

Kalyan Sekar Phonsomek



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AFFIDAVIT

I, Smt. Kalyani Bala Bhownik,
w/o S. R. Bhownik, aged about 48 years, by
religion Hindu, by profession Government Servant, presently
posted at Composite Hospital, Group Centre, Central Reserve
Police Force, Amerigog, Guwahati, do hereby solemnly affirm and
state as follows:

1. That I am one of the applicants in the present petition and I have been authorized by the other applicants to swear this affidavit on their behalf also.
2. That I was one of the applicants in OA no 318/2005 out of which the present application has arisen and as such I am conversant with the facts and circumstances of the case. I am competent to swear this affidavit.
3. That I state that the contents of paragraph 3, 4, 5, 6, Are true to best of my knowledge and belief, the contents of paragraph 1 & 2, are matters of records and the rest are my humble submission before this Hon'ble Tribunal.

And I verify and sign the contents of this application on this

..... day of March 2007 at Guwahati.

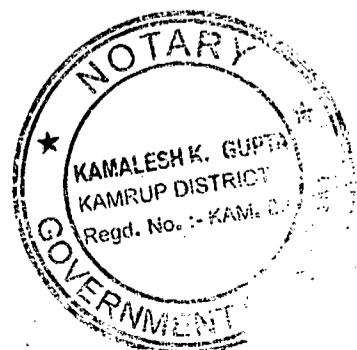
IDENTIFIED BY

Rajeev Hazarika
J.D.V.
Enrolment no - D/1917/2001.

Kalyani Bala Bhownik
DEPONENT.

Signed and sworn before me

13/3/07
KAMALESH K. GUPTA
NOTARY
Kamrup District, Assam
Regd. No. KAM. 08



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. Ranjita Tudu Sona
Force No. 832100203
5. Kalyanee Bhowmik
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. 562080022.

(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 -

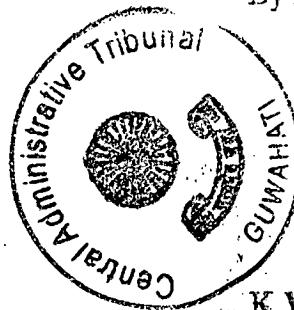
1. Union of India, represented by the
Secretary, Ministry of Home Affairs,
New Delhi.



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.)

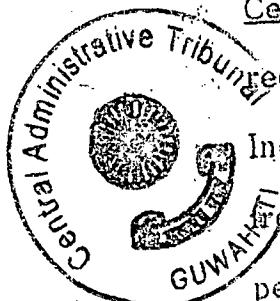
The application is made against the order dated 07.10.2004 passed by the Director (Police/Finance), Government of India, Ministry of Home Affairs, by which the nursing allowances of Nursing Personnel of the Central Reserve Police Force has been revised on illegal wrong basis and against the orders dated 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





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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.

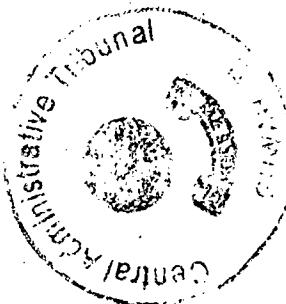
Uniform Allowance @ Rs. 3000/- p.a. w.e.f. 1.8.97.

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



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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.

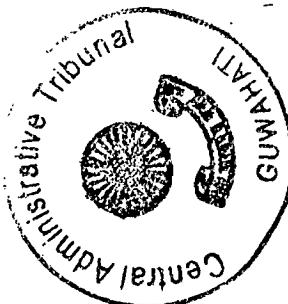


2. These allowances shall be admissible subject to the following conditions:-

(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

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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/crystallised 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.



/mb/

S/o VICE CHAIRMAN

Date of Application : 28.2.07
 Date on which copy is ready : 28.2.07
 Date on which copy is delivered : 28.2.07
 Certified to be true copy

N. D. Deka
 Section Officer 28.2.07
 C. A. T. Guwahati Branch
 Guwahati-5

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