

50/100

**CENTRAL ADMINISTRATIVE TRIBUNAL**  
**GUWAHATI BENCH**  
**GUWAHATI-05**

(DESTRUCTION OF RECORD RULES, 1990)

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✓ O.A/T.A No 222/2006

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SECTION OFFICER (Judl.)

Shakti  
26.10.17

**CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH:**

**ORDERS SHEET**

1. Original Application No **222 of 06**
2. Misc Petition No. \_\_\_\_\_
3. Contempt Petition No. \_\_\_\_\_
4. Review Application No. \_\_\_\_\_

Applicant(s) **Anwar Hussain & Others,**

Respondant(s) **U.O.I & Ors.**

Advocate for the Applicant(s) **Adil Ahmed**

Advocate for the Respondant(s) **Ms. U. Das, Addl. C.G.S.C.**

Notice of the Registry	Date	Order of the Tribunal
------------------------	------	-----------------------

**25.8.06**

I have heard Mr. A. Ahmed learned counsel for the applicant and Ms. U. Das learned Addl. C.G.S.C. for the Respondent. Mr. A. Ahmed counsel for the applicant has submitted that as per order dated 08.11.1995 (Annexure A) the appli- and other Group C & D employees are getting the Hospital Patient Care Allowance (in short HPCA). Vide Notifica- tions dated 17.11.05 (Annexure G) and 22.11.05 (Annexure H) the Respondents have stopped the allowance of the applicants. The counsel also submitted that as per guidelines under letter dated 04.02.2004 the applicants should get the allowance.

Issue notice on the respondents.  
Post the matter on 20.10.06.

**Vice-Chairman**

**lm**

Notice & order sent to D/section for issuing to resp. nos. 1, 2 & 3 by regd. A/D post.

29/8/06 D/No- 894, 895, 896  
Dt- 1-9-06.

Notice duly served on resp. no. 1.

2/9/06

Application filed in  
C.A. No. 1000  
dated vide HPCA  
26.6.3249.24  
15.7.06

*Shetty*  
Dy. Registrar

Steps not taken

O.A. 222/2006

26.10.2006 Present: Hon'ble Sri K.V. Sachidanandan  
Vice-Chairman.

24.10.06

Notice issued &  
served on R.no. 1.  
Others awaited.  
10m

Learned Counsel for the  
Respondents wanted time to file reply  
statement. Post on 04.12.2006.



Vice-Chairman

/mb/

① NO Wks has been filed

② Notice duly served  
on R.No-1, others  
awaited.

4.12.06

Learned Addl.C.G.S.C for the respon  
dents seeks four weeks time to file  
xxx written statement. Prayer allowed..  
Post on 4.1.2007 for order..

24  
1.12.06.

No Wks has been  
filed.

pg

19.1.07.

24  
18.1.07.

Counsel for the respondents wanted  
to file written statement. Let it be  
done. Post the matter on 20.2.07.



Vice-Chairman

No Wks has been  
filed.

1m

2.3.07.

24  
1.3.07

Counsel for the respondents has  
submitted that wrtten statement has  
filed to-day. Registry is directed to  
keep on record, if it is otherwise in  
order. post the matter on 26.3.07.

ce

Member

Vice-Chairman

W/s Submitted  
by the Respondents.  
page contains 1 to 6.

1m

26.3.2007

Learned counsel for the applica  
wanted to file rejoinder. post on  
12.4.2007.

PAD

W/s has been filed

Vice-Chairman

24  
23.3.07.

bb

11.5.07.

Written statement has been filed.  
Counsel for the applicant wanted time  
to file written statement. Let it be done.  
post the matter on 11.6.07.

No rejoinder has  
been filed.

24  
10.5.07.

1m

vice-Chairman

11.5.07.

Written statement has been filed. Counsel for the applicant wanted time to file rejoinder. Let it be done. post the matter on 11.6.07 as a last chance.

lm

Vice-Chairman

~~No rejoinder has~~  
No rejoinder has been filed.

8.6.07.

11.6.2007

Post the case for hearing on 5.7.2007. In the meantime Applicant shall file rejoinder, if any. It is made clear that no further opportunity shall be granted thereafter.

Rejoinder not filed

/bb/

4.7.07.

5.7.2007

Ms.U.Das, learned Addl.C.G.S.C. is not keeping well. Hence adjourned.

Post on 20.7.2007.

16.7.07  
Rejoinder submitted  
copy served. page  
1 to 6.

/bb/

Vice-Chairman

The case is ready  
for hearing.

19.7.07.

20.7.2007

Post the case on 31.7.2007 for hearing.

Vice-Chairman

The case is ready  
for hearing.

30.7.07.

31.7.2007

Post the case on 24.8.2007 for hearing.

Vice-Chairman

The case is ready  
for hearing.

23.8.07

/bb/

O.A.No. 222/06 4-

24.8.07

Post on 27.8.2007 for hearing.

Vice-Chairman

pg

27.8.2007

Post the matter on 29.8.2007 for hearing.

Vice-Chairman

/bb/

29.8.2007

Post on 18.9.2007.

The case is ready  
for hearing.

Vice-Chairman

/hkm/

27.9.2007

Heard Mr. Adil Ahmed learned counsel for the applicant and Mr. Usha Das learned Standing Counsel for the Central Government for the Respondents. For the reasons recorded in separate sheets, the Original Application is disposed of.

(Khushiram)  
Member (A)

(M.R. Mohanty)  
Vice-Chairman

/lm/

Received  
Usha Das  
Advocate  
12/10/07

12.10.07  
Copy of the order  
forwarded over to the  
Advocate for the  
parties on 8.10.07  
on 12.10.07 respectively  
and a copy of the  
order has been sent  
to the office for issuing  
the forth Refr No 2 & 3  
by post.

21.11.07  
order sent via  
D. Nos. 1354 & 1355  
on 16.11.07

**CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH, GUWAHATI**

OA No.222 of 2006

Date of order 27.9.2007

Sri Anwar Hussain & others  
By Advocate : Mr. Adil Ahmed  
Versus

Applicants

The Union of India & others..

By Advocate : Mr. Usha Das, Addl. Standing Counsel for Central  
Govt.

Respondents

CORAM: The Hon'ble Shri Manoranjan Mohanty, Vice-Chairman  
The Hon'ble Shri Khushiram, Member [A]

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  
compiled at Jodhpur Bench and  
other Benches? Yes/No
4. Whether their Lordships wish to see  
the fair copy of the judgment? Yes/No

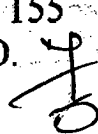
Vice-Chairman

**CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH, GUWAHATI  
O.A. No. 222 of 2006**

Date of order : This the 27<sup>th</sup> Day of September, 2007

**CORAM: The Hon'ble Shri Manoranjan Mohanty, Vice-Chairman  
The Hon'ble Shri Khushiram, Member [A]**

1. Sri Anwar Hussain  
Son of Saukat Ali  
P.No. 6825932  
Chowkidar  
Office of the Commandant 155  
Base Hospital, C/o 99 APO.
2. Sri Hiren Ch. Hazarika  
Son of Late Jaigoram  
P.No. 6825934  
Chowkidar  
Office of the Commandant 155  
Base Hospital, C/o 99 APO.
3. Sri Krishna Kanta Das  
Son of Late Bhula Ram Das  
P.No.6825906  
Office of the Commandant 155  
Base Hospital, C/o 99 APO.
4. Sri Satish Ch. Nath  
Son of Late Bondhuras Nath  
P.No.18  
Chowkidar  
Office of the Commandant 155  
Base Hospital, C/o 99 APO.
5. Sri Ghanaram Boro  
Son of Late Bonduras Boro  
P.No.6825938  
Chowkidar  
Office of the Commandant 155  
Base Hospital, C/o 99 APO.
6. Sri Jogeswar Nath  
Son of Late Sunaram Nath  
P.No.6825933  
Chowkidar  
Office of the Commandant 155  
Base Hospital, C/o 99 APO.



7. Sri Dhiren Ch. Saikia  
Son of Late Jugai Ram Saikia  
P.No.6825936  
Chowkidar  
Office of the Commandant 155  
Base Hospital, C/o 99 APO.
8. Sri Mahendra Kalita  
Son of Late Sanaram Kalita  
P.No.6826232  
Chowkidar  
Office of the Commandant 155  
Base Hospital, C/o 99 APO.
9. Sri Jatin Baruah  
Son of Sri Phukan Baruah  
P.No. 6826555  
Chowkidar  
Office of the Commandant 155  
Base Hospital, C/o 99 APO.
10. Sri Naren Ch. Das  
Son of Late Lakhiram Das  
P.No. 6825942  
Chowkidar  
Office of the Commandant 155  
Base Hospital, C/o 99 APO.
11. Sri Khitish Ch. Nath  
Son of Late Neelam Ch. Nath  
Mali  
P.No. 1017  
Office of the Commandant  
155 Base Hospital, C/o 99 APO.
12. Sri Debodhar Das  
Mali  
P.No. 485615  
Office of the Commandant  
155 Base Hospital, C/o 99 APO.
13. Md. Kasim Ali  
Mali  
P.No.485858  
Office of the Commandant  
155 Base Hospital, C/o 99 APO.
14. Md. Babul Ali





Son of Late Sijar Ali  
Mali  
P.No. 483440  
Office of the Commandant  
155 Base Hospital, C/o 99 APO.

15. Sri Kamal Saikia  
son of Late Mahendra Saikia  
Mali  
Office of the Commandant  
155 Base Hospital, C/o 99 APO.

16. Sri Dakhya Kakoti  
Mali  
P.No. 483450  
Office of the Commandant  
155 Base Hospital, C/o 99 APO.

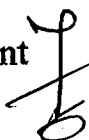
17. Sri Muktar Musi  
Son of Late Barkat Musi  
Mali  
P.No. 477122  
Office of the Commandant  
155 Base Hospital, C/o 99 APO.

18. Sri Jawahar Rai I  
Mali  
P.No. 477135  
Office of the Commandant  
155 Base Hospital, C/o 99 APO.

19. Sri Rameswar Rai  
Mali  
P.No. 477136  
Office of the Commandant  
155 Base Hospital, C/o 99 APO.

20. Sri Haren Ch. Baruah  
Son of Late Jogen Baruah  
Mazdoor  
P.No. 52  
Office of the Commandant  
155 Base Hospital, C/o 99 APO.

21. Sri Parag Saika  
Son of Late Ganashyam Saikia  
Mazdoor  
P.No. 483442  
Office of the Commandant



155 Base Hospital, C/o 99 APO.

22. Sri Dhak Bahadur Chetri  
Mazdoor  
P.No. 9135524  
Office of the Commandant  
155 Base Hospital, C/o 99 APO.

23. Sri Jawahar Rai II  
Mali  
Office of the Commandant  
155 Base Hospital, C/o 99 APO.

24. Sri Baswa Das  
Mazdoor  
Office of the Commandant  
155 Base Hospital, C/o 99 APO.

25. Sri Bipul Neog  
Mali  
Office of the Commandant  
151 Base Hospital, C/o 99 APO.

26. Sri Padam Bahadur Biswakarma  
Mali  
Office of the Commandant  
151 Base Hospital, C/o 99 APO.

All the applicants are working under  
the office of the Commandant, 155  
Base Hospital, C/o 99 APO.....

Applicants

By Advocate: Mr. Adil Ahmed

Versus

1. The Union of India represented  
By the Secretary to the  
Government of India, Ministry  
of Defence, South Block  
New Delhi-1.
2. The Director General of  
Medical Services [Army]  
Adjutant General's Branch,  
Army Head Quarters,  
"L" Block, New Delhi 110 001.

3. The Commandant,  
155 Base Hospital,  
C/o 99 APO.

Respondents

By Advocate: Mr. Usha Das, Additional Standing Counsel for the  
Central Govt.

### ORDER

Manoranjan Mohanty, Vice-Chairman:-

Some Civilian Chowkidars, Civilian Malis and Civilian Mazdoors abovenamed of 151/152 Army Base Hospitals [C/o 99 APO] have approached this Tribunal jointly with the present Original Application filed under Section 19 of the Administrative Tribunals Act, 1985; wherein they <sup>have</sup> prayed for a direction to the Respondents to suitably modify the Orders/Letters under Annexure-G dated 17.11.2005 and Annexure-H dated 22.11.2005 to include them [i.e. Chowkidars, Malis & Mazdoors] in the revised list of eligible categories of staff to receive Hospital Patient Care Allowances [in short 'HPCA'], in terms of the Guidelines issued under Annexure-E dated 04.02.2004, w.e.f. the month [October, 2005] it has been discontinued.

2. It has been stated on behalf of the Applicants that for the reason of Government Letter [under Annexure-A] dated 08.11.1995 of Ministry of Finance of Government of India [addressed to the Chief of the Army Staff] and that of the Ministry of Defence [under Annexure-B dated 20.01.1997 circulated by the Headquarters of Eastern Command at Fort-William/Calcutta on 20.01.1997 ], the Applicants were drawing 'HPCA'

and that for the reason of Circular under Annexure-G dated 17.11.2005, the Applicants have been deprived of the said benefit.

3. In this case Written Statement/Reply has been filed on behalf of the Respondents and a Rejoinder has also been filed by the Applicants. We have also perused the same and heard the learned counsel appearing for both the parties at length.

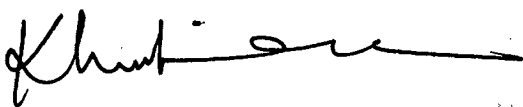
4. The stand of the Applicants that Civilian Malis were entitled to get HPCA <sup>of</sup> [for the reason Annexure-A dated 08.11.1995 and Annexure-B of 1997] is not correct; as it appears from the said Annexure-B of 1997 that Civilian Malis were never been made eligible to get the benefit in question. They were not shown in the list appended to Annexure-B dated of 20.06.1997. However, in the said list [Appendix A to Annexure-B dated 20.01.1997] "Labourers/Mazdoors" and "Chowkidars" were included to get the benefit of HPCA.

5. By order under Annexure-G dated 17.11.2005, a revised appendix was circulated, in which "Mazdoors" & "Chowkidars" have not been shown as beneficiary of HPCA.

6. It has been stated in para 11 of the written statement filed by the Respondents that Chowkidars, Malis and Mazdoors have been deleted from eligibility categories: because these categories do not fulfill the eligibility criteria. Their primary duties do not involve continuous and

routine contact with the patient infected with communicable disease nor do they handle infected materials instruments and equipments, which can spread infection.

7. 'Who shall be paid what wages/allowances and whose nature of duty is/would be what' are decided, as a matter of policy, by the Government/Authorities in control of the matter. This Tribunal, not being an Appellate Authority over the financial policy matters of the Government, no relief, as desired by the Applicants in this case, can be granted by this Tribunal. It is for the Applicants to approach the Respondents, who are best judge in the matter for redressal of their grievances. In the said premises, while granting liberty to the Applicants to approach the Respondents for redressal of their grievances, this Original Application is hereby disposed of.



[Khushiram]  
Member[A]



[Manoranjan Mohanty]  
Vice-Chairman

cm

24 AUG 2006

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH, GUWAHATI.

(An Application Under Section 19 of The Administrative Tribunals Act 1985)

ORIGINAL APPLICATION NO. 222 OF 2006.

BETWEEN

Sri Anwar Hussain & Ors.

...Applicants

- Versus -

The Union of India & Others

...Respondents

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Date: 24-8-2006

Filed By:

Smita Bhattacharjee  
Advocate

Anwar Hussain

5

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,  
GUWAHATI BENCH, GUWAHATI.**

(An Application Under Section 19 Of The Administrative Tribunals Act 1985)

**ORIGINAL APPLICATION NO. 222 OF 2006.**

**BETWEEN**

**Sri Anwar Hussain & Ors.**

...Applicants

**-Versus-**

**The Union of India & Others**

...Respondents

**LIST OF DATES AND SYNOPSIS:**

- |                            |   |
|----------------------------|---|
| 08.11.1995                 | Ministry of Defence sanctioned Hospital Patient Care Allowance to Group-C & D (Non-Ministerial) Employees excluding Staff Nurse.  |
| 20.01.1997                 | Corrigendum categorized the Employees of Group-C & D showing the entitlement of proposed PCA/HPCA per month.                      |
| 28.09.1998 &<br>02.01.1999 | Ministry of Health, Government of India enhanced the HPCA rate for Group-C & D (Non-Ministerial) Employees excluding Staff Nurse. |
| 04.02.2004                 | The Guide line regarding HPCA/PCA was issued .  |
| 05.05.2005                 | Similar Guideline regarding HPCA/PCA was issued.  |
| 17.11.2005                 | The eligibility category of the Applicants was deleted for the grant of HPCA/PCA.   |
| 22.11.2005                 | Enhancement of HPCA/PCA to only those category which have been specially in the appendix dated 17.11.2005.                        |

Hence this Original Application for seeking justice in this matter.

*Anwar Hussain*

24 AUG 2006

THE CENTRAL ADMINISTRATIVE TRIBUNAL,  
GUWAHATI BENCH, GUWAHATI

FILED BY

Shri Anwar Hussain  
... Applicant No. 1.

Through - Smita Bhattacharjee  
(Advocate)  
16

(An Application Under Section 19 Of The Administrative Tribunals Act 1985)

ORIGINAL APPLICATION NO. 222 OF 2006.

BETWEEN

1. Sri Anwar Hussain  
Son of Saukat Ali  
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2. Sri Hiren Ch. Hazarika  
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Chowkidar

Anwar Hussain



Office of the Commandant 155  
Base Hospital, C/o 99 APO.

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Chowkidar  
Office of the Commandant 155  
Base Hospital, C/o 99 APO.
11. Sri Khitish Ch. Nath  
Son of late Neelam Ch. Nath  
Mali ✓  
P. No.1017  
Office of the Commandant  
155 Base Hospital, C/o – 99 APO
12. Sri Debodhar Das  
Mali ✓  
P. No.485615  
Office of the Commandant  
155 Base Hospital, C/o – 99 APO
13. Md. Kasim Ali  
Mali ✓  
P. No.485858  
Office of the Commandant  
155 Base Hospital, C/o – 99 APO
14. Md. Babul Ali  
Son of late Sijar Ali

*Amor Amin*

Mali ✓  
P. No.483440  
Office of the Commandant  
155 Base Hospital, C/o - 99 APO

15. Sri Kamal Saikia  
Son of late Mahendra Saikia  
P. No.483441  
Mali ✓  
Office of the Commandant  
155 Base Hospital, C/o - 99 APO

16. Sri Dakhya Kakoti  
Mali ✓  
P.No.483450  
Office of the Commandant  
155 Base Hospital, C/o - 99 APO

17. Sri Muktar Musi  
Son of late Barkat Musi  
Mali ✓  
P.No.477122  
Office of the Commandant  
155 Base Hospital, C/o - 99 APO

18. Sri Jawahar Rai I  
Mali ✓  
P. No.477135  
Office of the Commandant  
155 Base Hospital, C/o - 99 APO

19. Sri Rameswar Rai  
Mali ✓  
P. No.477136  
Office of the Commandant  
155 Base Hospital, C/o - 99 APO

20. Sri Haren Ch. Baruah  
Son of late Jogen Baruah  
Mazdoor \\  
P.No.52  
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155 Base Hospital, C/o - 99 APO

21. Sri Parag Saika  
Son of late Ganashyam Saikia  
Mazdoor \\  
P. No.483442  
Office of the Commandant  
155 Base Hospital, C/o - 99 APO

22. Sri Dhak Bahadur Chetri  
Mazoor \

*Amma Amin*

P. No.9135524  
Office of the Commandant  
155 Base Hospital, C/o - 99 APO

23. Sri Jawahar Rai II  
Mali /  
Office of the Commandant  
155 Base Hospital, C/o 99 APO.

24. Sri Biswa Das  
Mazdoor \  
Office of the Commandant  
155 Base Hospital, C/o 99 APO.

25. Sri Bipul Neog  
Mali /  
Office of the Commandant  
151 Base Hospital. C/o 99 APO.

26. Sri Padam Bahadur Biswakarma  
Mali, /  
Office of the Commandant  
151 Base Hospital. C/o 99 APO.

#### APPLICANTS

All the Applicants are working under  
the Office of the Commandant, 155  
Base Hospital, C/o 99 APO.

- AND -

1. The Union of India represented  
by the Secretary to the  
Government of India, Ministry  
of Defence, South Block, and  
New Delhi-1.
2. The Director General Of  
Medical Services [Army] ;  
Adjutant General's Branch;  
Army Head Quarters,  
"L"Block; New Delhi 110001
3. The Commandant,  
155 Base Hospital,  
C/o 99 APO.

Respondents

*Amro Kumar*

**DETAILS OF THE APPLICATION :-****1) PARTICULARS OF THE ORDER AGAINST WHICH THE APPLICATION IS MADE:**

The Original Application is made against the Letter No.7(1)/2000/D(Med.) dated 17.11.2005 issued by the Ministry of Defence and Letter No.B/32152/HPCA /DGMS-3B dated 22<sup>nd</sup> November 2005 issued by the Respondent No.2 and also for seeking a direction from this Hon'ble Tribunal to the Respondents to pay the revised Hospital Patient Care allowance to the applicants.

**2) JURISDICTION OF THE TRIBUNAL:**

The Applicants declare that the subject matter of the instant application is within the jurisdiction of the Hon'ble Tribunal.

**3) LIMITATION:**

The applicants further declares that the subject matter of the instant application is within the limitation prescribed under Section 21 of the Administrative Tribunal Act 1985.

**4) FACTS OF THE CASE:**

Facts of the case in brief are given below:

4.1) That your humble Applicants are citizen of India and as such they are entitled to all rights and privileges guaranteed under the Constitution of India and laws framed therein.

4.2) That your Applicants beg to state that they were appointed as Chowkidar, Mali and Mazdoor under the Army Hospital as Group - D (Non-Ministerial employees). The nature of works &

*Amir Amir*

duties of the Mazdoor's are Patient clothing verification, collection and distribution at clothing stores, ration collection and distribution to Hospitals etc. The nature of works & duties of Chowkidar's are to look after the patients, to look after all the Hospital properties in and around the Hospital campus and also various emergency duties including Morgue duties, etc. The nature of works and duties of Mali's are gardening in and around Hospital campus and also gardening inside wards etc.

4.2.A) That your Applicants beg to state that since the reliefs prayed in this application are common, therefore, they pray for grant of permission under Section 4(5)(a) of the CAT (Procedure) Rules, 1987 to move this application jointly.

4.3) That your Applicants beg to state that vide letter dated 08.11.1995, issued by the Under Secretary, Ministry of Defence addressed to the Chief of the Army Staff sanction of the President about grant of Hospital Patient Care Allowance (In short HPCA) to Group 'C' and Group 'D' (Non-Ministerial) excluding staff nurses employed in Army Headquarters Units having 30 beds or more @ Rs. 80/- and Rs. 75/- per month w.e.f. the date of that order was conveyed. Accordingly, as the Applicants were eligible to get the said allowance as a Group - D employees, they were extended the same benefits along with other Group - D employees.

A copy of the Order dated 08.11.1995 is annexed herewith and marked as Annexure-A.

4.4) That your Applicants beg to state that the Respondents accordingly by a corrigendum No. 230809/1/M-3 (B) dated: 20<sup>th</sup> January 1997 duly categorized the employees of Group - C and Group - D showing the entitlement of proposed Patient Care Allowance/ Hospital Patient Care Allowances per month. The Applicants who are working as Chowkidar, Mali and Mazdoor were placed in the statement of Group-C & Group-D employees showing their entitlement as Rs. 75/- per month apart from the regular pay and allowances.

*Amor Hamin*

A copy of the corrigendum No. 230809/1/M-3 (B) Dated 20<sup>th</sup> January 1997 is annexed herewith and marked as **ANNEXURE-B.**

4.5) That your Applicants beg to state that Ministry of Health and Family welfare, Government of India vide its notification/letter dated 28/09/1998 enhanced the rate of HPCA for Group – C and Group – D (Non-Ministerial employees) from Rs. 75/- to Rs. 150/- per month w.e.f. 01-08-1997 and the rate was further enhanced to Rs. 700/- and Rs. 695/- per month respectively w.e.f. 29-12-1998 Vide letter No. 28015/41/98-H Dated: 02/01/1999.

A copy of notification / letter dated 28/09/1998 and 02.01.1999 are annexed herewith and marked as **ANNEXURE-C & D** respectively.

4.6) That your Applicants beg to state that the Government of India, Ministry of Health and Family Welfare Vide letter No. Z.28015/24/2001-H Dated 04-02-2004 addressed to Director General of Health Services, Nirman Bhawan, New Delhi, informed that the Ministry of Finance has suggested the said ministry to come up with a clear cut policy for payment of HPCA/PCA to Group – C and D (Non-Ministerial Employees) working in Hospitals, Dispensaries and Organizations be evolved. Subsequently with consultation with Department of Personnel Training and Ministry of Finance, it was decided that in the light of the Cabinet decision in the payment of HPCA/PCA it may not be appropriate to lay down the policy for HPCA/PCA as major parameters of the policy have already been decided. Instead, perhaps a consolidated letter is issued with consultation with Director General of Health Services to remove all ambiguity in this regard. Accordingly, adequate guidelines regarding HPCA/PCA were given in the said letter.

*Amrinder Kumar*

A copy of the letter dated 04.02.2004 is annexed herewith and marked as ANNEXURE-E.

4.7) That your applicants beg to state that the Government of India, Ministry of Health and Family Welfare vide their letter dated 05.05.2005 further clarified that Hospital Patient Care Allowance / Patient Care Allowance is payable only to Group-C & D (Non-Ministerial) employees working in the Hospital Dispensary.

A copy of letter dated 05.05.2005 is annexed herewith and marked as ANNEXURE-F.

4.8) That your applicants beg to state that the letter dated 04-02-2004 and 05.05.2005 the eligibility criteria has been formulated in consultation with the Director General of Health Services wherein it has categorically mentioned that HPCA is admissible to all Group - C and D (Non-Ministerial) employees working in the Hospitals and Dispensaries. As such the applicants being Chowkidar, Mali and Mazdoor and not within the purview of nursing persons is entitled to HPCA @ Rs. 695/- per month.

4.9) That your applicants begs to state that the Government of India, Ministry of Defence, vide letter No. 7 (1) / 2000 / D (MED) dated: 17-11-2005 informed all the wings of Defence Services which includes Chief of Army staff with regard to grant of HPCA/PCA to Group - C and D (Non-Ministerial) Employees of Armed forces Hospital/Medical Establishments made a comprehensive statement categorizing the Group - C and D (Non-Ministerial Employees) eligible for the grant of HPCA/PCA as regard to Hospital/Medical Establishments within the Army. Chowkidar, Mali and Mazdoor have been deleted from the eligibility category. It may be pertinent to mention here that categories like Ward Sahayak, Safaiwala/Safaiwali, Washerman, Barber, Female Attendant, Cook and Ward Boy have been categorized as eligible for HPCA, but the Chowkidar, Mali and

*Amir Amin*

24

Mazdoor have been deliberately excluded without any reasons in violation to the order dated: 04-02-2004 & 05.05.2005 (At ANNEXURE-E & F).

A copy of the Impugned Order dated 17.11.2005 is annexed herewith and marked as ANNEXURE-G.

4.10) That your Applicants begs to state that, thereafter the Director General of Medical services (Army) issued a letter vide No. 8/32152/HPCA/DGMS-3 B dated 22-11-2005 dealt with the enhancement of HPCA to the Group – C and Group – D (Non-Ministerial Employees) as well as employees who were excluded from the payment of such allowances were considered after they have approached different courts. Accordingly, Ministry of Defence has also taken up the matter separately for expanding the benefits of enhanced HPCA to the entire eligible Group – C and D of AMC Units. Accordingly, revised rates have been granted in consultation with the Ministry of Finance with retrospective effect. It has been further mentioned that w.e.f. 17-11-2005 HPCA/PCA is entitled only to those categories, which have specifically mentioned in the Appendix dated 17-11-2005.

A copy of the Impugned Order dated 22.11.2005 is annexed herewith and marked as ANNEXURE-H.

4.11) That your Applicants begs to state that by nature of work as per schedule of work given by the authority, a Chowkidar, Mali and Mazdoor are required to come to close contact with all types of patients like Patient's Cloth verification, Collection & Distribution of Patient's cloth at store, Ration collection and Distribution to the Hospital, Patient Look after in and around the Hospital campus, Hospital property including inside various wards and around the campus property, Emergency Morgue duty, Gardening inside the ward and around the campus and flower decoration inside the wards etc. Therefore, any type of disease may at any time catch to the Chowkider, Mali and Mazdoor. Hence, the Mali, Chowkider,

Amir Amir



Mazdoor should be extended the benefit of HPCA/PCA as has been given to other Group-D employees. It is pertinent to mention here that though a cook never comes to close contact with any patient but they have given the said benefits without any interruption.

4.12) That the applicants submit that the post of Chowkidar, Mali and Mazdoor fulfils all the eligibility criteria as has been mentioned in the guidelines dated 04.02.2004 & 05.05.2005. It is to be stated here that being Chowkidar, Mali and Mazdoor, the applicants belongs to Group D employees whose pay scale is less than Rs. 4000/- and there is no promotional avenues and hence Chowkidars, Malis and Mazdoors have been included in the eligibility categories and non inclusion is illegal and unjustified. More so, when the Hospital in which they works, there are more than 30 beds.

4.13 That your Applicants submit that they have fulfilled all the criterion laid down in the various Official letters regarding payment of HPCA/PCA. Hence, the Respondents cannot deny the same to the Applicants without any justification.

4.14 That your Applicants beg submit that similarly situated persons of Group-D working under the same ministry are enjoying the same benefit without any interruption, as such the action of the Respondents is arbitrary, malafide, whimsical and also not sustainable in the eye of law as well as on facts.

4.15 That your Applicants submit that the Respondents themselves after full satisfaction has granted the HPCA/PCA to the Applicants since long back. However, now the Respondents without any notice have discontinued the same benefits in a very whimsical, arbitrary and discriminatory manner.

4.16 That your Applicant submit that there is no other alternative remedy and the remedy sought for if granted would be just, adequate and proper.

4.17 That this application is filed bonafide and for the cause of justice.

**5) GROUNDS FOR RELIEF WITH LEGAL PROVISION:**

5.1 For that, due to the above reasons and facts, which are narrated in details, the action of the Respondents is prima facie illegal, malafide, arbitrary and without justification.

5.2 For that, similarly situated persons who are working under the same Ministry have been granted the HPCA/PCA by the Respondents, but the Respondents are not giving the same benefits to the instant Applicants. The actions of the Respondents are bad in the eye of law and also not maintainable.

5.3 For that, being a model employer the Respondents cannot deny the same benefits to the instant Applicants, which have been granted to the other similarly persons.

5.4 For that, it is unjust to discriminate among the employees who are similarly placed in the same Ministry and also it is not proper to insist on every aggrieved employee to approach the Court of law.

5.5 For that, the applicants being the employees under the Defence headed by the Chief of Army Staff and being Group D Employees are entitled to HPCA.

5.6 For that the Government of India, Ministry of Health and Family Welfare formulated the scheme for extending HPCA to Group C and Group D (Non-Ministerial Employees) whose pay scale is less than Rs. 4000/- and there is no promotional avenues and to avoid such frustration amongst these categories of employees these allowances of HPCA has been granted and accordingly the applicants were in receipt of the said allowances in excess to their regular pay and allowances.

*Amrinder Singh*

5.7 For that, in view of the matter the impugned orders are ex-facie, illegal, unjust and liable to be modified to the extend giving Chowkidars, Malis, and Mazdoors as eligible Group D employees to receive HPCA with retrospective effect.

5.8 For that, there should be parity in employment. Chowkidar Mali and Mazdoor being part of the Army Medical Corps is eligible to HPCA at par with other Group D Employees such as Cook, Safaiwala / Safaiwali etc.

5.9 For that, there cannot be any rationalism in regard to payment of HPCA or discrimination between the employees of the same group holding analogous pay scale being under cadre.

5.10 For that, the impugned orders needs to be interfered for the reasons that the Chowkidars, Malis and Mazdoors have been purportedly deleted from the array of categories contained in 20-01-1997.

5.11 For that, there should have been some justification for excluding Chowkidars, Malis and Mazdoors from the categories of entitlement of HPCA. As such, impugned orders are bad in law and liable to be modified including Chowkidars, Malis and Mazdoors as part of the eligible employees to be entitled for HPCA at par with their counterparts.

5.12 For that, the actions of the Respondents authorities are in violation of Article 14, 16 & 21 of the Constitution of India.

5.13 For that, the impugned orders are arbitrary, unjust and mala fide are liable to be modified for the ends of justice.

5.14 For that, in any view of the matter the action of the matter the action of the Respondents are not sustainable in the eye of law as well as fact.

*Amur Gurin*

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The Applicants craves leave of this Hon'ble Tribunal advance further grounds the time of hearing of this instant application.

**6) DETAILS OF REMEDIES EXHAUSTED:**

That there is no other alternative and efficacious and remedy available to the applicant except the invoking the jurisdiction of this Hon'ble Tribunal under Section 19 of the Administrative Tribunal Act, 1985.

**7) MATTERS NOT PREVIOUSLY FILED OR PENDING IN ANY OTHER COURT:**

That the Applicants further declares that they have not filed any application, writ petition or suit in respect of the subject matter of the instant application before any other court, authority, nor any such application, writ petition of suit is pending before any of them.

**8) RELIEF SOUGHT FOR:**

Under the facts and circumstances stated above the applicant most respectfully prayed that Your Lordship may be pleased to admit this application, call for the records of the case, issue notices to the Respondents as to why the relief and relieves sought for the Applicants may not be granted and after hearing the parties may be pleased to direct the Respondents to give the following relieves.

- 8.1) That the Hon'ble Tribunal may be pleased to direct the Respondents to suitably modify the Orders/Letters dated 17-11-2005 and 22-11-2005 by adding Chowkidars, Malis and Mazdoors as eligible

*Amur 2 Amur*

categories to receive HPCA/PCA as per guidelines under letter dated 04-02-2004. To Pass any other relief or relieves to which the Applicant may be entitled and as may be deem fit and proper by the Hon'ble Tribunal.

8.2) To grant HPCA to the applicants w.e.f. Month of October 2005 i.e. from which date the same has been stopped.

8.3) Any other relief or relieves as your Lordship may deem fit and proper.

8.4) To pay the cost of the application.

**9) INTERIM ORDER PRAYED FOR:**

At this stage the Applicants most humbly prays for an Interim Order before this Hon'ble Tribunal, to direct the Respondents to pay HPCA/PCA to the Applicants as earlier paid to them by the Respondents.

**10) Application is filed through Advocate.**

**11) Particulars of I.P.O.:**

I.P.O. No. :- 26G 324994

Date of Issue :- 15-7-2006

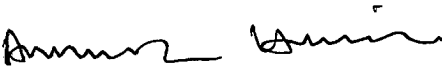
Issued from :- G.P.O. Guwahati

Payable at :- Guwahati.

**12) LIST OF ENCLOSURES:**

As stated above.

Verification .....



### **-V E R I F I C A T I O N-**

I, Shri Sri Anwar Hussain, Son of Saukat Ali, P. No. 6825932, <sup>aged about 39 yrs.</sup> Chowkidar, Office of the Commandant 155 Base Hospital, C/o 99 APO, do hereby solemnly verify that I am the Applicant No.1 of the instant application and I am authorized by the other applicants to signed this verification. That the statements made in paragraph nos. 4.1, 4.2, 4.2.A, 4.8, and 4.11 — are true to my knowledge, those made in Paragraphs Nos. 4.2, to 4.7, 4.9, and 4.10 — are being matters of records are true to my information derived there from which I believe to be true and those made in paragraph 5 are true to my legal advice and rests are my humble submissions before this Hon'ble Tribunal. I have not suppressed any material facts.

And I sign this verification on this the 24<sup>th</sup> day of August 2006 at Guwahati.

*Anwar Hussain*

~~ANNEXURE~~ Q.

No. 32152/Careeer/DGMS-  
S(B)/ 3156/93/D(MED)  
Government Of India,  
Ministry of Finance.

New Delhi, the 08<sup>th</sup> November 1995

To,

The Chief of the Army Staff,

Subject: GRANT OF HOSPITAL PATIENT CARE ALLOWANCE TO GROUP  
- "C" AND GROUP - "D" (NON-MINISTERIAL) HOSPITAL  
EMPLOYEES.

Sir,

1. I am directed to convey the sanction of the President to the Hospital Patient Care Allowance to Group - "C" and Group - "D" (Non-Ministerial) employees excluding Staff Nurses employed in AMC Units having 30 beds or more @ Rs. 80/- and Rs. 75/- per month respectively w.e.f. date of issue of these orders subject to the condition that no Night Weightage Allowance and Risk Allowance if sanctioned by the Central Government, will be admissible to these employees.

2. The Expenditure are involved will be met out of the Budget grant of the concerned hospitals.

3. This issues with the concurrences of Ministry of Finance vide their U.O. No. 1102/PD Dated: 31.10.1995.

Advocate.

**ATTESTED**

*Bhella*  
**ADVOCATE**

Sd/- illegible,  
(G.S. Virdi)  
Under Secy to the  
Govt. of India,

Contd...

Copy to:

The CSDA (SC) Pune  
(EC) Patna  
(CC) Meerut  
(NC) Chandimandir

Copy signed in INK

The Minister of Health and Family Welfare  
(Department of Family Welfare), Nirman Bhawan, New  
Delhi (OS Section - 3 copies).

CSDA, New Delhi, The DADS, New Delhi.

Senior Deputy DADS, Pune, Meerut, Dehradun, Patna,  
Bombay, and Calcutta.

The CDA (MC) Meerut, (FYS) Calcutta, (AF) Dehradun,  
(Navy) Bombay, (MC) Jammu.

AFA (AC-PB), AFA (B), AFA (W) - 2 Copies.

DGMA (Army) - 30 copies, DGAFMS - 5 Copies, DGMS (Air),  
DGMA (Navy).

D (Civ-1), DGOF, D (Appts), D (Fys), D (CIV - II), DFA  
(MS) No. 2. 28019/41/98-h (1)

15. Secretary, Railway Board, Ministry of Railways,  
Rail Bhawan, New Delhi.

16. Secretary, Ministry of Home Affairs, North Block,  
New Delhi.

**ATTESTED**

*Bhette*

**ADVOCATE**

Contd...



17. The Secretary, Ministry of Home Affairs, (UT Division), North Block, New Delhi.
18. DDG (M)/ADG (HA)/DDA (H)/MH Section/Leprosy Section/ME Section.
19. PH Section, CCd Section/ME (UG) Desk/ME (PG) Desk/CGHS (P)/Finance Desk - II.
20. PPS to Secretary/PPS to AS (H)/PS to JS (SB)/PS to JS and FA.
21. Section Register/Guard File.

Sd/- Illegible  
(LAL SINGH)  
Under Secretary to  
The Govt. of India.

Copy, also to -

- 1) Shri. Ram Kishan, Co-Convenor, Joint Council of JACHKU, CHEF, ESI & AIMMS, K-45, Srinivaspuri, New Delhi - 110065.
- 2) Shri. R.B. Pandey, Convenor, Joint Council of JACHKU, CHEF, ESI & AIMMS Unions, H.Q. Agarwal Bhawan, G.T. road, Tis Hazari, Delhi - 110054.

Sd/- Illegible  
(LAL SINGH)  
Under Secretary to  
The Govt. of India.

Advocate.

**ATTESTED**

*Shaila*  
**ADVOCATE**

Contd..

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ANNEXURE - B

Headquarters  
Eastern Command  
Fort William  
Calcutta - 21.

No. 230809/1/M-3(B)

Dated: 20<sup>th</sup> Jan 1997

HQ 4 Corps (Med)

CH(SC) Calcutta - 27

OF HOSPITAL PATIENT CARE ALLOWANCE TO  
GROUP - C AND GROUP - D (NON-MINISTERIAL) HOSPITAL  
EMPLOYEES REGARDING CORRIGENDUM

1. A copy of the Government of India, Ministry of Defence corrigendum, No. PC to MF No. 32152/Hosp/PV/DGMC-3(B) Dated: 20 Jun 97 on the above subject is forwarded herewith for information and further necessary action.

Sd/- Illegible,  
(R C Sharma)  
Colone  
ASH  
For DGMC

Enclosed: As above

-----  
COPY OF THE GOVT OF INDIA CORRIGENDUM NO PC TO MF NO. 3252/HOSP/PC/DGMS -3(B) DATED: 20 JUN 97  
-----

Advocate

**ATTESTED**

*Bhatte*  
**ADVOCATE**

AS ABOVE  
No. PC to MF No. 32152/Hosp/  
PCA?DGMS-3(B)/1568/97/D  
Govt. of India,  
Ministry of Defence,  
New Delhi, the 20<sup>th</sup> Jun 1997

Contd...

# 1300

CORRIGENDUM

Government letter No. 32152/Career/DGMS-3(B)/3166/  
93/D (Med), Dated: 8<sup>th</sup> November as follows -

- 1) The expenditure will be debitable to Minor head 104/Civilians (Pay and allowances) of Major Head 2076-DSE.

The entitled categories will be as per Appendix 'A' attached to this corrigendum.

- 2) The entitlement of the Hospital Patient Care Allowance will be as per the Pay and Allowances allowed usually.

- 3) Para 2 and 3 of the Government letter, dated: 8<sup>th</sup> November' 1995 will be serially numbered as Para - 4 and 5 respectively.

- 4) This issues with the concurrence of catpace (Finance) vide No. 769/AG/PD Dated: 11.6.97.

Sd/- illegible,  
G.S. Virdi  
Under Secy to the  
Govt. of India,  
Tele. - 3016604.

**ATTESTED**

*[Signature]*  
**ADVOCATE**

Contd...

APPENDIX - A.

STATEMENT OF GROUP "C" AND "D" STAFF - CATEGORY WISE

S1. No.	Category	Group	Proposed Patient Care allowance per individual per month
1	Junior Physiotherapist	C	80
2	Occupational Therapist	C	80
3	Senior Dietician	C	80
4	Junior Dietician	C	80
5	Medical Social Worker	C	80
6	Speech Therapist	C	80
7	Carpenter	C	80
8	Tin ---	C	80
9	Painter	C	80
10	Boot maker (EBR)	C	80
11	Tailor	D	75
12	Cook	D	75
13	Washer man (Dhobi)	D	75
14	Ward Sahayika	D	75
15	Mate	D	75
16	Barber	D	75
17	Labourer (Mazdoor) ✓	D	75
18	Male Attendant	D	75
19	Chowkidar ✓	D	75
20	Sweeper (Safaiwali/ Safaiwala)	D	75
21	Female Attendant	D	75

Advocate.

**ATTESTED**

*Bhutta*  
**ADVOCATE**

Contd...

~~ANNEXURE~~

No. Z.28015/26/98-MH(H)  
GOVERNMENT OF INDIA  
MINISTRY OF HEALTH AND FAMILY WELFARE

Nirman Bhavan, New Delhi  
Dated: the 28<sup>th</sup> September, 1998

To,

1. The Director General of Health Services,  
Nirman Bhavan,  
New Delhi.
2. The Director,  
Central Government Health Scheme.  
Nirman Bhavan,  
New Delhi.

Subject: Revision of rate of Hospital Patient Care.  
Allowance/Patient Care Allowance.

Sir,

I am directed to convey the sanction of the President to revise the rate of Hospital Patient Care Allowance payable to Group - 'C' and 'D' (Non-Ministerial) hospital employees and Patient Care Allowances payable to Group 'C' and 'D' (Non-Ministerial) C.G.H.S employees, w.e.f. 1.8.1997. The revised rates will be as under -

- i) Group 'C' employees (Non-Ministerial) hospital employees. [From Rs. 80/- per month to Rs. 160/- per month].

**ATTESTED**

Advocate.

Contd...

*Bhalla*

**ADVOCATE**

- ii) Group 'D' employees (Non-Ministerial) hospital employees. [From Rs. 75/- per month to Rs. 150/- per month].
- iii) Group 'C' and Group 'D' (Non-Ministerial) C.G.H.S. employees. [From Rs. 70/- per month to Rs. 140/- per month].
- 2) The terms and conditions for payment of Hospital Patient Care Allowance/Patient Care Allowance will remain the same as mentioned in this Ministry's letters No. Z.28015/60/87-H Dated: 25.1.1988; Z.28015/102/88-H Dated: 30.10.1989; and B. 110011/1/90-CGHS(P) Dated: 10.7.1990.
3. This issue with the approval of Ministry of Finance (Department of Expenditures) vide their U.O. NO. 1278/E.III(A)/98 Dated: 23<sup>rd</sup> September, 1998.
4. The expenditure involved will be met out of the budget grant of concerned hospitals/CGHS organisations for the year 1998-99.
5. The expenditure involved will be met out of the budget grant of concerned hospitals/CGHS organisations for the year 1998-99.

Yours faithfully,

Sd/- Lal Singh

Under Secretary to the  
Government of India.

No. Z.28015/26/98-MH(H)

**ATTESTED**

*Bhatia*

**ADVOCATE**

Contd...

Copy to:

1. The Additional Director (CGHS), Nirman Bhavan, New Delhi.
2. The Medical Superintendent, Dr. Ram Monohar Lohia Hospital, New Delhi.
3. The Medical Superintendent, Safdarjung Hospital, New Delhi.
4. The Principal and Medical Superintendent, Lady Hardinge Medical College and Associated Hospitals, New Delhi.
5. The Director, Central Institute of Psychiatry, Kanke, Ranchi, Bihar.
6. The Director, All India Institute of Physical Medicine and Rehabilitation, Haji Ali Park, Mahalaxmi, Mumbai - 400034.
7. The Director, Central Leprosy Teaching and Research Institute, Tirumani, Chegalpattu, Tamil Nadu.
8. The Medical Superintendent, Regional Leprosy Training, and Research Institute, P.O. Aska (Balampore), District: Ganjam, Orrisa.
9. The Medical Officer, Incharge, Regional Leprosy Training and Research Institute, Lapur, Post Box No. 112, Raipur - 449 201 (MP).
10. The Director, Regional Leprosy Training and Research Institute, Gouripur, Bankura, West Bengal.

**ATTESTED**

*S. Bhatta*

**ADVOCATE**

Sd/- Lal Singh  
Under Secretary to the  
Government of India.

Contd...

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Copy to:

1. The Principal Secretary, (H & FW), Government of NCT of Delhi, 5, Shammath Marg, New Delhi/ Commissioner MCD, New Delhi/Becy, NDMC, New Delhi.
2. The Administrator, Chandigarh Administration, Chandigarh.
3. The Administrator, Andaman and Nicobar Islands, Port Blair.
4. The Administrator, Daman and Diu, Moti daman, Daman.
5. The Administrator, UT of Lakshadeep, Kavarati via Calicut.
6. The Collector, Dadra and Nagar Haveli, Silvassa - 396230.
7. The Secretary, H and FW Department, Government of Pondicharry, Pondicharry.
8. The Director, Lala Ram Swaroop Institute of TB and Allied diseases, New Delhi.
9. The Director, All India Institute of Medical Sciences, New Delhi.
10. Ministry of Labour, Shram Shakti Bhawan, New Delhi.
11. The Director, ESIC, Kotla Road, New Delhi.
12. Shri. R. Kumar, Under Secretary, (E.III(A), Ministry of Finance, (D/o. Expenditure), North Block, New Delhi.
13. The Secretary, Ministry of Home Affair, (UT Division), North Block, New Delhi.
14. DDG (M/ADG (HA) /DDA (H) /MH Section/Leprosy Section/ME Section.
15. PH Section/CCD Section/ME (UG) Desk/ME (PG) Desk/CGHS (P)/Finance Desk III.
16. PPS to Secretary/PPS to AS (H)/PS to JS (SB)/PS to JS (PA).
17. Sanction Register/Guard File.

Sd/- Lal Singh  
Under Secretary to the  
Government of India.

~~Advocate~~

**ATTESTED**

*Shatta*  
**ADVOCATE**

Contd...



~~ANNEXURE-- D~~

## [RELEVANT PORTIONS]

No. Z.28015/41/98-H

GOVERNMENT OF INDIA

Ministry of Health and Family Welfare

Nirman Bhawan, New Delhi

Dated: 2<sup>nd</sup> January' 1999

To,

(1) The Director General of Health Services,  
Nirman Bhawan, New Delhi - 110011.

(2) The Director,  
Central Government Health Scheme  
Nirman Bhawan, New Delhi - 110011.

Subject: Revision of rate of Hospital Patient Care  
Allowance/Patient Care Allowance.

Sir,

I am directed to convey the sanction of the President to revise the rate of Hospital Patient Care Allowance payable to Group - 'C' and 'D' (Non-Ministerial) hospital employees and Patient Care Allowances payable to Group 'C' and 'D' (Non-Ministerial) employees working in C.G.H.S Dispensaries, w.e.f. 25<sup>th</sup> December' 1998. The revised rates will be as under -

HOSPITAL PATIENT CARE ALLOWANCES -

- i) Group 'C' employees (Non-Ministerial) working in Central Government hospitals and hospitals under the National Capital Territory of Delhi and other

ATTESTED

Attested

*J. Bhatte*

ADVOCATE

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*De*

Union Territories. [From Rs. 160/- per month to Rs. 700/- per month].

- 11) Group 'D' employees (Non-Ministerial) working in Central Government hospitals and hospitals under the National Capital Territory of Delhi and other Union Territories. [From Rs. 150/- per month to Rs. 695/- per month].

PATIENT CARE ALLOWANCE -

- iii) Group 'C' and Group 'D' (Non-Ministerial) C.G.H.S. employees working in C.G.H.S. Dispensaries. [From Rs. 140/- per month to Rs. 690/- per month].

- 2) The terms and conditions for payment of Hospital Patient Care Allowance/Patient Care Allowance will remain the same as mentioned in this Ministry's letters No. Z.28015/60/87-H Dated: 25<sup>th</sup> January' 1988; Z.28015/102/88-H Dated: 30<sup>th</sup> October' 1989; and B. 110011/1/90-CGHS(P) Dated: 10<sup>th</sup> July, 1990.

3. The expenditure involved will be met out of the budget grant of concerned hospitals/CGHS organisations.

*Advocate*

**ATTESTED**

*Shalita*  
**ADVOCATE**

Contd...

~~ANNEXURE~~

No. Z.28015/24/2001-11

Government of India

Ministry of Health and  
Family Welfare

\*\*\*\*\*

Nirman Bhavan, New Delhi,

Dated: the 4<sup>th</sup> February, 04

To,

The Director General of Health Services,  
Nirman Bhavan, New Delhi.

Subject: Payment of Hospital Patient Care Allowance/  
Patient Care Allowance to Group - 'C' and  
'D' (Non-Ministerial) employees working in  
hospitals, dispensaries and organisations.

\*\*\*\*

Sir,

I am directed to state that Ministry of Finance had suggested to this Ministry that a clear cut policy for payment of Hospital Patient Care Allowance/Patient Care Allowance to Group - "C" and "D" (Non-Ministerial) employees working in hospitals, dispensaries and organisations be evolved. Subsequently, in consultation with Department of Personnel and Training and Ministry of Finance, it was decided that in the light of the Cabinet decision, on the payment of Hospital patient Care Allowance/Patient Care Allowance, it may not be appropriate to lay down the Policy for Hospital Patient Care Allowance/Patient Care Allowance as the major Para-metres of the policy have already been decided.

**ATTESTED**

Advocate.

*J. Bhatia*

**ADVOCATE**

Contd...

Instead, perhaps a consolidated letter be issued in consultation with Dte General of Health Services to remove all ambiguity in this regard.

Accordingly, the following Guidelines for impleading Hospital Patient Care Allowance/Patients Care Allowance are consolidation with Dte General of health Services -

(i) ELIGIBILITY FOR HOSPITAL PATIENT CARE ALLOWANCES

The Hospital Patient Care Allowances is admissible to all Group - "C" and Group - "D" (Non-Ministerial) employees excluding nursing personnel @ Rs. 700/- per month and Rs. 695/- per month respectively working in General Hospitals (those with 30 beds or more), subject to the condition that no Night Weightage allowances and risk Allowances, if sanctioned by the Central Government, will be admissible to these employees.

(ii) ELIGIBILITY FOR PATIENT CARE ALLOWANCE -

The patient Care Allowances is admissible to the Group - "C" and "D" (Non-Ministerial) employees excluding nursing personnel @ Rs. 690/- per month working in the health care delivery institutions/ establishments (other than hospitals) having less than 30 beds, subject to the condition that no Night Weightage Allowance and Risk Allowances, if sanctioned by the Central Government, will be admissible to these employees (Copies of this Ministry's Orders No. Z.28015/26/98-MH (H),

**ATTESTED**

*Bhatta*  
**ADVOCATE**

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dated: 28.9.1998 and Z. 28015/41/98-H (1) Dated: 2.1.1999 are enclosed).

**(1.1.1) THE CONDITION WHICH AN ORGANISATION MUST SATISFY BEFORE ITS EMPLOYEES CAN BE CONSIDERED FOR GRANT OF HOSPITAL PATIENT ALLOWANCE -**

Only persons (Group - "C" and "D", Non-Ministerial employees) whose regular duties involve continuous and routine contract with patients infected with communicable disease or those who have to routinely handle, as their primary duty, infected materials, instruments and equipments which can spread infection as their primary duty may be considered for grant of Hospital Patient Care Allowances. It is further clarified that HPCA shall not be allowed to any of these categories of employees whose contract with patients or exposure to infected materials is of an occasional nature.

**(iv) THE CONDITIONS WHICH AN ORGANISATION MUST SATISFY BEFORE ITS EMPLOYEES CAN BE CONSIDERED FOR GRANT OF PATIENT CARE ALLOWANCES -**

The persons (Group - "C" and "D", Non-Ministerial) employees whose regular duties involve continuous routine contract with patients affected with communicable diseases or are handling infected materials, instruments and equipments which can spread infection as their primary duty working in health care delivery institutions other than Hospital (30 beds for

**ATTESTED**

*S. Bhatia*  
**ADVOCATE**

Contd.

General Hospital: 10 beds for Super Speciality Hospital) may be considered for grant of Patient Care Allowances. PCA shall not be allowed to any Group "C" and Group - "D" (Non-Ministerial) employees whose contact with patients or exposure to infected materials is of occasional nature.

(v) THE CLASSIFICATION OF GROUP "C" AND GROUP "D" CIVIL POSTS -

The classification of Group "C" and Group - "D" civil posts for the payment of Hospital Patient Care Allowances/Patient care Allowances as notified by Department of Personnel and Training Vide Notification No. 13012/1/98-Estt. (D), dated: 20/04/1998 is as under -

GROUP - "C" POSTS -

"A Central Civil Posts carrying a pay or a scale of pay with a maximum of over s. 4000/- but less than Rs. 9000/-".

GROUP - "D" POSTS -

"A Central Civil Post carrying a pay or a scale of pay the maximum of which is Rs. 4000/- or less".

Department of Personnel and Training vide their Office Memorandum No. 35034/1/97-Estt (D) (Vol. IV) Dated: 10.02.2000 further clarified that the classification of the post held by the officer should be with reference to the scale of pay of

**ATTESTED**

*S. Chatter*

**ADVOCATE**

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the post held by the Government servant on regular basis and not with reference to the higher pay scale granted to the Government servant under Assured Career Progression (ACP) Scheme. In view of the Department of Personnel and Training's clarification, the Group "C" employees who have been granted the pay scale of Group "B" post under the ACP scheme would continue to be entitled to the payment of Hospital Patient Care Allowance/Patient Care Allowances.

The Hospital Patient Care Allowance/Patient Care Allowance is payable to Group "C" and Group "D" (Non-Ministerial) employees working in the Hospital/Dispensaries etc. This Allowances is not admissible to Group "C" and Group "D" (Non-Ministerial) employees working in the headquarters' Office dealing with such Healthcare Units/Dispensaries/Hospitals as long as they work there. The HPCA or PCA will be admissible to such employees only in the event of their transfer from Headquarters to the Healthcare Units/Dispensaries/Hospitals and subject to the condition specified in (iii) and (iv) above.

The Non-Ministerial posts will be decided as per the recruitment rules of the posts. Though the power to declare an employee as Non-Ministerial rests with the Head of Office, this should be done only with the prior approval of the concerned administrative Ministry in consultation with the Department of Personnel and Training.

**ATTESTED**

*Bhatla*  
**ADVOCATE**

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- 31 -

(vi) THE DATE OF ELIGIBILITY OF EACH CASE -

The grant of Hospital Patient Care Allowances/ patient Care Allowances can be considered from the dates as notified by Ministry of Health and Family Welfare. The dates of eligibility for payment of Hospital Patient Care Allowance/Patient Care Allowance would be notified in consultation with the Ministry of Finance in all cases of grant of Hospital Patient Care Allowance/Patient Care Allowance to the Group "C" and Group - "D" (Non-Ministerial) employees in the future (copy of this Ministry's Order No. Z. 28015/60/87-H Dated: 05/03/1990 is enclosed).

These issues with the approval of Department of Personnel and Training vide their U.O. No. 239/03-Estt (AL) Dated: 20/06/2003 and Ministry of Finance (Department of Expenditure) vide their U.O. No. 362/E.IV/03, Dated: 03/07/2003.

Yours faithfully,  
Sd/- Illegible  
(U.C. Nangia)  
Deputy Secretary  
to the Government of  
India,

Copy to:

- 1) The Director General of Audit, Central Revenues, I.P. Estates, New Delhi.
- 2) The Director (CGHS), Nirman Bhavan, New Delhi.

**ATTESTED***Bhatta***ADVOCATE**

Contd...



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- 3) The Additional Director (CGHS), Nirman Bhavan, New Delhi.
- 4) The Medical Superintendent, Dr. RML Hospital, New Delhi.
- 5) The Medical Superintendent, Safdarjung Hospital, New Delhi.
- 6) The Principal and Medical Superintendent, Lady Hardinge Medical College and Associated Hospitals, New Delhi.

Advocate,

**ATTESTED**

*S. Bhatta*  
**ADVOCATE**

Contd...

ANNUEXURE- F

(Relevant portion typed)

No.Z.28015/24/2001-H  
Government of India  
Ministry of Health & Family Welfare  
\*\*\*\*\*

Nirman Bhavan, New Delhi,

Dated the 5<sup>th</sup> May, 2005.

To

The Director General of Health Services,  
Nirman Bhavan, New Delhi.

Subject : Payment of Hospital Patient Care Allowance / Patient Care Allowance to  
Group C & D (Non-Ministerial) employees working in hospitals,  
dispensaries and organizations.

Sir,

I am directed to refer to this Ministry's letter of even number dated the 4<sup>th</sup>  
January 2004 circulating the details guidelines for payment of Hospital Patient Care  
Allowance / Patient Care Allowance to Group-C & D (Non-Ministerial) employees  
working in hospitals, dispensaries and organizing and to re-iterate that Hospital Patient  
Care / Patient Care Allowance is payable only to Group C & D (Non-Ministerial)  
employees working in the hospitals / dispensaries and this allowance is not admissible to  
employees holding Group-B post

.....XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX  
XX

Yours faithfully

Sd/-  
(B.C.Nangia)  
Deputy Secretary to the Government of India  
Tele fax . No.23018068.

Copy to :-

.....  
XX  
XX

**ATTESTED**

*Bhatta*  
**ADVOCATE**

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~~ANNEXURE-- G~~

7(1)/2000/D(Med)

Government of India.

Ministry of Defence.

New Delhi, dated: 17<sup>th</sup> November' 2005

To,

The chief of the Army Staff,  
The Chief of the Naval Staff,  
The Chief of the Air Staff,  
DGMS

*Stoppage 2  
1/11/05*

Subject: Grant of Hospital Patient Care Allowance (HPCA)/Patient Care Allowance (PCA) to Group 'C' and 'D' (Non Ministerial) employees of the Armed forces Hospitals /Medical Establishments.

Sir,

I am directed to refer to the Government of India, Ministry of Health and Family Welfare's letter No. Z.28015/24/2001-H Dated: 4<sup>th</sup> February' 2004 and 05/05/2005 (Copies enclosed), on the above mentioned subject and to state that the President is pleased to extend the provisions of these letters only to the eligible Group 'C' and Group 'D' (Non-Ministerial) employees of Armed Forces Hospitals/Medical Establishments with effect from 08/11/1995 i.e. (the date from which the HPCA was introduced to AMC units subject to provisions of Para - 5 of this letter. This rates applicable for HPCA/PCA shall be as under -

~~Advocate~~

**ATTESTED**

*Bhatla*

**ADVOCATE**

Contd...

Hospital Patient Care Allowance (HPCA)

	<u>w.e.f.</u>	<u>w.e.f.</u>	<u>w.e.f.</u>
	08.11.95	01.08.97	29.12.98
i) Group 'C' employees (Non-Ministerial) working in Armed Forces Hospitals	Rs. 80 pm	Rs. 160 pm	Rs 700 pm
ii) Group 'D' employees (Non-Ministerial) working in Armed Forces Hospitals	Rs. 75 pm	Rs. 150 pm	Rs. 695 pm

Patient Care Allowance (PCA)

iii) Group 'C' and 'D' (non-Ministerial) employees working in Medical Esstt.	Rs. 70 pm	Rs. 140 pm	Rs 690 pm
--	-----------	------------	-----------

3. Based on the above guidelines, categories of Group 'C' and Group 'D' employees as per Appendix to this letter will be eligible for grant of HPCA/PCA. These employees when posted to the Headquarters Office dealing with such Hospitals/Medical establishments will cease to be eligible for HPCA/PCA.

4. The supersedes GOI Min of Def letter No. 32152/Carrier/DGMS-3(B)/3166/95D (Med) Dated: 8<sup>th</sup> November' 1995 and corrigendum issued vide letter No. 32152/Hosp/PCA/DGMS-3(B)/1568/97/D (Med) Dated: 20<sup>th</sup>

**ATTESTED**

*S. Bhatta*

**ADVOCATE**

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Jun' 97, The payment of HPCA/PCA made to certain categories of employees vide these orders or in pursuance of various court directions would be adjusted while calculating the payment of arrears.

5. Group 'C' and 'D' (Non-Ministerial) employees working in Armed Forces Hospitals and Medical Establishments who till now are not in receipt of HPCA/PCA under the provisions of the Government letter dated: 08/11/1995 referred to above, but became eligible for the same on the basis of this letter, will get the benefit from the date of issue of this letter.

6. The expenditure involved will be met out of the "Pay and Allowances" Heads of respective services.

7. This issues with the concurrence of the Defence Finance vide their ID No. 133/PD/05 Dated; 17<sup>th</sup> November' 2005.

Yours faithfully,  
Sd/- R.C. Rathuri  
17/11/2005  
Under Secretary to the  
Government of India.

Copy to:

- Defence (Finance) (AG/PD), CGDA
- DGMS (Army), DGMS (Navy), DGMS (Air)
- CsDA (Army), CDA (Navy), CDA (Air Force),
- D (Civ)

**ATTESTED**  
*Bhatte*  
**ADVOCATE**

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Appendix to GOI letter No. 7(1)/2000/  
D/Med/Dated: 17<sup>th</sup> November' 2005

Categories of Group 'C' and Group 'D' (Non-Ministerial)  
Employees eligible for grant of HPCA/PCA

I) Hospitals/Medical Establishments in Army

<u>Sl. No.</u>	<u>Categories</u>
1.	Ward Sahayika
2.	Safaiwala/Safaiwali
3.	Washerman
4.	Barber
5.	Female Attendants
6.	Cook
7.	Ward Boys

II. Hospitals/Medical Establishments in Navy

<u>Sl. No.</u>	<u>Categories</u>
1.	Ward Sahayika
2.	Safaiwala/Safaiwali
3.	Washerman
4.	Barber
5.	Medical Attendant
6.	Dresser
7.	Ayah
8.	Ward Lady/Boy Hospital
9.	Masalchi

**ATTESTED**

*Bhatta*  
**ADVOCATE**

Contd...

III. Hospitals/Medical Establishments in Air Force

<u>Sl. No.</u>	<u>Categories</u>
1.	Lady Attendant
2.	Safaiwala/Safaiwali
3.	Washerman
4.	Barber
5.	Cook
6.	Mess Waiter
7.	Water Carrier
8.	Washer Up
9.	Laskar/Laskar Tindal.

**ATTESTED**

*[Signature]*  
**ADVOCATE**

Contd...

~~ANNEXURE - C~~

No. 23094772

Dte Gen of Medical Services (Army)  
Adjutant General's Branch  
Army Headquarters  
'L' Block, New Delhi - 110001

B/32152/HPCA/DGMS-3B22<sup>nd</sup> November' 2005

HQ Southern Command (Med) Pune  
HQ Eastern Command (Med) Kolkata  
HQ Western Command (Med) Chandimandir  
HQ Northern Command (Med) C/o. 56 APO  
HQ Central Command (Med) Lucknow  
HQ South Western Command (Med)

Grant of Hospital Patient Care Allowance  
(HPCA)/Patient Care Allowance (PCA) to Group 'C'  
and 'D' (Non Ministerial) employees of the Armed  
Forces Hospitals/Medical Establishments.

1. Vide Ministry of Defence letter No. 32152/Career/DGMS-3(B)/3168/93/D (Med) Dated: 08 Nov' 1995, Hospital Patients' Care Allowance was sanctioned to Group 'C' and 'D' (Non-Ministerial) employees in AMC units @ Rs. 80/- pm and Rs. 75/- pm respectively and vide corrigendum No. PC to MF No. 32152/Hosp PCA/DGMS-3(B)/ 1568/97/D (Med) Dated: 20 Jun 1997 details of all categories (21 categories) of Group 'C' and 'D' which were entitled for the said allowances, was given.
2. The said rate was enhanced to Rs. 160 pm and Rs. 150 pm wef 01 Aug 1007 and Rs. 700 pm and 695 pm wef 29 Dec 1998 for the similar categories of employees working in hospitals under the Ministry of

**ATTESTED**

*Bhatta*  
ADVOCATE

Contd...



~~SECRET~~

Health. A number of petitions were filed by the employees of AMC Units in different Courts for grant of enhanced HPCA at par with the employees working in the Civil Hospitals. In a number of cases, base on Court directions enhanced HPCA has already been granted to certain petitioners.

3. Separately, we had taken up a case with the Ministry of Defence for extending the benefits of enhanced HPCA to all the eligible Group 'C' and Group 'D' employees of AMC Units. The whole issue was examined by the Government and in order to have uniform rates of HPCA/PCA revised parameters for grant of HPCA/PCA to the eligible categories of employees working in various hospitals/organisations under Government of India were issued vide Ministry of Health letter No. Z.28015/24/2001-H Dated: 04 Feb 2004. Based on these parameters a consolidated case was taken up by the O/o. DGAEMS for grant of enhanced HPCA/PCA to the eligible employees in AMC units.

4. The matter was examined by Ministry of Defence in consultation with Ministry of Finance and Government order No. 7(1)/2000/D (Med) dated: 17<sup>th</sup> Nov 2005 has been issued granting the revised rates of HPCA/PCA to the eligible Group 'C' and 'D' (Non-Ministerial) employees of Armed forces Hospitals/Medical Establishments with retrospective effect subject to certain conditions. A copy of the said Government Order No. 7(1)/2000/D (Med) dated: 17 Nov 2005 is enclosed herewith for your information and further dissemination to all the units under your command. It may please be noted that -

**ATTESTED**

Contd...

*Sharma*  
**ADVOCATE**

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- (a) W.e.f. 17<sup>th</sup> November' 2005, HPCA/PCA is entitled to only those categories, which have specifically been mentioned in the appendix to the said Government letter. The payment of HPCA to the other categories which are not included in the appendix should be discontinued w.e.f. 17 Nov' 2005.
- (b) The eligible employees as per the appendix are entitled to the payment of arrears w.e.f. the dates mentioned in the Government letter. The payments already made based on certain Court directions are required to be adjusted while calculating the arrears.
- (c) All the Heads of the units may be directed to brief the employees about this letter while holding Quarterly Welfare Meetings.
- (d) Wherever Court cases on the issue are pending, the units may be directed to take immediate necessary action to brief the Government counsel to appraise the Hon'ble Court about the contents of this Government letter for appropriate disposal of the case.

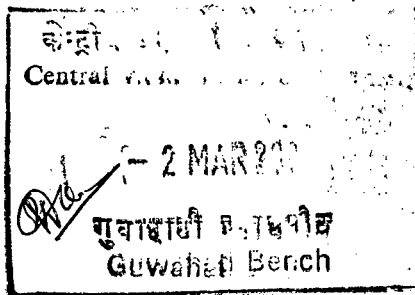
Enclosure: As above.

**ATTESTED**

*Sd/-*  
**ADVOCATE**

Sd/- K.L. Vobra  
Dir MD (Civ)  
for DGMS (Army).

Contd...



Filed by  
The Respondents Through  
Alsha Das.  
Addl. C. S. C.  
01/03/07. Sg

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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH GUWAHATI

OA NO. 222/2006

SHRI ANWAR HUSSAIN & OTHERS

.....APPLICANTS

-VERSUS-

UNION OF INDIA & OTHERS

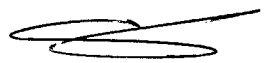
.....RESPONDENTS

WRITTEN STATEMENT FILED BY THE RESPONDETS

- 1) That the respondents have received a copy of OA and have understood the contentions made thereof. Save and except, the statements, which are specifically admitted herein below, rests may be treated as total denial. The statements, which are not borne on records, are also denied and the applicant is put to the strictest proof thereof.
- 2) That with regard to the statement made in paragraph 1 of the OA, the respondents beg to submit that the letter-dated 17.11.2005 has been issued as per the Govt. of India, Ministry of Health and Family Welfare's letter No. 28015/24/2001-H dated 04.02.2004.
- 3) That with regard to the statements made in paragraphs 2, 3 and 4.1 of the OA, the respondents beg to offer no comment.
- 4) That with regard to the statements made in paragraph 4.2 of the OA, the respondents beg to submit that the applicants were appointed as Chowkidar, Mali and Mazdoor under the Army Hospital as Group- D (Non- Ministerial Employees). Duties of Mazdoor are the loading and unloading of stores supplies in various storehouses. Nature of works and duties of Chowkidar is to look after all the properties in and around the hospital campus. As the appointment suggest Chowkidars are appointed for the security of the Hospital. They are not appointed to look after the patients.

The duties of Mali is gardening and look after gardens and lawns. They also do not look after the patients.

- 5) That with regard to the statement made in paragraph 4.2 A), the respondents beg to offer no comment.
- 6) That with regard the statement made in paragraph 4.3 of the OA, the respondents beg to submit that vide letter dated 08.11.1995 issued by under secretary of finance has conveyed the sanction to chief of Army Staff about grant of Hospital patient case allowance (HPCA) to Group 'C' and Group 'D' (Non-ministerial) excl staff Nurses employed in Army HQ Units having 30 beds or more.
- 7) That with regard to the statements made in paragraph 4.4 of the OA, the respondents beg to submit that corrigendum No. 230809/1/M-3(B) dated 20 Jan 1997 Categorized the employees of Group 'C' and Group 'D' for the proposed patient care allowance per month. It is evident that allowance was at proposal stage then.
- 8) That with regard to the statements made in paragraph 4.5 of the OA, the respondents beg to submit that Ministry of Health, Govt. of India enhances the rate of HPCA from Rs. 75 to Rs. 150 per month w. e. f. 01.8.1997 and rate was further enhanced to Rs. 700 & Rs. 695 per moth respectively w. e. f. 29.12.1998 vide letter No. 28015/41/98 dated 02 Jan 1999.
- 9) That with regard to the statement made in paragraph 4.6 of the OA, the respondents beg to submit that Govt. of India, Ministry of Health & Family Welfare vide letter No. 28015/24/2001-H dated 04.02.2004 addressed to Director General Health Services to come up with a clear cut policy for payment of HPCA/PCA to Group 'C' and Group 'D' (Non Ministerial employees) working in Hospital and Dispensaries with consultation with Dept of Personnel and Training and Ministry of Finance. Guidelines regarding HPCA/PCA were given in the said letter.



(II) THE CONDITION WHICH AN ORGANISATION MUST SATISFY BEFORE ITS EMPLOYEES CAN BE CONSIDERED FOR GRANT OF HOSPITAL PATIENT ALLOWANCE

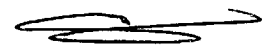
Only persons (Group 'C' and 'D' Non-Ministerial employees) whose regular duties involve continuous and routine contact with patients infected with communicable diseases to those who have to routinely handle as their primary duty, infected materials, instruments and equipments which can spread infection as their primary duty may be considered for grant of Hospital Patient Care Allowances. It is further clarified that HPCA shall not be allowed to any of these categories of employees whose contact with patients or exposure to infected materials of an occasional nature.

(IV) THE CONDITIONS WHICH AN ORGANISATION MUST SATISFY BEFORE ITS EMPLOYEES CAN BE CONSIDERED FOR GRANT OF PATIENT CARE ALLOWANCES.

The persons (group 'C' and 'D'. Non-Ministerial employees) whose regular duties involve continuous routine contact with patients affected with communicable disease or are handling infected materials, instruments and equipments which can be spread infection, as their primary duty, working in health care delivery institutions other than hospital ( 30 beds for General Hospital, 10 beds for Super speciality Hospital may be considered for Patient Care Allowances. PCA shall not be allowed to any Group C and Group D ( Non Ministerial) employees whose contact with patients or exposure to infected materials is of occasional nature.


10) That with regard to the statement made in paragraph 4.7 of the OA, the respondents beg to say that Hospital Patient Care Allowance is payable only to Group C and group D employees.

11) That with regard to the statements made in paragraph 4.8 and 4.9 of the OA, the respondents beg to submit that chowkidar, Mali, Mazdoor have been deleted from eligibility categories because these categories do not fulfill the eligibility criteria. The primary duties do not involve continuous and routine contact with the patient infected



with communicable disease nor do they handle infected materials instruments and equipments, which can spread infection.

- 12) That with regard to the statements made in paragraph 4.10 of the OA, the respondents beg to submit that Director General Medical Services(Army) issued a letter vide No. 8/32152/HPCA/DGMS-3(B) dated 22 Nov 2005 reporting enhancement of HPCA to the Group C and Group D ( Non Ministerial Employees) as well as employees who were excluded from payment of such allowances was considered after they have approached different Courts. HPCA/PCA is entitled only to these categories, which have been mentioned in the appendix to the letter dated 17 Nov 2005.
- 13) That with regard to the statement made in paragraph 4.11 of the OA, the respondents beg to rely and refer upon the statement made in paragraph 11 of this Written Statement.
- 14) That with regard to the statements made in paragraph 4.12 of the OA, the respondents beg to submit that pay scale is not the only single eligibility criteria for grant of HPCA.
- 15) That with regard to the statement made in paragraph 4.13 of the OA, the respondents beg to submit that the applicants do not fulfill the criteria as their duties do not involve continuous and routine contact with the patients infected with communicable disease, nor do they handle infected materials, instruments which can spread Infection.
- 16) That with regard to the statements made in paragraph 4.14 to 4.17 of the OA, the respondents while denying the contentions made therein beg to submit that the benefits have been given following the laid out guidelines and criteria.
- 17) That with regard to the statements made in paragraph 5(5.1 to 5.14) of the OA, the respondents while denying the contentions made therein beg to rely and refer upon the statements made above and submit that since the duties of the applicants do not involve continuous and routine contact with patients infected with communicable diseases or those who have to routinely



handle, as their primary duty, infected materials, instruments and equipments which can spread infection. In view of the submissions made in the written statements, the applicants are not eligible for grant of HPCA/PCA. None of the grounds of the OA, is tenable in the eye of law hence the Hon'ble Tribunal may be pleased to dismiss the OA.

- 18) That with regard to the statement made in paragraph 6 and 7 of the OA, the respondents beg to offer no comments.
- 19) That with regard to the statement made in paragraph 8(8.1 to 8.4) of the OA, the respondents beg to submit that in view of the submissions made above the applicants are not eligible for grant of HPCA/PCA. The Hon'ble Tribunal may be pleased to dismiss the OA.



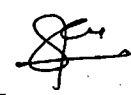
(Gian Chand)  
Col  
Sr Registrar & OC Tps  
For Commandant

VERIFICATION

I COL GIAN CHAND....., aged  
about 50 years at present working as  
Sr Registrar & OC (P) ISS BAC/299102  
....., who is one of the respondents and taking steps in this case, being  
duly authorized and competent to sign this verification for all respondents,  
do hereby solemnly affirm and state that the statement made in paragraph  
1, 18, 19 are true  
to my knowledge and belief, those made in paragraph  
2 to 17 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.

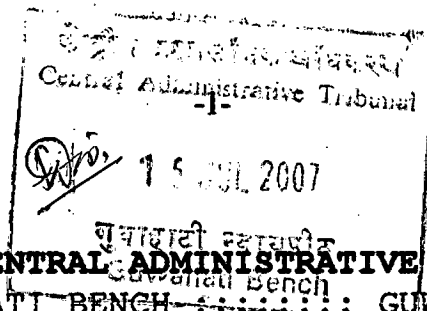
And I sign this verification this 26th day of Feb 2007 at Tuspur



  
DEPONENT  
(Gian Chand)  
Col  
Sr Registrar & OC Tps  
For Commandant



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH GUWAHATI



FILED BY

Shri Anowar Hussain & Ors.

Applicants

Through - Smita Bhattacharjee  
(Advocate)

on-02-07-2007

IN THE MATTER OF :

O.A. No. 222 of 2006

Shri Anowar Hussain & Ors.

. . . . Applicants

- Versus -

The Union of India & Ors.

. . . . Respondents.

- AND -

IN THE MATTER OF :

Rejoinder filed by the  
Applicants to the Written  
statement filed by the  
Respondents.

The humble Applicants submit this Rejoinder as follows:

1. That I am the Applicant No.1 of the Original Application No. 222 of 2006 and the Respondents have filed written statement in the aforesaid O.A. A copy of the same has been served upon us through our Counsel. I have gone through the written statement filed by the Respondents and understood the contents thereof and I emphatically deny each and every averment made therein except those which are specifically admitted herein.
2. That with regard to the statements made in paragraphs 1 to 3 of the Written statement the Applicants have no comment to offer.
3. That with regard to the statements made in paragraph 4 of the Written statement the Applicants

M.D. Anwar Hussain

begs to state that the same are not fully correct and hence denied by the Applicants. The instant Applicants who are working as Mazdoor, Mali and Chowkidar, are directly connected with the Hospital and Patient care. The Respondents stated in the reply statement that Mazdoors are required to load and unload store supplies in various storehouse. They are also required to verify and collect dirty clothes used by the patients from the stores thereby subjecting themselves prone to infection. In addition to their duties to look after all the hospital properties in and around hospital campus, the Chowkidar also have to do various emergency duties including Morgue duties etc. While performing the duties of gardening and looking after gardens and lawns in and around hospital campus the Malis are also exposed to regular infection. All in all and all added up, the duties of all the Mazdoors, Chowkidars & Malis involves with direct or indirect proneness to infection.

4. That with regard to the statement made in paragraph 5 of the Written statement the Applicants beg to offer no comments.

5. That with regard to the statement made in paragraph 6 of the Written statement the Applicants beg to state that in terms of the letter dated 8.11.1995 hospital patient care allowance was granted to the Group C & D employees (non-Ministerial) excluding staff nurses employed in Army Headquarters having 30 beds or more. As such, the instant Applicants were extended the benefits.

6. That with regard to the statements made in paragraphs 7, 8 & 9 of the Written statement the Applicants beg to reiterate the statements made at paragraphs 4.4, 4.5 & 4.7 of the O.A respectively.

M.D. *[Signature]*

7. That with regard to the statements made in paragraph 10 of the Written statement the Applicants beg to offer no comments thereon.

8. That with regard to the statements made in paragraph 11 of the Written statement the Applicants beg to state that Chowkidar, Mali & Mazdoor are deleted by the Respondents from eligibility categories on the ground that their duties do not involve continuous and routine contact with the patient making prone to infection. However, for the reason best known to them the categories like Ward Sahawak, Safaiwala/Safaiwali, Washerman, Barber, Female Attendant, Cook and Ward Boy were retained as eligible for the said benefits. In this regard it is categorically submitted that duties of Mazdoors, Mali & Chowkidar involve more contact with the patient with communicable disease thereby making themselves more prone to infection than the duties of especially Cook are not prone to infection. Similarly, since Sahawak, Safaiwala/Safaiwali, Washerman, Barber, Female Attendant and Ward Boy are considered eligible for the said benefits, the present Applicants cannot be deprived for the same as their duties cannot in anyway be considered less prone to communicable diseases than that of the aforesaid employees. By the same order based on the same criteria HPCA has been granted to Mess Waiter and Water Carrier also in the Air Force duties of whom are not more prone to infections to that of Chowkidar, Mazdoor and Mali. The Respondents are depriving the present Applicants from the HPCA in total discrimination as they are directly or indirectly prone to the infections.

9. That with regard to statements made in Paragraph 12 of the Written statement the Applicant beg to reiterate the statements made at paragraph 4.10 of the O.A. Applicants further contend that vide letter dated

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22.11.2005, pursuant to the directions of different courts, the employees who were not getting the benefits of HPCA were granted by the Respondents the HPCA at enhanced rates.

10. That with regard to the statements made in paragraphs 13, 14, 15, 16 & 17 of the Written statement the Applicants beg to reiterate and stand by the statements made at paragraphs 4.11 & 4.12 of the O.A. The Applicants further begs to state that duties of a Cook does not require to come to close contact with the patient whereas the duties of the present Applicants being Mazdoors, Chowkidars & Malis involve close contact to infectious materials. Based on the same eligibility criteria the Water Carriers & Mess Waiters in Air Force (Armed Forces Hospitals) are considered to be eligible for HPCA whereas the Applicants are deprived of though Applicants' duties are more prone to routine contact than the Water Carriers and Mess Waiters. The Applicants are equally eligible for payment of HPCA than that of Sahawak, Safaiwala/Safaiwali, Washerman, Barber, Female Attendant, Ward Boy & Water Carrier & Mess Waiter (in Air Force) Hence, the Applicants are illegally, arbitrarily and most discriminately deprived of HPCA which is not at all sustainable in the eyes of law.

11. That with regard to the statements made in paragraph 18 of the Written statement the Applicants have no comments.

12. That with regard to the statements made in paragraph 19 of the Written statement the Applicants beg to state the statements are not correct, misconceived and vague. The Applicants are entitled for the reliefs as prayed for in the O.A.

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Therefore, the Applicants respectfully submit that the Written statement filed by the Respondents is wholly bereft of substance and no credence ought to be given to it. Thus, in view of the abject failure of the Respondents to refute the contentions, averments, questions of law and grounds made by the Applicants in the Original Application filed by the Applicants deserved to be allowed by this Hon'ble Tribunal.

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### VERIFICATION

I, Shri Anowar Hussain, aged about 43 years, Son of Saukat Ali, P.No.6825932 working as Chowkidar, Office of the Commandant 155 Base Hospital, C/O 99 APO do hereby solemnly verify that the statements made in above rejoinder are true to my knowledge and rests are my humble submissions before this Hon'ble Tribunal. I have not suppressed any material facts.

And I sign this Verification on this the 2nd day of July 2007 at Guwahati.

M.D. Anowar Hussain

DECLARANT