50/100

5

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES,1990)

INDEX

O.A/~~T.A~~ No. 296/2006

R.A/C.P No.....

E.P/M.A No.....

1. Orders Sheet.....Pg. 01 .....to. 04 .....
2. Judgment/Order dtd. 05.07.2007 Pg. 01 .....to. 10 .....
3. Judgment & Order dtd.....Received from H.C/Supreme Court
4. O.A. 296/2006 .....Pg. 01 .....to. 47 .....
5. E.P/M.P.....Pg.....to.....
6. R.A/C.P.....Pg.....to.....
7. W.S. (R. No. 1 to 4.) .....Pg. 01 .....to. 05 .....
8. Rejoinder.....Pg.....to.....
9. Reply.....Pg.....to.....
10. Any other Papers.....Pg.....to.....
11. Memo of Appearance.....
12. Additional Affidavit.....
13. Written Arguments.....
14. Amendement Reply by Respondents.....
15. Amendment Reply filed by the Applicant.....
16. Counter Reply.....

SECTION OFFICER (Judl.)

FROM NO. 4
(SEE RULE 24)
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

1. Original Application No. 296 / 06
2. Mice Petition No. /
3. Contempt Petition No. /
4. Review Application No. /

Applicant(S) O.N. Sumathy Fors

Respondant(S) U.O.I Fors

Advocate for the Applicant(S) Mr. Rajesh Mazumdar. Parul Rai

Advocate for the Respondat(S) Addl. case: M.U. Ahmed

Notes of the Registry	Date	Order of the Tribunal
This application is in form is filed/C.F. for Rs. 50/- deposited vide IPO/BD No. 266.32.60.66 Dated 24.8.06 Dy. Registrar 4.12.06 Steps not taken	06.12.2006	Present: Hon'ble Sri K.V. Sachidanandan Vice – Chairman. There are 9 Applicants in this Application and they are receiving hospital patient care allowance right from September 2000 onwards. Their specific case is that they are entitled to the same from 1987 onwards. They also relied upon a Judgment passed by the Hyderabad Bench of the Central Administrative Tribunal (Annexure – 9) on identical issue, wherein that Court granted the relief. Heard Mr R. Mazumdar, learned counsel for the Applicants and Mr M.U. Ahmed, learned Addl. C.G.S.C. for the Respondents. Learned Counsel for the Respondents would like to take instructions. The learned Counsel for the parties have no objection in admitting the O.A. Accordingly, the Application is admitted. Issue notice to the Respondents. Contd/-

Contd/-

06.12.2006 The learned Counsel for the Respondents is specifically directed to take instructions as to whether the department against the order of the Tribunal has filed an appeal or not, if so outcome of the same.

Post 22.01.2006.

Vice-Chairman

/mb/

Notice & order
Sent to D/Section
for issuing to
R-1 to 4 by regd.
A/D post.
D/No- 01 to 04
Cks
4/01/07 Dt= 5-1-07.

22.1.2007 Mr.M.U.Ahmed learned Addl.C.G.S.C. submitted that he has not received any instruction as to the direction given on 6.12.2006 and sought for further time to file reply statement. Let it be done within four weeks

Post on 23.2.2007.

Vice-Chairman

/bb/

① Service report awaited.
19.1.07

No WS has been filed.
22.2.07.

23.2.07. Let this case be listed along-with identical matters.

Vice-Chairman

lm

No WS has been filed.
7.3.07.

8.3.2007 Mr.M.U.Ahmed, learned Addl. C.G.S.C. for the Respondents submitted that no instruction has been received. He further sought for further time to file reply statement. Let it be done.

Post on 10.04.2007.

Vice-Chairman

/bb/

9-3-07
no WS filed.

Notice duly served on R-2.

4. No WS has been filed.
7.5.07

OA.296/06

5.7.2007 Judgment pronounced in open Court, kept in separate sheets.

The O.A. is allowed in terms of the order. No costs.

Vice-Chairman

/bb/

Add. Cg. Sc

16.7.07
Copy of the Judgment
duly sent to the
Office for issuing
the same to the applicant
by post.
HS

Notes of the Registry	Date	Order of the Tribunal
No W/S has been filed. 8.6.07.	08.05.2007	Mr.M.U.Ahmed, learned Addl.C.G.S.C. requested for some more time to file reply statement. Further, he has read out a letter stating that the Respondents are actively considering the matter and are willing to grant the benefits to the Applicants. The only thing is that the matter is pending with various Ministries and it may take some time. However, Respondents are granted four weeks' further time to file reply statement along with annexing a copy of the letter read out today. Post on 11.06.2007. Vice-Chairman
12.6.07. W/s has been filed on behalf of the respondents 1 to 4. NS 12.6.07.	/bb/	
No reply has been filed. 26.6.07.	11.6.07.	Counsel for the respondents prays for time to file written statement. Let it be done. Post the matter on 27.6.07. Liberty is given to the counsel for the applicant to file rejoinder, if any. Vice-Chairman
	lm	
Received copy of the judgment 27/6/07 Addl.C.G.S.C	27.6.2007	Heard Mr R. Majumdar, learned counsel for the applicant and Mr M.U.Ahmed, learned Addl.C.G.S.C for the respondents. Hearing concluded. Judgment reserved. Vice-Chairman
	nkm	

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

.....

O.A. No. 296 & 314 of 2006.

DATE OF DECISION : 05-07-2007

O.N.Sumathy & Ors.
.....Applicant/s

Sri R. Mazumdar & P Paul
.....Advocate for the Applicant/s

-Versus –

Union of India & Ors.
.....Respondent/s

Mr. M.U.Ahmed and Miss U,Das
both Addl. C.G.S.C.
.....Advocate for the Respondent/s

CORAM

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

1. Whether reporters of local newspapers may be allowed to see the judgment ? Yes/No

2. Whether to be referred to the Reporter or not ? Yes/No

3. Whether to be forwarded for including in the Digest beingcompiled at Jodhpur Bench & other Benches ? Yes/No

4. Whether their Lordships wise to see the fair copy of the judgment ? Yes/No.

Vice-Chairman

5/7/07

Corrected as per order dated 24.8.07 passed in M.P.85 & 87 of 2007

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH

Original Application No.296 & 314 of 2006.

Date of Order : This the 5th Day of July, 2007.

THE HON'BLE SHRI K.V.SACHIDANANDAN, VICE CHAIRMAN

O.A. 296 of 2006

1. Pharmacist ON Sumathy
   Force No. 841540104
2. Nursing Assistant
   Sathibabu
   Force No.861191364
3. Nursing Assistant Swapna
   Adhya, Force No. 841310198
4. Nursing Assistant
   Meenakshiamma, Force No.
   871160378
5. Nursing Assistant GC
   Sharma, Force No.
   850878213
6. Laboratory Technician A
   Kalaimani, Force no
   851530128
7. Safai Karmachari N.Munan
   Singh, Force no 860870141

The above applicants are serving in Base Hospital III, Group Centre, CRPF, Guwahati.

8. Pharmacist Ajit Kumar
   Force No. 830210287, 169
   Bn, CRPF (at location)
9. Pharmacist Girish Pandey
   Force No. 750400587, 121
   Bn, Guwahati.

All the above are serving as Non-combatised Nursing personnel in the Central Reserve Police Force. .....Applicants

O.A. 314 of 2006

1. Nursing Assistant
   M.S.Sudhakaran
   Force no 882050038
2. Pharmacist Prafulla Kumar Sahu
   Force no 840720893
   (The above are serving in 6th
   Battalion, Central Reserve Police

Force, Kumar Ghat, Tripura.)
3. Nursing Assistant Kapil Deo Ram,
Force no 710559411, Group Centre,
Central Reserve Police Force,
Khatkhati, Assam

All the above are serving as non-combatised Group C and D personnel in the Hospitals of the Central Reserve Police Force. .....Applicants

By Advocate Shri R. Mazumdar

- Versus –

1. The Union of India,
Through the Secretary,
Ministry of Home Affairs,
New Delhi.
2. The Director General of Police,
Central Reserve Police Force,
Lodhi Road, CGO Complex,
New Delhi-110003.
3. The Director (Medical)
Directorate General, CRPF,
East Block, 10 R.K.Puram,
New Delhi.
4. The Inspector General (Medical)
Central Reserve Police Force,
Group Centre, Amerigog,
Guwahati. .....Respondents

By Mr M.U.Ahmed, Addl.C.G.S.C (O.A.No.296/06)
& Miss U. Das, Addl. C.G.S.C (O.A. 314/2006)

ORDER

SACHIDANANDAN K.V. (V.C)

The claim in these O.As are identical and relief that has been sought and documents relied on are also the same and therefore with the consent of the parties this common order has been passed.

2. There are 9 applicants in O.A.296/06 and 3 applicants in O.A.314/06. All these applicant are served as non combatised nursing

personnel and Hospital staff of the Central Reserve Police Force (CRPF). The pleading is that they are entitled to get Hospital Patient Care Allowance (HPCA) which was not granted to them and therefore they have filed these applications seeking the following reliefs.

> "Direct the respondents to sanction the Hospital Patient Care Allowance to the applicants for the period from 1.8.1987 to 7.9.2000 as the revised rates sanctioned by the Government of India vide orders dated 28.9.1998 and 2.1.1999, as has been done in respect of similarly situated employees, by declaring the action of the respondents in not paying the Hospital Patient Care Allowance to the applicants for the period to be arbitrary, discriminatory and illegal."

3. The respondents have filed a detailed written statement contending that the application is hit by principles of waiver, estoppels and acquiescence and liable to be dismissed. The Government of India vide letter dated 29.9.1989 had introduced a scheme for combatisation of Group C & D Hospital staff and since then all the posts are being filled by combatised or to continue in civilian posts till superannuation. Some therefore opted for combatisation. Some of those hospital staff filed court cases in various courts for sanction of Patient Care allowance and the Hon'ble courts passed orders in their favour. In implementation of the court orders they were sanctioned patient care allowance. Subsequently, the Union of India filed SLP No.1093/95 in the Hon'ble Supreme Court in Union of India vs. T.M. Jose and others and stay was granted on 13.9.1996. Accordingly patient care allowance was stopped. In the meantime the Government of India MHA vide letter dated 8.9.2000 allowed Patient Care Allowance w.e.f. 8.9.2000 to Group C & D civilian (Non combatised) employees of BSF, CRPF, CISF,

Assam Rifles and National Police Academy, Hyderabad at the same rates as was being given to the employees similarly placed in the CGHS dispensaries or Central Govt. Hospitals in Delhi/outside Delhi on the same term and conditions. Accordingly the Directorate General vide letter dated 22.9.2000 passed orders to sanction PCA/HPCA to all the eligible civilian hospital staff with effect from 8.9.2000 and the Hon'ble Supreme Court dismissed the SLP. The case was referred to MHA for grant of PCA/HPCA to all the combatised Group C & D Hospital staff as applicable to non combatised Group C & D Hospital staff and the Ministry of Finance vide letter dated 14.1.2002 decided to grant the PCA/HPCA only to those combatised Group C & D Hospital staff who were petitioners in court cases. Sanction was accorded to civilian eligible staff during the pendency of the SLP. However, a case was again referred to MHA for grant of PCA/HPCA to all the combatised Group C & D Hospital staff which is still under consideration with the Ministry of Finance. The contention of the applicants is not tenable. Payment of PCA to Group C & D (Non Ministerial) employees working in the Central Government Hospital and not to the para medical staff of CRPF. Since the petitioners are working in CRPF which is under the control of MHA the above order is not applicable to them. The Govt. of India, Ministry of Health and Family Welfare vide their letter dated 25.1.88 had issued orders for payment of PCA to Group C & D (Non-ministerial) staff working in the Central Govt. Hospitals and Hospitals under the Delhi administration only and not to the Para Medical Staff of CRPF. The rates of HPCA/PCA was revised for the employees who

were in receipt of the said allowance continuously. The applicants who were involved in various court cases have been given the benefit on the basis of the judgment pronounced by the Hon'ble Courts. The respondents submitted that the applicants are getting the benefit of HPCA/PCA from 8.9.2000 i.e. from the date from which the benefit has been extended to them. The proposal for extension of the benefit of HPCA/PCA to combatised Group C & D non ministerial staff of Central Para Military forces under consideration in their Ministry in consultation with Ministry of Finance/Ministry of Law and the issue is likely to take some more time to take decision and considering that VIth CPC had since began working with a task of recommending allowances to the Govt. employees, as such Central Para Military forces may take time from the court in case any court order pending compliance on the issue.

4. Heard Mr R. Majumdar, learned counsel for the applicants and Mr M.U.Ahmed,Addl.C.G.S.C and Miss U. Das, Addl.C.G.S.C for the respondents. Learned counsel appearing for the parties have taken me to the various pleadings, evidence and materials placed on record. Counsel for the applicant has argued that the applicants are getting the HPCA/PCA from 8.9.2000 and this was granted as per circular dated 8.9.2000 as per the scheme that was initiated. There is no reason to deny them the said benefit to the applicants. The learned counsel for the respondents have very persuasively argued that the HPCA/PCA was granted to the applicant who have approached the court.

5. I have given due consideration to the arguments advanced by the counsel for the parties and materials placed on record. Annexure-1 is the circular dated 25.1.88 whereby the HPCA was granted to Group C and D (Non ministerial) Hospital employees.

> "With reference to DCMS No. B.12017/3/87-MH dated 9.4.87 on the subject mentioned above. I am directed to convey the sanction of the President to the grant of Hospital Patient Care Allowance to Group 'C' and 'D' (Non-Ministerial) employees including Drivers of Ambulance Cars, but excluding Staff Nurses, at the rate of Rs.80/- and Rs.75/- per month respectively with night weightage allowance, if sanctioned by the Central Government, will be admissible to those employees working in the Central Government Hospitals and Hospitals under the Delhi Administration.
>
> The expenditure involved will be met out of the budget grant of the concerned Hospital during the financial year i.e. 1987-88.
>
> This issued with the concurrence of Ministry of finance vide their Dy. No. 1167/FS/27 dated 15.10.87."

The Annexure-II letter dated 28.9.1998 shows that the said scheme has already been sanctioned by the President and implemented by the Govt. of India at the revised rate to the various categories of person with effect from 1.8.1987. This is again reiterated in Annexure-III letter dated 2.1.1999. In the case of Civil Rule No.1417/95 dated 12.3.96 before the Hon'ble Gauhati High Court which has dealt with the subject matter passed the order. Operative portion of which is reproduced below :

> "Accordingly this writ application is allowed with the direction it would be fit and proper to direct that all the applicants in this Civil Rule, who are para-medical staff should get hospital patients care allowance as per instruction of the Government of India dated 25.1.88 subject to the condition mentioned therein. This order should be implemented

within a period of 3 months from the date of receipt of this order. The petitioners may obtain the certified copy of this order to produce the same before the authority to do the needful in terms of this order.

It is made clear that the Petitioners are para-medical staff but they are working in different hospitals.

This disposes of this writ application."

This Bench of the Tribunal in O.A.9/95 dated 10.6.1996 in tune with the order of the Hon'ble Gauhati High Court, granted the benefit. The operative portion of the order is quoted as under :

"Under the facts and circumstances we direct the respondents to pay the "Hospital Patients Care Allowance to the applicants in accordance with the O.M.No.Z.28015/60/87-H, dated 25.1.1988 (Annexure-1 to this OA) at the monthly rate applicable to each applicant and from the date of admissible to each one of them after obtaining an undertaking from them individually to the effect that the amount paid will be refunded by them in full if as the result of the aforesaid appeal before the Hon'ble Supreme Court it is found that the allowance is not admissible to them.

Considering that the period for which payment is to be made may date back to as early as 1987, we allow the respondents reasonable time for implementation of this order. In no case, however, the respondents shall delay the payment beyond 31.10.1996.

The application is allowed in terms of the directions given above. No order as to costs."

Subsequently the writ appeal filed by the applicant was allowed by the Hon'ble Gauhati High Court vide Annexure-VI order. The operative portion of the said order is quoted below :

"Accordingly this Writ Appeal is allowed and the Writ Petition i.e. Civil Rule No.4029/96 shall also stand allowed. In Civil rule No.1417/95 (Niranjan Das & 23 Others, Petitioner v. Union of India, Respondent) by order dated 12.3.96, the Writ petition was allowed and the same benefit was given to the writ petitioners. The order passed by the learned Single Judge in this case shall stand quashed in view of the

order of disposal of the appeal by the Supreme Court."

In another judgment of the Hon'ble Gauhati High Court in WP(C) 474 of 2003 dated 30.9.2004 the Hon'ble High Court observed as follows :

> ".....Thus the stand of the respondents is not on the ground of ineligibility of the petitioners to get the said allowance. The only ground is that, since the petitioners have not approached the court of law, they are not entitled to get similar benefit as was given to the other similarly situated person. The principles involved in granting the aforesaid allowance have already been finalized by this court in the aforementioned Writ Petition i.e. Civil Rule No.1417/95 which has since been affirmed by the Apex court. Thus, the principles laid down in the said judgment shall be equally applicable to the similarly situated persons. If the petitioners are similarly situated, I see no reason to deprive them of the benefit of the aforesaid allowance, merely because, they are not party to the said judgment of this court".

The applicant also made representation dated 30.5.2005 for grant of the said benefit. Thereafter, the Hyderabad Bench of the Tribunal in O.A.243/2005 had the occasion to consider the issue for granting the benefit to the applicant. The operative portion of the said order is reproduced below :

> "That being the position, as the applicant is similarly situated to that of the applicants before the Bangalore Bench of this Tribunal is entitled to get the same relief as has been granted by the Bangalore Bench of this Tribunal. The respondents are therefore directed to pay the applicant the HPCA with effect from 1.8.1987 or from the date of his appointment which ever is later at the rates of allowance sanctioned to Group 'C' and 'D' non ministerial hospital employees by order dated 25.1.1988 and revised by order dated 28.9.1998 and subsequent order of revision of the allowance. The respondents shall complete the above exercise within a period of two months from the date of receipt of a copy of this order.

> In the result, the O.A. is allowed to the extent indicated above with no order as to costs."

I am in respectful agreement with the orders of the Hyderabad Bench of the Tribunal. Further, when the matter came up for hearing the counsel for the respondents submitted that as per letter dated 9.4.2007 the matter is under active consideration of the Additional Deputy Inspector General of Police, Group Centre, CRPF, Guwahati and order has already been passed on 9.4.07. The relevant portion of the said letter is reproduced below :

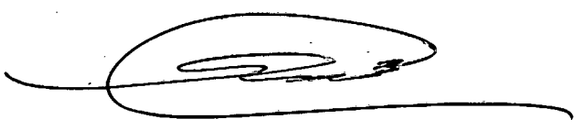
> ""A case for grant of Hospital patient care allowance/patient care allowance to all combatised Group 'C' and 'D' Hospital staff is under consideration with Ministry of Home Affairs in view of judgment pronounced by various courts. Further quoted that, MHA vide their UO No. II-27012/31/2006.PF III dated 19.3.07 have intimated that "the proposal for extension of the benefit of Hospital patient care allowance/patient care allowance to combatised Group 'C' and 'D' non ministrial staff of Central Para military forces under consideration in their ministry in consultation with Ministry of Finance/Ministry of Law and the issue is likely to take some more time to take a decision and considering that Vth CPC had since begun working with a task of recommending allowances to the Govt. employees, as such Central Para Military forces may take time from the court in case any court order pending compliance on the issue."

The counsel for the applicant submitted that the said order is only pertains to the combatant Group 'C' and 'D' non ministerial staff and not for non combatant Group 'C' and 'D' employees and therefore the said order is not pertaining to the interest of the applicant.

Considering the entire issue involved in these cases and accepting the judgment of the Hyderabad Bench of the Tribunal I am of the view that these applicants are also entitled to get the same benefit

if the orders passed by the Tribunal has attained finality. This aspect may be verified by the respondents and if so they are hereby directed to pass appropriate orders accordingly and communicate the same to the applicants of these O.As within a period of 4 months from the date of receipt of copy of this order and pay PCA/HPCA for the period from 1.8.1987 to 7.9.2000 as the revised rates sanctioned by the Government of India vide orders dated 28.9.1998 and 2.1.1999.

In the result, the O.A. is allowed to the extent indicated above with no order as to costs.



(K.V.SACHIDANANDAN)
VICE CHAIRMAN

pg

17

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

ORIGINAL APPLECATION NO. 296/06

1. a) Name of the Applicat:- O.N. Sumathy Nos

b) Respondants:- Union of India & Ors

c) No. of Applicant(S) :-

2. Is the application is the proper form:- Yes/No.

3. Whether name & desription and address of the all papers been furnished in cause title :- Yes/ No.

4. Has the application been dully signed and varified :- Yes / No.

5. Have the Copies duly signed :- Yes / No.

6. Have sufficiant number of copies of the application been filed:-Yes/No.

7. Whether all the annexure parties are impleaded :-Yes/No.

8. Whether English translation of ducuments in the Language : Yes/No.

9. Is the application is in time :- Yes/No.

10. Has the Vakalatnama/Memo of appearance/Authorisation is filed:-Yes/No.

11. Is the application by IPO/BD/For Rs: 50/- 266326066

12. Has the application is maitanable :- Yes/No.

13. Has the Impugned order original duly attested been filed : Yes/No.

14. Has the ligible copies of the annexures dully attested filed:-Yes/No.

15. Has the Index of ducuments been filed all available:- Yes/No.

16. Has the required number of envoloped bearing full address of the respondants been filed:- Yes/ No.

17. Has the declaration as required by item 17 of the form:- Yes/No.

18. Whether the relief sought for arises out of the single :- Yes/ No.

19. Whether the interim relief is prayed for :- Yes/ No.

20. In case of condonation of delay is filed is it supported :-Yes/No.

21. Whether this Case can be heard by Single Bench/~~Division Bench:~~

22. Any other point:-

23. Result of the Scrutiny with initial of the Scrutiny clerk the application is in order:-
The application is in order.

4.12.06
SECTION OFFICER(J)

DEPUTY REGISTRAR

18

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: GUWAHATI BENCH: GUWAHATI

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

ORIGINAL APPLICATION NO.....296...../2006

ON Sumathy and others

.....APPLICANTS

VS

Union of India and others

.....RESPONDENTS.

Index

Filed by

Rajesh Mazumdar.

(Advocate)

THE CENTRAL ADMINISTRATIVE TRIBUNAL:
GUWAHATI BENCH: GUWAHATI
O A NO...296...../2006

O.N. Sumathy and others
Vs.
Union of India and others

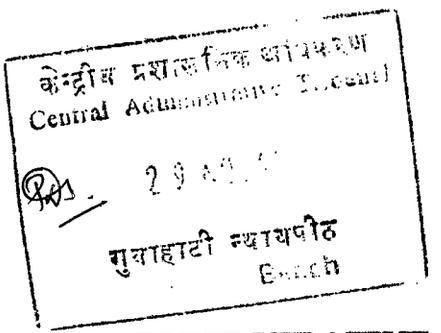
LIST OF DATES AND SYNOPSIS

The applicants are serving as non combatised Nursing personnel and Hospital Staff of the Central Reserve Police Force. The applicants have a common cause of action and as such are approaching this Hon'ble Court vide a common application.

25-01-1988	The Government of India sanctioned Hospital Patient Care Allowance (HPCA) to Group C and D Non-Ministerial Staff of Central Govt. Hospital.
28-09-1998, 02-01-1999	The rates of the aforesaid allowance were revised.
12-03-1996	Civil Rule 1417/95 disposed of granting Hospital Patient Care Allowance (HPCA) to medical staff of CRPF.
10-06-1996	OA No. 09/1995 disposed of by this Hon'ble Tribunal upholding the right of Non-combatised employees to the allowance.
07-10-2001	Hon'ble Supreme Court dismissed Civil Appeal No. 11985/96 and 1093/95 filed by CRPF and thereby confirmed eligibility of paramedical staff of CRPF to Hospital Patient Care Allowance (HPCA).

	Applicants are being paid HPCA from September 2000 onwards. The allowance from October 1987 to September 2000 has not yet been paid.
30-05-2005	Representation by applicant for grant of HPCA from October 1987 to September 2000.
05-08-2005	Hon'ble CAT, Hyderabad bench, disposed of OA No. 243/05 filed by similarly placed hospital staff directing the CRPF to pay Hospital Patient Care Allowance from 01-08-1987 or from his date of appointment whichever is later as per order dated 25-01-1988 and as revised by order dated 28-09-1998 and any subsequent order.

It is submitted that the question of entitlement of the Hospital Staff to the HPCA has been answered in the affirmative by the Hon'ble Tribunals, High Courts and the Hon'ble Supreme Court. The attempt of the respondents to deprive the applicants of their HPCA from the day it was introduced/ sanctioned by the competent authority and/or from the date of their appointment is not only illegal but also violative of the Principles of Equal Pay for equal work inasmuch as, similarly placed personnel have been afforded the HPCA from 1987/the date of their initial appointment. Hence this application.



Filed by applicants through Rajesh Kumar Adv.

Gopal - CH. SARMA

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: GUWAHATI BENCH: GUWAHATI

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

ORIGINAL APPLICATION NO.....296...../2006

1. Pharmacist ON Sumathy Force no 841540104
2. Nursing Assistant Sathibabu Force no 861191364
3. Nursing Assistant Swapna Adhya, Force no 841310198
4. Nursing Assistant Meenakshiamma, Force no 871160378
5. Nursing Assistant GC Sharma, Force no 850878213
6. Laboratory Technician A Kalaimani, Force no 851530128
7. Safai Karmachari N. Munan Singh, Force no 860870141

(The above are serving in Base Hospital III, Group Center Guwahati, Central Reserve Police Force.)

8. Pharmacist Ajit Kumar, Force no 830210287, 169 Bn, CRPF (at location)
9. Pharmacist Girish Pandey, Force no 750400587, 121 Bn., Guwahati.

All the above are serving as non-combatised Nursing personnel in the Central Reserve Police Force and are within the territorial jurisdiction of this Hon'ble Tribunal)

.....APPLICANTS

-Vs-

1. The Union of India, Through the Secretary, Ministry of Home Affairs, New Delhi.

22

2. The Director General Of police, Central Reserve Police Force, Lodhi Road, CGO Complex, New Delhi-110003.
3. The Director (Medical) Directorate General, CRPF, East Block, 10, R.K. Puram New Delhi, 110066
4. The Inspector General (Medical) Group Center, Central Reserve Police Force, Guwahati, Amerigog.

..... Respondents

Gopal - CH- SARMA

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

This application is made against the non-payment of the Hospital Patient Care Allowance to the applicants from October 1987 onwards or their date of joining services whichever was later, though they are legally entitled to the same and similarly placed personnel have been given the same.

2.Jurisdiction of the Tribunal.

The applicants declare that the subject matter of this application is within the Jurisdiction of the Hon'ble Tribunal and that the applicants are serving within the territorial jurisdiction of this Hon'ble Court.

3.Prayer to approach this Hon'ble Tribunal by a joint petition. under Rule 4(5)(a) of Central Administrative Tribunal (Procedure) Rules, 1987.

23

3.1. That the applicants have a common cause of action and the nature of relief sought for is similar and as such they have a common interest in the matter. The applicants are Group C and D non-combatised hospital staff serving in the hospitals of the Central Reserve Police Force and as such fall in the same class. The applicants have authorized Nursing Assistant G C Sharma, Force no. 850878213 to sign and verify the contents of the present application filed before this Hon'ble Tribunal. The applicants crave the leave and permission of this Hon'ble Tribunal to join together and file a single petition seeking a common relief.

Gopal-CH SARMA

4.Limitation

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

5.Facts of the case.

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

5.2. That the applicants are serving as Non-combatised Nursing Personnel and Hospital Staff in Hospitals of the Central Reserve Police Force.

5.3. That the applicants, in addition to their salary are entitled to all the benefits and allowances as are applicable to the Nursing personnel and Hospital Staff serving in the other

24

Central Government Health Services. As such, the applicants are also entitled to Patient Care Allowance at the same rate as is applicable to the nursing Personnel serving under the Central Reserve Police Force and other Central Health Services.

5.4 That the Government of India, Ministry of Health and Family Welfare vide letter dated 25.1.88 conveyed the sanction of the president of the grant of Hospital Patient Care Allowance to Group " C " and " D" non Ministerial employees including drivers of ambulance cars, but excluding the staff Nurses @ Rs- 80/- and Rs. 75/- per month respectively with effect from 1.2.89 subject to the condition that no night weight age allowance if sanctioned by the Central Government, will be admissible to these employees working in the Central Government hospitals and hospitals under the Delhi Administration. The aforesaid letter was issued with the concurrence of Ministry of Finance vide their DO NO. 1167/ PM/ 87 dated 15.10.87.

Copy of letter dated 25.1.88 of the Government of India, Ministry of Health and Family Welfare is annexed herewith and marked ANNEXURE-I

5.5 That the scheme of granting Hospital Patient Care Allowance to the Group " C" and " D ' (Non- Ministerial

85

Hospital employees) was later on revised by yet another communication of the Government of India, Ministry of Health and Family Welfare dated 28.9.98. Pursuant to the aforesaid communication, the rates of Hospital Patient Care allowance care revised from Rs 80 /-per month to Rs. 160/- per month in the case of Group " C' non- Ministerial Hospital staff and from Rs. 75/- per month to Rs. 150/- per month in the case of Group "D', Non- Ministerial Hospital employees.

Copy of the letter of the Government of India, Ministry of Health and Family welfare dated 28.9. 98 is annexed herewith and marked as ANNEXURE-II.

Gopal. Ch. 30.8.04

56 That the Government of India, Ministry of Health and Family welfare by yet another communication dated 2.1.99 further revised the rate of Hospital Patient Care Allowance from Rs. 160/- per month to Rs. 700/- per month in the case of Group- C employees (Non- Ministerial) working in Central Government Hospitals and Hospitals under National Capital Territory Of Delhi and other Union Territories and from Rs. 150/- per month to Rs. 695/- per month in the case Group " D' employees (Non- Ministerial) working in Central Government hospitals and under the Delhi and other union Territories.

26

Copy of the letter of the Government of India, Ministry of Health and Family Welfare dated 2. 1. 99 is annexed herewith and marked as ANNEXURE-III.

5.8 That a certain non-combatised Para-medical staff of CRPF working in some Base Hospital approached the Principal Bench of the Central Administrative Tribunal, New Delhi stating that though the Para-medical staff of CRPF working in Bhubaneswar Hospital are being granted the Hospital Patient Care Allowance, but they are not given the said benefit. The Principal Bench of the Central Administrative Tribunal while allowing the application held that it would be discriminatory if the Paramedical staff in working in Bhubaneswar Hospital in CRPF received the benefit of the allowance and the other similar paramedical staff working in other hospital is not extended the same benefit. Consequently the Ld. Tribunal directed that all the Applicants in the Original Application who are paramedical staff should be granted Hospital Patient Care Allowance at the appropriate rate from the relevant date as per Government of India's instruction dated 25.1.88 and 28.2.90 subject to the conditions stated therein.

Copied - the Order

5.9 That like the Principal Bench of Central Administrative Tribunal, New Delhi, another order was passed by the Central

Administrative Tribunal, Hyderabad Bench, to the same effect.

5.19 That placing reliance on the aforesaid two orders of the Principal Bench, Central Administrative Tribunal, New Delhi and Hyderabad Bench of the Central Administrative Tribunal, 24 numbers of paramedical staff of Base Hospital, Group center, CRPF, Amerigog, Guwahati-23 approached this Hon'ble Court in Civil Rule No- 1417/95. This Hon'ble Court vide its order dated 12.3.96 allowed the writ petition with the direction that all the applicants of the Civil Rule who are paramedical staff should get Hospital Patient Care Allowance as per instruction of the Government of India dated 25.1.88 subject to the condition mentioned therein. It was also directed to implement the order within a period of three months from the date of receipt of the order.

Copy of the order-dated 12.3.96 passed by the Hon'ble Gauhati High Court in civil rule No. 1417/95 is annexed herewith and marked as ANNEXURE-IV

5.20 That this Hon'ble Tribunal in OA no 9/1995, vide order dated 10th day of June 1996 had also upheld the right of the Civilian Employees of working under the Hospitals of the Central Reserve Police Force to the hospital Patient Care

28

allowance in accordance with OM No Z.28015/60/87-H dated 25-1-1988.

Copy of the order dated 10-6-1996 passed in OA no 9/1995 by this Hon'ble Tribunal is annexed as Annexure V

Annexure-IV

5.11 That the Union of India had filed a SLP Civil Appeal no 11985 of 1996 and 1093 of 1995 before the Supreme Court of India challenging the orders passed the Principal Bench and the Hyderabad Bench of the Central Administrative Tribunal. The respondents had agitated the question of law as to whether the paramedical staff of the Central Reserve Police Force would be entitled to the benefit of Patient Care Allowance. The Supreme Court vide its order dated 17-10-2001 has dismissed the Appeals filed by the respondents. The issue of the eligibility of the paramedical staff to the patient care allowance has been decided in the affirmative by the Supreme Court vide its order dated 17-10-2001.

5.12 That similar issue came up in another form before the Division Bench of the Hon'ble Gauhati High Court in Writ Appeal NO. 155/97. The aforesaid Writ Appeal was allowed by the Hon'ble Court vide order dated 18.3.2002 mentioning the fact that the special Leave petition preferred before the Hon'ble Supreme Court challenging the legality of the

payment of Hospital Patient Care Allowance to the paramedical staff of the CRPF was dismissed by the Hon'ble Supreme Court.

Copy of the order of the Hon'ble Court dated 18.3.02 passed in writ Appeal No. 155/97 is annexed herewith and marked as ANNEXURE- VI.

5.13 That the entitlement of the Group C and D (non-ministerial) Civilian Employees working in the Hospitals of the Central Reserve Police Force at par with the Hospital staff working serving in the Central Health Services is no longer Res - integra and has been settled by several decisions of the Ld. Administrative Tribunals, the High Courts and the Hon'ble Supreme Court. This fact is also reflected in the order dated 30-9-2004 passed by the Hon'ble Gauhati High Court in WP (c) no 474/2003, in which the non-payment of hospital Patient Care allowance to similarly placed combatised hospital staff of the Central Reserve Police Force was deprecated by the Hon'ble Court.

A True copy of the order dated 30-9-2004 passed in WP(c) no 474/2004 is annexed hereto as Annexure VII.

5.14 That the applicants in the present Original application have been given the benefit of Hospital Patient Care Allowance with effect from September 2000. The allowance as

Gopal-cit-30Aug.

30

applicable to the applicants from October 1987 has not yet been paid to them for reasons best known to the respondents.

5.15 That it is stated that other similarly situated civilian personnel working in the Hospitals run by the Central Reserve Police Force have been allowed the hospital Patient Care Allowance at the rates applicable to them from AUGUST 1987 as per the circular dated 25-1-1988 and subsequent circulars enhancing/revising the rate of Hospital Patient Care Allowance as applicable to them.

5.16 That the applicant placed their claim for entitlement of Hospital Patient Care allowance from AUGUST 1987 as per circular dated 25-1-1988 and/or from their date of appointment, which ever is later.

A copy of the representation dated 30-5-2005 preferred by Sri ON Sumathy, Force no 841540104, is annexed hereto as Annexure VIII.

5.17 That OA no 243/2005 was filed by a similarly placed Hospital staff before the Ld. Central Administrative Tribunal, Hyderabad Bench praying for a direction to the respondents to sanction Hospital Patient Care Allowance to the applicant fro the period 1-8-1987 to 7-9-2000 as per the revised rates sanctioned by the Government of India, vide letters dated 28-

3/

9-1998 and 2-1-1999 as had been done in respect of similarly situated employees. The Hon'ble Tribunal vide order dated 5-8-2005 was pleased to direct the respondents to pay the applicant the Hospital Patient Care Allowance from 1-8-1987 or from the date of his appointment, whichever is later, at the rates of allowance sanctioned to Group C and D non-ministerial hospital employees by order dated 25-1-1988 and revised by order dated 28-9-1998 and subsequent orders of revision of the allowance.

Gopal - CH - SARMA

A copy of the orders dated 5-8-2005 passed by the Hon'ble Tribunal is annexed as Annexed as IX.

6. That the applicants are challenging the action of the respondents in not paying Hospital Patient Care to the applicants from 1-8-1987 to 7-9-2000 as per revised rates sanctioned vide orders dated 28-9-1998 and 2-1-1999 on the following amongst other

Grounds.

32

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

6.2 For that the question of entitlement of the applicants to Hospital Patient care allowance as per order dated 25-1-1988 and subsequent OM on the issue is no longer res-Integra but is a settled position of law. The respondents are acting illegally in denying the applicants the due benefit from the date from they were entitled to the benefit, i.e. 1-8-1987 or their date of appointment which ever is later.

6.3 For that the respondents have acted illegally and arbitrarily when they have taken a stand that since the applicants have not approached the Court of Law, they would not be entitled to the benefit as is being given to other similarly situated persons.

6.4 For that the action of the respondents in denying the applicants the benefit of an allowance which is allowed to other similarly situated persons is in clear violation of the principles of the equality and as such the respondents are liable to directed by this Hon'ble Court

Gopal - CH - SHARMA

33

to grant the Hospital Patient Care allowance to the applicants from 1-8-1987 or from the date of their appointment whichever is later in accordance with the circulars passed by the Government of India in this regard.

Gopal - CH - SAR MA

6.5 For that the respondents have acted in gross violation of the principles of "equal pay for equal work " when they have denied the benefit of Hospital patient Care Allowance to the applicants from the same date as given to other similarly situated persons.

6.6 For that it is humbly submitted that the entitlement of the applicants would arise from the date since when other similarly situated persons are drawing the allowance.

6.7 For that it is submitted that since the entitlement of persons working in the hospitals of the Central Reserve Police force has already been settled by Courts of law, the act of the respondents in attempting to curtail the entitlement is without any force and against all canons of law.

7. DETAILS OF REMEDIES EXHAUSTED: -

There is no other alternative and efficacious remedy available to the applicants except invoking the Jurisdiction of this Hon'ble Tribunal under section 19 of the Administrative Tribunal Act. 1985.

8 MATTERS NOT PREVIOUSLY FILED OR PENDING WITH ANY OTHER COURT:

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

9. RELIEF SOUGHT FOR:

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

9.1 Direct the respondents to sanction the Hospital Patient Care allowance to the applicants for the period from 1-8-1997 to 7-9-2000 as the revised rates sanctioned by the Government of India vide orders dated 28-9-1998 and 2-1-1999, as has been done in respect of similarly situated employees, by declaring the action of the respondents in not paying the Hospital Patient Care Allowance to the applicants for the period to be arbitrary, discriminatory and illegal; and

35

Gopal - Ch- SARMA

9.2 Grant the cost of this application in favor of the applicants and against the respondents; and

9.3 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.

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

(i) I P O number:266-326066
(ii) Date: 24-8-2006
(iii) Issued by the Guwahati post office
(iv) Payable at Guwahati.

11. **LIST OF ANNEXURES:**

As stated in the Index to the application.

15(A)

VERIFICATION

I, Sri GOPAL CH SARMA,

NURSING ASSISTANT, aged about 46 years, serving in the Base hospital III, Group Centre Guwahati, Central Reserve police Force, being authorized by the other applicants in the instant application do hereby solemnly verify that the statements made in paragraphs no 1,2,4,5(1,2,3,7),7,8. are true to the best of my knowledge and the statements made in paragraphs 5(4-17), 10, 11, being matters of records are true to my information derived therefrom and which I believe to be true and the rest are my humble submissions before this Hon'ble Tribunal.

And I sign this verification on this 20th day of November, 2006 at Guwahati.

Gopal CH SARMA

ANNEXURE-I

No. 2.28015/60/87-H
Government of India
Ministry of Health & Family Welfare

Nirman Bhawan, New Delhi.
Dated the 25th January 1988

To

1. Director General of Health Services, Nirman Bhawan, New Delhi
2. The Secretary (Medical), Delhi Administration, P. Sammanth Marg, Delhi-110054

Subject : Grant of Hospital Patient Care Allowance to Group 'C' and 'D' (Non-Ministerial) Hospital employees.

Sir,

With reference to DCMS No. B.12017/3/87-MH dated 9.4.87 on the subject mentioned above, I am directed to convey the sanction of the President to the grant of Hospital Patient Care Allowance to Group 'C' and 'D' (Non-Ministerial) employees including Drivers of Ambulance Cars, but excluding Staff Nurses, at the rate of Rs.80/- and Rs.75/- per month respectively with effect from 1.2.89, subject to the condition that no night weightage allowance, if sanctioned by the Central Government, will be admissible to those employees working in the Central Government Hospitals and Hospitals under the Delhi Administration.

2. The expenditure involved will be met out of the budget grant of the concerned Hospital during the financial year i.e. 1987-88.

3. This issues with the concurrence of Ministry of Finance vide their Dy. No. 1167/FS/27 dated 15.10.87.

Yours faithfully,

Sd/- Illegible
Under Secretary to the Government of India

Copy forwarded to :

1. Medical Superintendent, Safdarjung Hospital, New Delhi.
2. Medical Superintendent, Dr.R.M.L. Hospital, New Delhi.
3. Principal, Lady Hardinge Medical College & Smt. S.P. Hospital, New Delhi.
4. Ministry of Finance, Department of Expenditure.

True Copy

Rajesh Mazumdar
Advocate

ANNEXURE-II

Government of India

Ministry of Health& Family Welfare

Nirman Bhawan. New Delhi.

Dated the 28th September 1998

To

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

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

Sir.

I am Directed to convey the sanction of the president of revise the rate of Hospital patient Care Allowances payable to Group "C" and "D"(Non- Ministerial) Hospital employees and patient Care Allowance payable to Group "C" and D" (Non- Ministerial) CGHS employees w.e.f. 1.8.1987. The revised rates will be as under:

1. Group "C" (Non- Ministerial: Hospital employees	From Rs. 80/- p.m. to Rs. 160/- p.m.
2. Group "D" (Non- Ministerial): Hospital employees	From Rs. 75/- p.m. to Rs. 150/- p.m.
3. Group "C" & "D" (Non- Ministerial) CGHS employees	From Rs. 70/- p.m. to Rs. 140/- p.m.

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 letter No. B. 28015/60/ 87-H dated 25.1.1988.

True Copy
Rajesh Mazumda.
Advocate

Z.28015/102/ 88-H dated 30.10.1989 and B-11011/1/90-CGHS dated 10.7.90.

4. The expenditure involved will be met out of the budge grant of concerned hospitals/CGHS Organisation for the year 1998-99.

Your faithfully.

Sd/- Illegible.

UNDER SECRETARY TO THE GOVERNMENT OF INDIA.

Copy to:

1. The Additional Director (CGHS). Nirman Bhawan, New Delhi.
2. The Medical Superintendent. Dr. Ram Manohar, Lohia Hospital New Delhi.
3. The Medical Superintendent. Safdarjung Hospital. New Delhi.
4. The Principal & Medical Superintendent. Lady Hardinge Medical College Associate Hospitals. New Delhi.
5. The Director, Central institute of psychiatry. Kane, Ranchi, Bihar.
6. The Director, All India institute of physical Medicine& Rehabilitation. Hajin ali Park. Mahalaxmi. Mumbai- 100034
7. The Director Central Leprosy Teaching&Reasearch institute, Tirumani, Chegalpattu, Tamil nadu.
8. The Medical Superintendent. Regional Leprosy Training & Research institute. P.O. Aska (Bangalore). Distt. Ganjam. Orissa.
9. The Medical Officer. In charge. Regional Leprosy Training& Research Institute, Latur, Post Box No. 112, Raipur 449701 (MP)
10. The Director, Regional Leprosy Training& Research Institute, Souripur, Bankura, West Bengal.

Sd/-

(LAL SINGH)

UNDER SECRETARY TO THE GOVERNMENT OF INDIA.

Copy to:

1. The principal Secretary, HAFW. Govt. of ND. Delhi-5, Satyanath Marg, Delhi/ commissioner, MCD.Delhi/secretary. NDMC. New Delhi.
2. The Administrator, Chandigarh Administration, Chandigarh.
3. The Administrator, Andaman& Nicobar Islands, port Blair.
4. The Administrator, Daman& Diu. Moti Daman. Daman.
5. The Administrator, UT of Lakshadweep, Kavarati via Calicut.
6. The collector, Dadra& Nagar Haveli. Silvasa-206230.
7. The Secretary H & FW department. Pond cherry, Pond cherry.
8. The Director, Lala Ram Swaroop Institute of TB& 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 D. Kumar, under secretary (E.III (A). Ministry of Finance (D/O Expenditure). North Block. New Delhi.
13. The Secretary, Ministry of Home Affirs (UT Division North Block. New Delhi.]
14. DDG (M) / IDG (HA)/ DDA (H)/ MH section/ Leprosy section/ ME section.
15. PH section/CCD section/ MH (UG) Desk / ME (PG) Desk / CGHS (F) / Finance Desk II.
16. PPS to secretary/pps to cc (H) ps to ch (FA) .
17. Sanction Register/ Guard File.

Sd/- (LAL SINGH)

UNDER SECRETARY TO THE GOVERNMENT OF INDIA.

No. 2.28015/41/90-H(I)
Government of India
Ministry of Health & Family Welfare

Nirman Bhawan. New Delhi.
Dated the 02nd January 1999

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 covey the sanction of the President of revise the rate of Hospital Patient Care Allowance payable to Group 'C' and 'D' (Non-Ministerial) hospital employees and Patient Care Allowance payable to Group 'C' and 'D' (Non-Ministerial) employees working in CGHS Dispensaries, w.e.f. 29th December 1998. The revised rates will be as under :

1) Group 'C' employees (non-Ministerial) working in Central Government hospitals and hospitals under the National Capital Territory of Delhi and other Union Territories.	From Rs. 160/-per month to Rs.700/- per month.
2) 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
3) Group 'C' and 'D' (non-Ministerial) CGHS 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 Ministry's letters No.

True Copy

Rajesh Nagendra
Advocate

B.28015/60/87-H dated 25th January 1988, Z.28015/102/88-H dated 30th October 1989 and B.11011/1/90-CGHS(P) dated 10th July 1990.

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

4. This issues with the disposal of Ministry of Fin. (Department of Expenditure) vide D.O. No. 19050/1/98.E IV dated 05 December 1998.

Sd/-
(LAL SINGH)
UNDER SECRETARY TO THE GOVT. OF INDIA

Copy to :

1. The Additional Director (CGHS), Nirman Bhawan, New Delhi.
2. The Medical Superintendent, Dr. R.M.L. Hospital, New Delhi.
3. The Medical Superintendent, Safdarjung Hospital, New Delhi.
4. The Principal & Medical Superintendent, LHMC & Associate Hospitals, New Delhi.
5. The Director, Central Institute of Psychiatry, Ranchi, Bihar.
6. The Director, All India Institute of Physical Medicine & Rehabilitation, Haji Ali Park, Mahalaxmi, Mumbai-400034.
7. The Director, Central Leprosy Teaching & Research Institute, Tirumani, Chegalpattu, Tamil Nadu.
8. The Medical Superintendent, Regional Leprosy Training & Research Institute, P.O. Aska (Balanpore), Distt. Ganjam, Orissa.
9. The Medical Officer, Incharge, Regional Leprosy Training & Research institute, Latur, Post Box No. 112 Raipur, 410701 (Madhya Pradesh).
10. The Director, Regional Leprosy Training & Research Institute, Souripur, Bankura, West Bengal.

Sd/-
(LAL SINGH)
UNDER SECRETARY TO THE GOVT. OF INDIA

Copy to :

1. The Principal Secretary, H&FW, Govt. of NCT of Delhi, Math Marg, Delhi/Commissioner, MCD, Delhi/Secy. NDMC, New Delhi.
2. The Administrator, Chandigarh Administration, Chandigarh.
3. The Administrator, Andaman & Nicobar Islands, Port Blair.
4. The Administrator, Daman & Diu, Moti Daman, Daman.
5. The Administrator, UT of Lakshadweep, Kavarati Via Calicut.
6. The Collector, Dadra & Nagar Haveli, Silvasa-206230.

7. The Secretary H & FW Deptt., Pondicherry, Pondicherry.
8. The Director, Lala Ram Swaroop Institute of TB & Allied Diseases, New Delhi.
9. The Director, All India Institute of Medical Sciences, N.Delhi.
10. The Director, Postgraduate Institute of Medical Education & Research, Chandigarh.
11. Ministry of Labour, Shram Shakti Bhavan, New Delhi.
12. The Director, ESIC, Kotla Road, New Delhi.
13. Shri D. Kumar, Under Secretary (E.III(A), Ministry of Finance (D/O Expenditure), North Block, New Delhi.
14. The Secretary, DOP&T, North Block, New Delhi.

No.2-28015/41/98-II(L).

15. Secretary, Railway Board, Ministry of Railways, Rail Bhavan, New Delhi.
16. Secretary, Ministry of Home Affairs, North Block, New Delhi.
17. The Secretary, Ministry of Home Affairs (UT Divn.), North Block, New Delhi.
18. DDG(M)/IDG(HA)/DDA(H)/MH Section/Leprosy Section/ME Section.
19. PH Section/CCD Section/MH (UG) Desk/ME(PG) Desk/CGHS(P)/Finance Desk II.
20. PPS to Secretary/PPS to CC(H)/PS to CH (FA).
21. Sanction Register/Guard file.

Sd/-
(LAL SINGH)
UNDER SECRETARY TO THE GOVT. OF INDIA

Sd/-

Copy also to :

(i) Shri Ram Kishan, Co-Convenor, Joint Council of JACHKU, CHEF ESI & AIIMS, K-45, Srinivaspuri, New Delhi-110065.

(ii) Shri R.B. Pandey, Convenor, Joint Council of JACHKU, CHEF, ESI AIIMS Unions, H.O. Aggarwal Bhavan, G.T. Road, Tis Hazari, DELHI-110054.

(LAL SINGH)
UNDER SECRETARY TO THE GOVT. OF INDIA

ANNEXURE IV - 23 -

ANNEXURE-P/

IN THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM:NAGALAND:MEGHALAYA:MANIPUR
TRIPURA:MIZORAM & ARUNACHAL PRADESH)

CIVIL RULE NO. 1417/95

Sri Nikunja Das & Ors. ... Petitioners

- Versus -

Union of India & Anr. ... Respondents

P R E S E N T

THE HON'BLE MR. JUSTICE J.N. SARMA

For the Petitioner : Mr.S. Dutta
Mr. K.K. Dey

For the Respondent : C.G.S.C.

Date
12.3.96

O R D E R

This case has been filed by 24 persons, all employees of G.C. C.R.P.F. Hospital, working in different hospital whereby they claim that the Respondents may be directed to pay to them the Hospital patient care allowance as per the Government instruction dated 25.1.88, Annexure-I including the arrear allowances. Annexure-I is quoted below :

"Subject : Grant of Hospital Patient Care Allowance to Group 'C' and 'D' (Non-Ministerial) Hospital employees.

Sir,

With reference to DCMS No. B.12017/3/87-MH dated 9.4.87 on the subject mentioned above, I am directed to convey the sanction of the President to the grant of Hospital Patient Care Allowance to Group 'C' and 'D' (Non-Ministerial) employees including Drivers of Ambulance Cars, but excluding Staff Nurses, at the rate of Rs.80/- and Rs.75/- per month respectively with effect from 1.2.89, subject to the condition that no night weightage allowance, if sanctioned by the Central Government, will be admissible to those employees working in the Central Government Hospitals and Hospitals under the Delhi Administration.

2. The expenditure involved will be met out of the budget grant of the concerned Hospital during the financial year i.e. 1987-88.

3. This issues with the concurrence of Ministry of

True copy
Rajesh Majumdar
Advocate

Finance vide their Dy. No. 1167/FS/27 dated 15.10.87."

In this case there was an order on the same matter by the Central Administrative Tribunal, New Delhi wherein paragraph-6 the Central Administrative Tribunal pointed out as follows :

"6. It would be discriminatory if para-medical staff working in Bhubaneswar Hospital, C.R.P.F. receive the benefit of this allowance and the other similar para-medical staff working in other hospitals and who have filed this application are not extended the same benefit. Accordingly it would be fit and proper to direct that all those applicants in this O.A. who are para medical staff should be granted hospital patient allowance at the appropriate rate from the relevant date as per Govt. of India instructions dated 25.1.1988 and 28.2.1990 subject to the conditions stated therein. This order should be implemented within a period of three months from the date of receipt of the copy of this order. There will be no orders as to costs."

To the same effect there was an order passed by the Central Administrative Tribunal, Hyderabad. It is admitted by Shri K.N. Choudhury that there are such orders. But he submitted that he has filed an appeal before the Supreme Court and in that appeal a notice has been issued and the matter is now pending before the Apex Court. Sri Dutta, learned Advocate for the Petitioner submits that he is willing to give an undertaking on behalf of his client that the same order be passed in this case subject to the result of the appeal pending before the Apex Court. Accordingly this writ application is allowed with the direction it would be fit and proper to direct that all the Applicants in this Civil Rule, who are para-medical staff should get hospital patients care allowance as per instruction of the Government of India dated 25.1.88 subject to the condition mentioned therein. This order should be implemented within a period if 3 months from the date of receipt of this order. The Petitioners may obtain the certified copy of this order to produce the same before the authority to do the needful in terms of this order.

It is made clear that the Petitioners are para-medical staff, but they are working in different hospitals.

This disposes of this writ application.

Sd/- J.N. Sarma
Judge

Annexure-P/5

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 9 of 1995

Date of decision: This the 10th day of June, 1996

Hon'ble Shri G.L. Sanglyine, Member (A)
Hon'ble Shri D.C. Verma, Member (J)

Shri Ajit Kumar Jain and 22 Ors. ...Applicant
-Versus-
The Union of India & Ors.

ORDER

SANGLYINE G.L. (MEMBER (A)

23 Group C Civilian employees working under the hospitals of the CRPF hospitals at Guwahati and Bongaigaon have filed this instant original application. They have been allowed to join in one single application vide our order dated 16.1.1995. They are aggrieved against non-payment hospital care allowance to them by the respondents. Their claim that according to the scheme of the Government of India dated 25.1.1988 (Annexure-1) in this regard they are entitled to the allowance with effect from 1.12.1987. Further, they have pointed out that similarly placed employees have been granted the allowance pursuant to the order dated 3.2.1994 of the Central Administrative Tribunal, Principal Bench, New Delhi in O.A. No. 931/1993 and order dated 24.2.1994 in O.A. No. 151/1994 of the Central Administrative Tribunal, Hyderabad Bench. Some of the employees working in the Base Hospital III CRPF Guwahati were also applicants in the aforesaid O.A. 931/1993. The learned counsel for the applicants further pointed out that some employees of the same organization based in Imphal had approached the Hon'ble Gauhati High Court with a prayer for granting them the hospital care allowance and have been granted the allowance by the Hon'ble Gauhati High Court in terms of the order dated 12.3.1996 in Civil Rule No. 1417/95.

2. Mr. A.K. Choudhury, learned Addl. CGSC, pointed out that the respondents had filed SLP before the Hon'ble Supreme Court against the order of Hyderabad Bench mentioned above and payment of the allowance some applicants in that case was conditional in terms of para (illegible) of the sanction order No. J-II-6/93-28H-EC-II dated 23.11.1994 (Annexure-4), that is, the applicants were to give an undertaking that the amount paid to them will be refunded in full by them in case the final result before the Hon'ble Supreme Court is against them. He also pointed out that in Civil Rule

True Copy

Rajesh Mozumder
Advocate

No. 1417/95 also order was issued in favour of the Petitioners would give undertaking that the order will be subject to the result of the appeal before the Hon'ble Supreme Court. He submits on instruction that the respondents are agreeable to pay the allowance under similar terms and conditions.

3. Under the facts and circumstance we direct the respondents to pay the "Hospital Patients Care Allowance" to the Applicants in accordance with the O.M. No. Z 28015/60/87-H, dated 25.1.1988 (Annexure-1 to this OA) at the monthly rate applicable to each Applicant and from the date admissible to each one of them after obtaining an undertaking from them individually to the effect that the amount paid will be refunded by them in full if as the result of the aforesaid appeal before the Hon'ble Supreme Court it is found that the allowance is not admissible to them.

4. Considering that the period for which payment is to be made may date back to as early as 1987, we allow the respondents reasonable time for implementation of this order. In no case, however, the Respondents shall delay the payment beyond 31.10.1998.

5. The application is allowed in terms of the directions given above. No order as to costs.

Sd/-

MEMBER (A)

Sd/-

MEMBER (J)

ANNEXURE VI

IN THE GAUHATI HIGH COURT

(THE HIGH COURT OF ASSAM, NAGALAND, MEGHALAYA, MANIPUR, TRIPURA, MIZORAM AND ARUNACHAL PRADESH)

WRIT APPEAL NO 155 OF 1997

1. Sri Chandra Sekhar Pandey.
2. sri Siba Kumar Baruah
3. Sri Mukesh Kumar
4. Sri SurajBhan
5. Sri Nitya Ranjan Ojha
6. Sri Sukhdev Singh
7. Smti. Laxmi
8. Sri K Katma
9. Sri Nauratan Singh
10. Sri Dhurbha Dulal
11. Sri Ajay Kumar

Appellants no 1 to 10 are employees jof base Hospital-III, CRPF Guwahati 23.

Appellant no 11 is the employee under the Commandant, 126 Battalion, Aboypur, Amingaon, Guwahati-31.

...Appellants.

-Versus_

1. The Union of India, represented by the Home Secretary, Government of India, new Delhi.
2. The Secretary to the Government of India, ministry of Health & Family Welfare, New Delhi.
3. The Director General, CGO Complex NO. 1, CRPF, Lodhi Road, New Delhi.
4. The Chief medical Officer, Base Hospital No-III, 9-Mile, CRPF Complex, Gauhati-23.
5. The Commandant, 126 Bn. CRPF, Amingaon, Guwahati-31.

.....Respondents

True Copy
Rajesh Mazumdar
Advocate

PRESENT

THE HON'BLE MR. JUSTICE JN SARMA

THE HON'BLE MR. JUSTICE I.A.ANSARY

Appearance for the appellants.....None

Appearance for the respondents.....Mr. P.N. Choudhury, C.G.S.C.

Date of hearing ...18/3/2002

Date of Judgment (Oral) ...18/3/2002

Hon'ble Mr. Justice JN Sarma

JUDGMENT (ORAL)

1. Earlier on 2/9/97 this Court passed the following order:-

"Learned Addl. C. G. S. C brought to our notice that the very question of law that is involved in this appeal is now being considered by the Supreme Court in SLP Civil Appeal No. 11985 of 1996 and 1093/95. By virtue of the order of the Hon'ble Supreme Court dt. 13-9-1996 there is a stay order granted by the Supreme Court. The direction of the Central Administrative Tribunal, Hyderabad for payment of allowances of the para medical staff has been stayed. A copy of the stay order has been produced by the learned Addl C. G. S. C. Therefore, this Court may await the decision of the Supreme Court in the above cases.

In view of the foregoing reasons, the matter stands adjourned for two weeks."

2. Sri Choudhury, learned Advocate for Union of India has produced before us an order dated 17/10/2001 where-from it appeared that Supreme Court dismissed the appeal filed by Union Of India and in that view of the matter the benefit which was given by the Learned Single Judge of this Court in earlier matters which was agitated before Apex Court shall hold the field. The

petitioners are working in different Hospitals and they are entitled to the same benefit.

3. Accordingly this Writ Appeal is allowed and the Writ petition, i.e. Civil Rule No 4029/96 shall also stand allowed. In Civil Rule No. 1417/95 (Niranjan Das & 23 Others, Petitioner v. Union of India, Respondent) by order dated 12/3/96, the writ petition was allowed and the same benefit was given to the writ petitioners. The order passed by the learned Single Judge in this case shall stand quashed in view of the order of disposal of the appeal by the Supreme Court.

Sd/- I A Ansari
Judge

Sd/- J N Sarma
Judge

Application for copy.	Date fixed for notifying the requisite number of stamps and folios.	Date of requisite stamps and folios.	Date on which copy was ready for delivery.	Date of delivery of the requisite stamps and folios.
15/10/02	15/10/02	15/10/02	15/10/02	15/10/02

ANNEXURE VII

- 30 -

IN THE GAUHATI HIGH COURT

(High Court of Assam, Nagaland, Meghalaya, Manipur, Tripura, Mizoram & Arunachal Pradesh)

CIVIL APPELLATE SIDE

Appeal from WP(C) No. 474 of 2002

Civil Rule

N/Asstt. Sanjay Kumar Panday & ors. — Appellant / Petitioner

Versus

Union of India & ors. — Respondent / Opposite Party

Appellant / Petitioner For Mr. S. Dutta, Ms. M. Choudhury at Guwahati, Mr. S. Chakraborty

Respondent / Opposite Party For C.G.S.C.

Noting by Officer or Advocate	Serial No.	Date	Office notes, reports, orders or proceedings with signature
1	2	3	4

True Copy

Rajesh Mazumder

Advocate

In the matter of :-

1. N/Asstt.Sanjay Kumar Pandey,
No. 923060864
Son of Late Daban Pandey,
Base Hospital- 3
C.R.P.F., Amerigog,
Guwahati- 23.

Gauhati High Court at Guwahati

2. Cook Satender Prasad
No. 913050251
Son of Sri Bansi Prasad,
Base Hospital- 3
C.R.P.F., Amerigog,
Guwahati- 23.

3. S/K Peer Mohammad
No. 742070048
Son of Late Abdul Sukur
Base Hospital- 3
C.R.P.F., Amerigog,
Guwahati- 23.

contd...

4. S/K Rannu Nissa
No. 832100052
Wife of Peer Mohammad,
Base Hospital- 3
C.R.P.F.
Guwahati- 23.

5. Chowkidar
Rajender Manjhi,
No. 912070053
son of Late Shivji Manjhi
Base Hospital- 3
C.R.P.F., Amerigog,
Guwahati- 23.

6. S/K Jai Kishan,
No. 961320056,
Son of Ratan Lal,
Base hospital- 3,
C.R.P.F., Amerigog,
Guwahati- 23.

7. Cook Tarini Garo
No. 922100015
son of Garga Garo
G.C. KKH,
Khatkhati,
Assam.

contd...

Gauhati High Court

8. Masalchi Devender Tiwary
No. 821190154
Son of Sri Shiv Janam Tiwari,
Base hospital- 3
Base Hospital- 3,
C.R.P.F.,
Amerigog,
Guwahati- 23.

9. Cook B. Manoharan
No. 811220059
Son of N. Bhaskaran
Base Hospital- 3
C.R.P.F., Amerigog,
Guwahati- 23.

Gauhati High Court at Guwahati

10. W/Men Prakash Razak
No. 981110047
Base Hospital- 3
C.R.P.F., Amerigog,
Guwahati- 23.

11. S/k M. Savitri
No. 911271394
Wife of Late M. Satyanarayan
Base Hospital- 3
C.R.P.F., Amerigog,
Guwahati- 23.

contd..

12. ASI/ Pharmacist

Wpha Blo

No. 9821[illegible]27

Wife of Bino Mathew

Base Hospital - 3,

C.R.P.F.,

Guwahati- 23.

13. ASI (Lab. Tech.)

S. Mukhopadhyay

No. 832100159,

Son of Late Gajanan Mukhopadhyay,

Base Hospital- 3,

C.R.P.F. ,Amerigog,

Guwahati- 23.

14. N/Asstt. Noor Jahan

No. 923040408

Wife of Samad Khan,

Base Hospital- 3,

C.R.P.F., Amerigog,

Guwahati- 23.

15. T/Boy Nityanand Sinha

No. 832100141

Son of Late RamBallabh Sinha

Base Hospital- 3,

C.R.P.F., Amerigog,

Guwahati- 23.

contd...

Gauhati High Court at Guwahati

16. S.F.S.M. Uddab Kalita
No. 992100065
Son of RupDhan Kalita
Base Hospital-3
C.R.P.F., Amerigog,
Guwahati- 23.

17. A.S.I./Pharmacist,
S. Karunakaran,
Son of Late H. Sirapitha,
Base Hospital-3,
C.R.P.F., Amerigog,
Guwahati- 23.

Gauhati High Court at Guwahati

18. A.S.I./Pharmacist,
D. Balavoi
No. 8[illegible]152028
S/o S. Karunaharan,
Base Hospital- 3
C.R.P.F., Amerigog,
Guwahati- 23.

19. Washarman,
Mahammad Sadik,
No. 911174247
S/o Pran Miya
Base Hospital- 3

contd...

C.R.P.F., Amerigog,
Guwahati- 23.

20. Safai Karmachari
Kusum Devi
No. 921110169
W/o Dilip Kumar Sahu
Base Hospital- 3
C.R.P.F., Amerigog,
Guwahati- 23.

Gauhati High Court, Guwahati

21. Safai Karmachari
Bhirdu Basfar,
No. 881560131
Son of Late Mahajan Basfar
Base Hospital -3
C.R.P.F., Amerigog,
Guwahati- 23.

22. Safai Karma-chari
Dileep Singh
No. 992100056,
Son of Sri Akhay Singh,
Base Hospital- 3
C.R.P.F.,
Amerigog,
Guwahati- 23.

contd....

-37+4

8

- 8A -

23. ASI/ Pharmacist
Subrata Das
No. 001180012
118 Bn,
C.R.P.F. Hospital,
Dhaligaon, Bongaigaon,
Assam.

... PETITIONERS.

- Versus -

Gauhati High Court at Guwahati

1. The Union of India
represented by the Secretary
to the Govt. of India,
Department of Home Affairs,
North Block,
New Delhi.

2. The Secretary,
to the Govt. of India,
Ministry of Health and
Family Welfare,
New Delhi.

3. The Director General,
C.G.O. Complex No. 1,
Central Reserve Police Force,
Lodhi Road,
New Delhi.

contd...

7

115

58

4. The Director (Medical)
Directorate General,
Central Reserve Police Force,
East Block,
R.K. Puram,
New Delhi-66.

5. The Chief Medical Officer,
Base Hospital- 3
Central Reserve Police Force,
Amerigog,
Guwahati- 23.

... RESPONDENTS.

Gauhati High Court at Guwahati

Serial No.	Date	Office notes, reports, orders or proceedings with signature
2	3	1

Date 30.9.2004 WPC No 474/03

BEFORE

THE HON'BLE MR JUSTICE B.K.SHARMA

Heard Mr.S.Dutta learned counsel for the petitioners and Mr H.Rahman assigned C.G.S.C for the respondents.

The grievance made in this writ petition is in respect of non-payment of Hospital patients care allowance as per the Annexure- 1 notification dated 25.1.88 which the petitioners claim to be entitled to.

Gauhati Mr Dutta, learned counsel for the petitioners submits that the issue is no longer res integra and has already been decided by this court in WP©No.1417/95(Sri Nikunja Das and others Vs Union of India and others on 12.3.96). Mr. Dutta further submits that the said order dated 12.3.96 of this court was carried on appeal before the Apex Court and the Apex Court affirmed the said order dismissing the S.L.P. preferred by the respondents. The S.L.P. was dismissed by the Apex Court by order dated 17.10.2001.

The petitioner made a representation dated 19.11.02(Annexure 8 to the writ petition) before the departmental authority asking for extension of

nt-8/01-80,000 21-8-2001

	Serial No.	Date	Office notes, reports, orders or proceedings with signature
	2	3	4

similar benefit as was extended to other similarly situated persons who were the petitioners in Civil Rule No.1417/95. However, the respondents took the plea that since the present petitioners were not involved in the said Writ Petition i.e. Civil Rule No.1417/95, they were not entitled to the said allowances. In fact, such a stand has been taken in the affidavit-in-opposition filed by the respondents. In Para-13 of the said affidavit-in-opposition, the respondents have stated that since the petitioners were not involved in any court cases, they were no sanctioned the said allowance. The stand of the respondents in the said affidavit-in-opposition is that as per the orders of Director(Medical) vide Sl. No.J.II-2/2002-Med.II MHA dated 18.1.03 the aforesaid allowance to be sanctioned to the persons who were Group 'C and D' Combatised Hospital staff only who were petitioners of various court cases and orders for granting the said allowance had been passed by the Court. Thus the stand of the respondents is not on the ground of ineligibility of the petitioners to get the said allowance. The only ground is that, since the petitioners have not approached the court of law, they are not entitled to get similar benefit as was given to the other similarly situated persons. The principles involved in granting the aforesaid allowance have already been finalized by this court in the aforementioned

Court-8/01-80,000 2-8-2001

Serial No.	Date	Office notes, reports, orders or proceedings with signature
2	3	4

Writ Petition i.e Civil Rule No.1417/95 which has since been affirmed by the Apex Court. Thus, the principles laid down in the said judgment shall be equally applicable to the similarly situated persons. If the petitioners are similarly situated, I see no reason to deprive them of the benefit of the aforesaid allowance, merely because, they are not party to the said judgment of this court.

For the forgoing reasons and discussions, I dispose of this writ petition with a direction to the respondents to grant the Hospital patients care allowance to the petitioners as per the Annexures 1 and 2 letters dated 25.1.88 and 11.7.90 and the aforesaid judgment of this court which has since been affirmed by the Apex court. Needless to say, that the respondents shall examine as to whether the present petitioners are similarly circumstanced with that of the petitioners in the aforesaid Writ Petition and are in fact entitled to the benefit as mentioned in Annexures 1 and 2 letters mentioned above.

The writ petition stands allowed. No costs.

Gauhati High Court at Guwahati

CERTIFIED TO BE TRUE COPY
Date 5/10/95
Superintendent (Copying Section)
Gauhati High Court
Authorised U/S 76, Act 1 1872

ANNEXURE VIII

- 42 -

62

TRUE TYPED COPY

TO

Te CMO i/c

BH-3, CRPF

Guwahati-23.

Sub: DRAWAL OF P. C. A ARREAR.

With due regard I beg to say that I non-combatised pharmacist O N Sumathy had joined the hospital on 1/7/03 on transfer from 102 Bn. RAF. I am getting PCA Rs. 700/- per month with pay from /9/00 after dismissal of SLP filed by the department. This PCA was due from 10/87. As per GOI order. Arrear of PCA from the period 10/87 to Aug 2000 has not drawn and paid to me.

It is therefore requested that arrear of above period may please be drawn and arrange to pay me.

I shall be highly grateful for your act of this kindness.

Yours faithfully

SD/-

DTED 30/5/2005 ON SUMUTHY PHARMACIST

BH-3 CRPF GHY-23

True Copy

Rajesh Mazumdar

Advocate

IN THE CENTRAL ADMINSTRATIVE TRIBUNAL: HYDERABAD BENCH: HYDERABAD

OA No 243 of 2005
Date of Decision:05-08-2005

Between:

B. Mohan Das, S/o V. Nanu (late)
Working in Base Hospital 2, Group Centre
Campus, Central Reserve Police Force,
PO Keshogiri, Hyderabad.

..Applicant

AND

1. The Director General Of Police, Central Reserve Police Force, Lodhi Road, CGO Complex, New Delhi- 110003
2. The Director-Medical, Directorate of Central Reserve Police Force, East Block-10, Level-7 RK Puram, New Delhi-110 006.
3. The Chief Medical Officer, Base Hospital-2 Group Center Campus, Central Reserve Police Force, PO Keshogiri,
   Hyderabad- 550 005

.....Respondent

Counsel for the applicant: Mr. V. Janapathi
Counsel for the respondents: Mr. M. C. Jacob.

CORAM:

The HON'BLE MRS. BHARATI RAY, MEMBER (JUDL)

ORDER

(PER HON'BLE Mrs. Bharati Ray, Member, (J))

This application has been filed seeking for a direction to the respondents to sanction the Hospital Patient Care Allowance (hereinafter referred to as "HPCA") to the applicant for the period from 1.8.1987 to 7.9.2000 as per the revised rates sanctioned by the Government of India, vide letters dated 28.9.1998 and 2.1.1999, as has been done in respect of similarly situated employees by declaring

True copy
Rajesh Mazumder
Advocate

the action of the respondent in not paying the HPCA to the applicant in the revised rates for the said period as arbitrary , discriminatory and illegal.

2. The applicant, who is the permanent employee in the Central Reserve Police Force (CRPF) in the cadre of Steward, is a present working on the posted strength of the 3rd respondent Unit situated at Hyderabad. The Government of India vide letters NO Z.28015/60/87-H dated 25.1.1988 and No. Z.28015/6087-H dated 28.2.1990 have conveyed the sanction of the President for the grant of HPCA with effect from 1.12.1987 to the Group 'C' and 'D' employees. Initially, sanction of was made applicable to the staff working in the Government Hospitals in Delhi and outside Delhi, having 30 beds or more. It is the contention of the applicant that since he is working in the CRPF Hospital right from the date of his initial appointment, he is entitled for HPCA as per the revised rates in accordance with the orders issued by the Government of India from time to time on par with the hospital staff employed in the Government Hospitals, as declared by the various Benches of this Tribunal.

3. The applicant while posted at Guwahati approached the Guwahati Bench of this Tribunal by filing OA No. 9 of 1995 against the inaction on the part of the respondents in not paying the applicant the HPCA. The Guwahati Bench of this Tribunal, vide its order dated 10.6.1996 allowed the said OA with the following order:

> "under the facts and circumstances, we direct the respondents o pay the "Hospital Patient Care Allowance" to the applicants in accordance with the OM No Z.28015/60/87-H dated 25.1.1988 (Annexure –1 to this OA) at the monthly rate applicable to each applicant and from the date admissible to each one of them after obtaining an undertaking from them individually to the effect that the amount paid will be refunded by them in full if as the result of the aforesaid appeal before the Hon'ble Supreme Court it is found that the allowance is not admissible to them."

Since the said judgment was not challenged by the respondents before the Hon'ble Supreme Court, the same has attained the finality. It is the contention of the applicant that as per the judgment dated 10.6.1996 passed in OA No. 9/1995, the applicant was paid HPCA

from 1.12.1987 to 7.9.2000 in the pre-revised rates i.e. @ 75/- per month from 8.9.2000, he was paid HPCA as per the revised rates. In the context, it is stated by the applicant that the rates of HPCA payable to Group 'C' and 'D' (non-ministerial) Hospital Employees were revised by the Government of India's letter dated 28.9.1998 as under:

" The revised rates w.e.f. 1.8.1987 as per GOI letter dated 28.9.1998 are as under:-

1. Group 'C' (non-ministerial) hospital employees : Rs. 80/- p.m to Rs. 160/- p.m.
2. Group 'D' (non-ministerial) hospital employees : Rs. 75/- p.m to Rs. 150/- p.m.
3. Group 'C' & 'D' (non-ministerial) CGHS employees : Rs. 80/- p.m to Rs. 160/- p.m.

Some similarly situated employees have approached the Bangalore Bench of this Tribunal by filing OA Nos. 1093/2002 and batch seeking for the following reliefs:-

"i) issue a direction directing the respondents to extend the benefit of Hospital Patient Care Allowance to them at the rate of Rs. 80/- per month for the period 15.10.1987 to 1.8.1997 at Rs. 160/- p.m. from 1.8.1997 to 2.1.1999 and at Rs. 700/- p.m. from 2.1.1999 to 8.9.2000 and to applicants 6 and 7 at Rs. 75/- per month from 15.10.1987 to 1.8.1997 at Rs. 150/- p.m. from 1.8.1997 to 2.1.1999 and at Rs. 695/- p.m. from 2.1.1999 to 8.9.2000 in terms of Government orders and Supreme Court orders; and

ii) Grant such other relief or reliefs as this Hon'ble Court deems fit to grant in the circumstances of the case in the interest of justice."

The Bangalore Bench of this Tribunal allowed the said OA with the following direction:

" in the light of these facts, the respondents ate directed to pay the applicants the Hospital Patient Care Allowance w.e.f. 1.8.87 or from the dates of their appointments whichever is later, at the rates of the allowance sanctioned to Group C and D non-ministerial hospital employees by order dated 25.1.1988 (Annexure A-1) and revised by order dated 28.9.1998 (Annexure A-2) and subsequent orders of revision of the

allowance. The order shall be implemented with within a period of three months from the date of receipt of a copy of this order. The O.As are accordingly allowed. No costs."

4. Heard Mr. V. Jagapathy, ld. Counsel for the applicant and Mr. NC Jacob, ld Standing Counsel for the respondents. I have gone through the facts and material papers placed before me. I have also gone through the judgments relied upon by the parties.

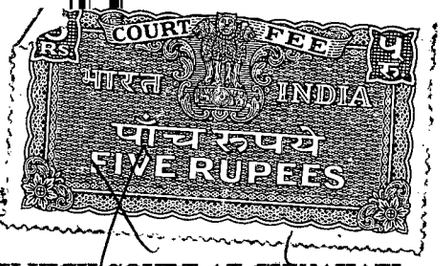
5. The respondents have taken objection on the point of limitation. In this context, referring to the judgment of the Hon'ble Supreme Court in the case of MR GUPTA V. UNION OF INDIA AND OTHERS. ((1995) 5 SCC 628), ld. Counsel for the respondents submitted that since the Order of the Guwahati Bench of this Tribunal has been implemented by the respondents and the applicant was granted HPCA as per directions of the Ministry from 8.9.200, the relief claimed by the applicant for revised HPCA with effect from 1.1.1997, is beyond the period of limitation as per the A.T.A, 1985. Referring to the judgment of the Hon'ble Supreme Court in the case of STATE OF KARNATAKA AND OTHERS V. S M KOTRAYYA AND OTHERS ((199..) 6 SCC 267), the ld. Counsel for the respondents submitted that the applicant cannot approach this Tribunal at any time on the basis of the order subsequently passed by the Tribunal in another case. In the above case, the Hon'ble Court has held that the mere fact the applicants filed the belated application immediately after coming to know that in similar claims relief had been granted by the Tribunal, is not a proper explanation to justify condonation of delay.

6. However, it is not denied by the respondents that the applicant is similarly situated to that of the applicants before the Bangalore Bench of this Tribunal. It is also seen from the Order of the Bangalore Bench of this Tribunal dated 17.4.2003 passed in OA nos. 1093/2002 and Batch, that the respondents therein also taken the point of limitation and in the said case this Tribunal had also considered the judgment of the Hon'ble Supreme Court in the case of MR GUPTA V. UNION OF INDIA AND OTHERS (supra) and held that the right to fixation of correct salary is a continuous cause of action and that salary includes allowances. Moreover, it is evident from the Order dated 28.9.1998 that the rate of allowance has been revised by the said order subject to the terms and conditions for payment of HPCA as mentioned in the Ministry's letter dated 25-1-1998. the Guwahati

Bench of this Tribunal Had Allowed the HPCA allowance in terms of the Ministry's Letter dated 25-1-1988. Therefore, it is obvious that the applicant is entitled to the revised rate of HPCA in terms order subsequent to the order dated 25.1.1988, which is sanctioned subject the conditions stipulated in order dated 25.1.1988. Therefore, in view of the above, the question of limitation in this case does not arise.

7. That being the position, as the applicant is similarly situated to that of the applicants before the Bangalore Bench of this Tribunal is entitled to get the same relief as has been granted by the Bangalore Bench of this Tribunal. The respondents are therefore directed to pay the applicant the HPCA with effect from 1.8.1987 or from the date of his appointment which ever is later at the rates of allowance sanctioned to Group 'c' and 'D' non ministerial hospital employees by order dated 25.1.1988 and revised by order dated 28.9.1998 and subsequent orders of revision of the allowance. The respondents shall complete the above exercise within a period of two months from the date of receipt of a copy of this Order.

8. In the result, the OA is allowed to the extent indicated above with no Order as to costs.



VA

IN THE GAUHATI HIGH COURT AT GUWAHATI
(THE HIGH COURT OF ASSAM, NAGALAND, MEGHALAYA, MANIPUR, TRIPURA, MIZORAM AND ARUNACHAL PRADESH)
CAT / Guwahati Bench.

(CIVIL / CRIMINAL.....JURISDICTION)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI

OA No. 296 of 2006

ON Sumathy and Ors.

Applicant/Petitioner

-Vs-

Director General, CRPF, and others.

Respondent/Opposite party

On behalf of the Petitioner/Respondent/applicant S.....

Know all men by these presents that the above named Petitioner, do hereby nominate, constitute and appoint Rajesh Mazumdar and Parul Rai and such of the Advocates as shall accept this Vakalatnama to be my/our true and lawful Advocate to appear and act for me/us in the matter noted above and in connection therewith and for that purpose to do all acts whatsoever in that connection including depositing or drawing money, filing in or taking out papers, deeds of composition, etc for me/us and on my/our behalf and I/we agree to ratify and confirm all acts so done by the said Advocate as mine/ours to all intents and purposes. In case of non-payment of the stipulated fee in full no advocate will be bound to appear or to act on my/ our behalf.

In witness whereof I /we hereunto set my/our hand on this the 14th day of September 2006

Received from the executant, satisfied and accepted.

Rajesh Mazumdar (ADVOCATE)

Parul Rai (ADVOCATE)

(ADVOCATE)

O.N. SUMATHY, SWAPNA ADHYA, GOPAL CH. BARUA, D. KALAIMANI, N. MUNAN SINGH, KAPIL DEO RAM, AJIT KUMAR SELVARAJ, P. K SAHU, M. S. SUDHAKARAN, MEENAKSHI AMMA,

Girish Pandey

68

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL:
GUWAHATI BENCH: GUWAHATI

69

From

Mr. R. Mazumdar
Advocate

To

C.G.S.C

Ref: OA 296/06

ON SUMATHY AND OTHER

VS

UNION OF INDIA & ORS

Sir,

Please take a notice that a original application is being filed by the petitioner in the Hon'ble tribunal today. A copy of the application along with annexure is enclosed here with for your use only.

kindly acknowledge the receipt of the same.

Yours faithfully
Rajesh Mazumdar
Advocate

Received by

C.G.C.

70

MEMORANDUM OF APPEARANCE

Date : 12/12/06

To,

The Registrar
Central Administrative Tribunal
Bhangagarh, Rajgarh Road,
Guwahati.

IN THE MATTER OF :

O.A. No. 296 of 2006

ON Sumathi & ors

------- Applicant

- Vs -

Union of India & Others

------ Respondents

I, M. U. Ahmed, Addl. Central Govt. Standing Counsel, Central Administrative Tribunal, Guwahati, hereby enter appearance on behalf of the Union of India & Respondents Nos. ✓ in the above case. My name may kindly be noted as Counsel and shown as Counsel for the Respondent/s.

14/12/06

(Motin Ud-Din Ahmed)
Addl. C.G.S.C.

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
12 JUN 2007
गुवाहाटी न्यायपीठ
Guwahati Bench

M.A. Ahmed, Case - 21
11/6/07

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH, GUWAHATI

IN THE MATTER OF

OA NO. 296/2006

Smt. O. N. Sumathy & Others

...Applicant

-Versus-

Union of India & others

.... Respondents

-AND-

IN THE MATTER OF

Written Statement submitted by the Respondent No. 1 to 4

WRITTEN STATEMENT:

The humble answering respondents submitted their written statement as follows:

1(a) **That I am** JOGINDAA SINGH S/O S.HRI HARPAL SINGH, AGED 54 YRS, ADDL. DIGP GC CRPF, GUWAHATI. **I have gone through a copy of the application served on me and have understood the contents thereof. Save and except whatever is specifically admitted in this written statements, the contentions and statements made in the application and authorized to file the written statement on behalf of all the respondents.**

(b) **The application is filed unjust and unsustainable both facts and in law.**

(c) **That the application is bad for non-joinder of necessary parties and misjoinder of unnecessary parties.**

(d) **That the application is also hit by the principles of waiver estoppels and acquiescence and liable to be dismissed.**

(e) That any action taken by the respondents was not stigmatic and some were for the sake of public interest and it cannot be said that the decision taken by the Respondents, against the applicants had suffered from vice of illegality.

2) That before traversing various paragraphs of the OA, the respondents would like to give brief history of the case and the Hon'ble Tribunal may be pleased to treat the same as a part of the Written Statement.

The Govt. of India, MHA vide their order No. 27011/44/88-PF dated 29/9/1989 had introduced a scheme for combatisation of Group C & D Hospital Staff. Since then all the posts are being filled by Combatised or to continue in civilian posts till superannuation. Some therefore opted for combatisation.

Earlier, some Combatised and non-combatised Group C & D Hospital Staff filed court cases in various courts for sanction of Patient Care Allowance and the concerned Hon'ble Courts has passed orders in their favour. In order to implement the courts, they were sanctioned Patient Care Allowance. Later on, the Union of India and others filed SLP in the Hon'ble Supreme Court (SLP No. 1093/95 Union of India Vs T. M. Jose and others along with 7 others (SLPs) and stay was granted on 13/9/1996. Accordingly, payment of PCA sanctioned to the petitioners was stopped.

In the meantime, the Govt. of India, MHA vide their letter No. 27012/4/2000-PF.IV dated 8/9/2000 allowed Patient Care Allowance/Hospital Patient Care Allowance w. e. f. 8/9/2000 to Group C & D civilian (Non-combatised) employees of BSF, CRPF, CISF, Assam Rifles and National Police Academy, Hyderabad at the same rates as was being given to the employees similarly placed in the CGHS dispensaries or Central Govt. Hospitals in Delhi/outside Delhi on the same term and conditions. Accordingly, the Directorate General vide letter No. A.IX-1/2000.Med.II (MHA) dated 22/9/2000 passed orders to sanction PCA/HPCA to all the eligible civilian hospital staff w. e. f. 8/9/2000. Therefore, the SLP filed by the Union of India in the matter regarding payment of PCA was listed in the Hon'ble Supreme Court on 17/10/2001 and after hearing the arguments from both the parties, the Hon'ble Supreme Court dismissed the appeal filed by the Union of India and others.

Accordingly, the case was referred to MHA for grant of PCA/HPCA to all the Combatised Group C & D Hospital Staff as applicable to non-combatised Group C & D Hospital Staff. The Ministry of Finance, Department of Expenditure vide their UO No. 19050/2/2001-E-IV dated 14/1/2002 decided to grant the PCA/HPCA only to those combatised Group C & D Hospital Staff who were petitioners in Court cases. In order to implement the orders of Hon'ble Supreme Court and as decided by the MHA, this Directorate General has already issued orders vide signal No. J.II-2/2002.Med.II (MHA), dated 18/1/2002 to sanction PCA/HPCA to all civilian eligible staff during the pendency of SLP. However, a case was again referred to MHA for grant of PCA/HPCA to all the combatised Group C & D Hospital Staff, which is still under consideration with Ministry of Finance.

3) That with regard to the statement made in paragraph 1 of the OA, the respondents beg to submit that the contention of the applicants is not tenable. The Govt. of India, Ministry of Health and Family Welfare vide their letter No. Z.28815/60/87.H dated 25/1/1988 has issued orders for payment of PCA to Group C & D (*Non-ministerial*) *employees including Drivers of Ambulance, Cars working in the Central Govt. Hospitals and Hospitals under the Delhi Administrative only and not to the Para Medical Staff of CRPF. Since*, the petitioners are working in CRPF which is under the control of MHA, above orders is not applicable to them. Further no specific orders have been issued from MHA, their case could not be considered.

Govt. of India, MHA vide their letter No. 27012/4/2000.PF.IV dated 8/9/2000 and Ministry of Finance UO No. 19050/2/2000.E.IV dated 14.1.2002 ordered for payment of PCA/HPCA to all the civilian (non-combatised) eligible hospital staff and they are getting the benefit of PCA/HPCA w. e. f. 8/9/2000.

4) That with regard to the statements made in paragraph 2, 3, 4, 5.1 and 5.2 of the OA, the respondents beg to offer no comment.

5) That with regard to the statement made in paragraphs 5.3 and 5.4 of the OA, the answering respondents beg to submit that the contention of the applicants is not tenable. The Govt. of India, Ministry of Health and Family welfare vide their letter No. Z. 28815/60/87.H dated 25.1.1988 has

issued orders for payment of PCA to Group C & D (Non-ministerial) employees including Drivers of Ambulance, Cars working in the Central Govt. Hospitals and Hospitals under the Delhi Administration only and not to the Para Medical Staff of CRPF. Since, the applicants are working in CRPF, which is under the control of MHA, above orders are not applicable to them. Further no specific orders have been issued from MHA, their case could not be considered.

6) That with regard to the statement made in paragraphs 5.5 and 5.6 of the OA, the answering respondents beg to submit that the rates of HPCA/PCA was revised for the employees, who were in receipt of the said allowance continuously.

7) That with regard to the statement made in paragraph 5.7 to 5.17 of the OA, the answering respondents beg to submit that the applicants were involved in various court cases have been given the benefit of HPCA/PCA on the basis of judgment pronounced by the Hon'ble Court.

8) That with regard to the statement made in paragraph 6 of the OA, the answering respondents while denying the contentions made therein beg to submit that all the applicants are getting the benefit of HPCA/PCA from the 8.9.2000 i.e. from the date from which the benefit has been extended to them by the Govt. of India, MHA. Orders for grant of benefit from prospective effect not issued by the Govt.

9) That with regard to the statement made in paragraphs 7 and 8 of the OA, the answering respondents beg to offer no comment.

10) That with regard to the statement made in paragraphs 9 of the OA, the answering respondents beg to submit that the contentions of the applicants is not tenable. The Govt. of India, Ministry of Health and

Family Welfare vide their letter No. Z.28815/60/87.H dated 25.1.1988 has issued orders for payment of PCA to Group C & D (Non-ministerial) employees including Drivers of Ambulance, Cars working in the Central Govt. Hospitals and Hospitals under the Delhi Administration only and not to the Para Medical Staff of CRPF. Since, the applicants are working in CRPF which is under the control of MHA, above orders is not applicable to them. Further no specific orders have been issued from MHA, their case could not be considered.

Govt. of India, MHA vide their letter No. No. 27012/4/2000.PF.IV dated 8.9.2000 and Ministry of Finance UO No. 19050/2/2000.EIV dated 14.1.20002 ordered for payment of PCA/HPCA to all the civilian (non-combatised) eligible hospital staff and they are getting the benefit of PCA/HPCA w. e. f. 8.9.2000 regularly as per existing rates. Orders for grant of benefits from the date of enlisting not received from Govt. of India, MHA.

11) That however case for grant of Hospital Patient Care Allowance/Patient Care Allowance to all combatised group 'C' and 'D' Hospital staff is under consideration with Ministry of Home Affairs in view of judgment pronounced by various courts. Further quoted that, MHA vide their UO No. II-27012/31/2006.PF III dated 19/3/2007 has intimated that "the proposal for extension of the benefit of Hospital Patient Care Allowance/Patient Care Allowance to combatised Group 'C' and 'D' non-ministerial staff of Central Para Military forces under consideration in their ministry in consultation with Ministry of Finance / Ministry of Law and the issue is likely to take some more time to take decision and considering that VI CPC had since begun working with a task of recommending allowances to the Govt. employees, as such Central Para Military forces may take time from the court in case any court order pending compliance on the issue".

In view of the abovementioned letter it is submitted that the issue relating to payment of HPCA/PCA is under consideration before the Ministry of Home Affairs on receipt of the decision from MHA, same will be immediately intimated to the concerned employees.

12) That the answering respondents beg to submit that in view of the submissions made herein above, the Applicants are not entitled to any relief and this OA is therefore liable to be dismissed.

VERIFICATION

I JOGINDRA SINGH, aged about 54 years at present working as ADDL. DISP. GROUP CENTRE, CRPF, Guwahati, [illegible] 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 to 10 are true to my knowledge and belief, those made in paragraph ✓ 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 11th day of June 2007 at Guw ---.

(JOGINDRA SINGH)
DEPONENT