

(DESTRUCTION OF RECORD RULES, 1990)

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

- ~~blub~~
31/10/17

**CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:**

GADGASHHEE

1. Original Application No. 314 / 2006
2. Misc Petition No. _____
3. Contempt Petition No. _____
4. Review Application No. _____

Applicant(S) MS. Sudhakaram & Ors VS Union of India & Ors

Advocate for the Applicant(S) Mr. R. Mazumdar
Ms. P. Paul

Advocate for the Respondent(S) C.R.S.C.

Notes of the Registry	Date	Order of the Tribunal
<p>The application is in form is filed in Form No. 10- deposited vide IPC/BD No. <u>9.3.3.218.</u> Dated <u>18-12-06</u></p> <p><i>Heem</i> Dy. Registrar <u>20/12/06</u></p> <p>Steps taken</p> <p><u>20</u> <u>20/12/06</u></p>	21.12.06	<p>The claim of the applicants is for grant of Hospital Patients Care Allowance from 1987. Relied upon on a decision of the Hyderabad Bench of the Tribunal the applicants submitted that they are entitled to get Patient Care Allowance from 1987 onwards.</p> <p>Heard Mr R.Mazumdar, learned counsel for the applicant and Mr M.U. Ahmed, learned Addl.C.G.S.C for the respondents. It is submitted that O.A.No.296/06 has already been admi- tted by this Tribunal on 6.12.06 on the same issue.</p>

Considering the issue involved I
am of the view that O.A is to be
admitted. O.A. is admitted. Issue
notice to the respondents.

post on 7.2.07 for order. In the
meantime the respondents are directed
to ascertain as to whether any appeal
has been filed against the decision
of the Hyderabad Bench.

Notice & order sent to
D/Section for issuing
to R-1 to 4 by regd.
A/D post.

(C.R.S.) D/N 47, 48, 49, 50
8/1/07 Dk= 16/1/07.

2
OA. 314/2006

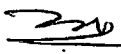
7.2.2007

Ms.U.Das, learned Addl.C.G.S.C.
is granted further four weeks time to file
reply statement.


Post the case on 8.3.2007.


Vice-Chairman

/bb/

6-7-06
① Service report
Awaited.


No Wls has been
biked.


7.3.07.

8.3.2007


Ms.U.Das, learned Addl.C.G.S.C.
for the Respondents sought for further
time to file reply statement. Let it be
done.

Post on 10.04.2007.


Vice-Chairman

/bb/

No Wls has been
biked.


7.3.07.


8.5.2007


Ms.U.Das, learned Addl. C.G.S.C.
submitted that she has filed reply
statement for all the Respondents. Since
learned counsel for the Applicant is
present she could not serve a copy upon
him. However, Registry will keep a copy of
the reply statement and serve upon the
Applicant's counsel before the next date.

Post the matter on 11.06.2007. In the
meantime Applicant shall file rejoinder, if
any.



Vice-Chairman

/bb/

No Wls has been
biked.

7.5.07.

9.5.07
Wls Submitted
by the Respondents
since copy left is e-bike


No rejoinder
has been biked.


8.6.07.

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

No rejoinder filed.

26.6.07.

27.6.2007 Heard Mr R. Majumdar, learned counsel for the applicant and Miss U.Das, learned Addl.C.G.S.C for the respondents. Hearing concluded. Judgment reserved.

Vice-Chairman

nkm

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/

Received
Alsha San
Addl case
12/7/07

16.7.07

Copy of the order
has been sent to
the D/Sec. for info
in line to the applicant
by post.

Received corrected copy
Alsha San
Addl case
29/8/07

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI
BENCH

Original Application No.296 & 314 of 2006.

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

THE HONBLE SHRI K.V.SACHIDANANDAN, VICE CHAIRMAN

O.A. 296 of 2006

1. Pharmacist GN 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

3. Force, Kumar Ghat, Tripura.)
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.

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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 With 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.

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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

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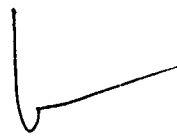
order of disposal of the appeal by the Supreme Court."

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 28.9.1994 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 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 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.

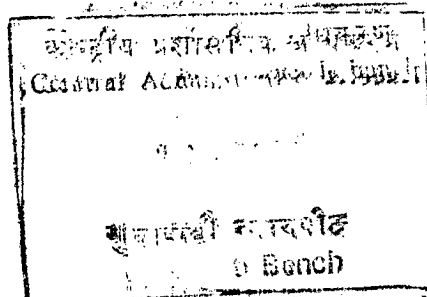
Considering the entire issue involved in these cases and accepting the judgment of the Hyderabad Bench of the Tribunal I am of the view that these applicants are also entitled to get the same benefit

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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.

Sd/ VICE CHAIRMAN



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

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

ORIGINAL APPLICATION NO.....314...../2006

MS Sudhakaran and others

.....APPLICANTS

VS

Union of India and others

.....RESPONDENTS.

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Filed by
Rajesh Mozumdar
(Advocate)

THE CENTRAL ADMINISTRATIVE TRIBUNAL:
GUWAHATI BENCH: GUWAHATI
O A NO.....314...../2006

MS Sudhakaran and others

.....APPLICANTS

VS

Union of India and others

.....RESPONDENTS.

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.
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 Central reserve Police Force 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.
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 Hospital Patient Care Allowance 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.

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*Filed by
Rajiv Nagarajan*

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

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

ORIGINAL APPLICATION NO.....314...../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 Hospital, Central
Reserve Police Force, Khatkhati,
Assam)

All the above re serving as non-
combatised Group C and D
personnel in the Hospitals of 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.
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
Guwahati, Amerigog.

..... Respondents

M-S. SUDHAKARAN

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.

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 M S Sudhakaran, Force no. 882050038 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. under Rule 4(5)(a) of the Central Administrative Tribunal (Procedure) Rules, 1987

M.S. SUDHAKARAN

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 Group C and D 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 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.

4.5 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

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

Mrs. SUDHAKARAN

5.6 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.

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.

5.7 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 is being granted the Hospital Patient Care Allowance, 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.

5.8 That placing reliance on the aforesaid orders of the Principal Bench, Central Administrative Tribunal, New Delhi and Hyderabad Bench of the Central Administrative Tribunal, 24 numbers of combatised paramedical staff of Base Hospital, Group center, CRPF, Amerigog, Guwahati-23 approached the Hon'ble Gauhati High Court in Civil Rule No- 1417/95. The 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

M.S. SUDHAN KARAN

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

M.S. SUBHA KARAN

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

5.10 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

5.11 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.

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

5.13 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 October 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.

5.14 That the applicant placed their claim for entitlement of Hospital Patient Care allowance from October 1987 as per circular dated 25-1-1988 and/or from their date of appointment, which ever is later, however to no avail.

5.15 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 28-9-1998 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.

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

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:

M.S.-SUDHAKARAN

Grounds.

- 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 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

M-S. SUDHAKARAN

circulars passed by the Government of India in this regard.

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:

M.S. SUDHAKARAN

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.

- Q.1 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; and
- Q.2 Grant the cost of this application in favor of the applicants and against the respondents; and
- Q.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.

M-S- SUDHAKARAN

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

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

10. LIST OF ANNEXURES:

As stated in the Index to the application.

M. S. SUDHAKARAN

VERIFICATION

I, Sri. M. S. Suddakaram, Force no
 882050038, serving in the 6th Battalion, as Nursing Assistant,
 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, 3, 4, 5 (1, 2, 3, 7, 11, 12, 13, 14), 7, 8, 9, 10, 11 are true to
 the best of my knowledge and the statements made in
 paragraphs 5 (4, 5, 6, 8, 9, 10, 15),
 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 14th day of
December, 2006 at Tripura.

M.S. SUDHAKARAN

Annexure 1

ANNEXURE-1

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 Nazamala
Adm

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. E. 28015/60/ 87-H dated 25.1.1988.

True copy
Rajesh Mehta
Asst

296/06

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 budget 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 & Research 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, Kavaratti via Calicut.
6. The collector, Dadra & Nagar Haveli, Silvassa-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 Affairs (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 (P) / 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 Bhawan,
New Delhi.
2. The Director,
Central Government Health Scheme,
Nirman Bhawan,
New Delhi.

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

Sir,

I am directed to convey the sanction of the President 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 Mehta
Ran

37

- 20 -

- 27 -

15/60/87-H dated 25th January 1988,
1015/102/88-H dated 30th October 1989 and
1011/1/90-CGHS(P) dated 10th July 1990.

3. The expenditure involved will be met out of the budget 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 (Balampore), 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, Silvassa-206230.

- The Secretary H & FW Deptt., Pondicherry.
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. 228015/41/98-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)/DDG(H)/MH Section/Leprosy Section/ME Section.
19. PH Section/CCD Section/MH (UG) Desk/ME(PG) Desk/CGHS(P)/Finance Desk II.
20. APS 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

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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 Hazarika

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 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.

Now 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

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ANNEXURE

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 Bengaigaon 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 Rajan
Adv

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.N. 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 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 31.10.1996.

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

Sd/-

MEMBER (A)

Sd/-

MEMBER (J)

-26-

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IN THE CENTRAL ADMINISTRATIVE 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
Bijesh Hegde
Sd/-*

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 to 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

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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 are 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, Id. Counsel for the applicant and Mr. NC Jacob, Id 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), Id. 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 8.9.2000, 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 Id. 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.

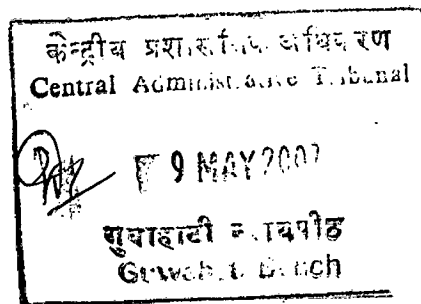
6. However, it is not denied by the respondents that the applicant is similarly situated to that of the applicants before the Bangalore Bench of this Tribunal. It is also seen from the Order of the Bangalore Bench of this Tribunal dated 17.4.2003 passed in OA nos. 1093/2002 and Batch, that the respondents 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 to 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.

Self Member (J)



1

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH, GUWAHATI

IN THE MATTER OF

OA NO. 314/2006

Shri M. Sudhakaran & Others

... Applicant

-Versus-

Union of India & others

.... Respondents

-AND-

IN THE MATTER OF

Written Statement submitted by the Respondent No. 1 to

WRITTEN STATEMENT:

The humble answering respondents submitted their written statement as follows:

1(a)

That I

am..... ADDL. DIGP, GROUP CENTRE
..... 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} SPL 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 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 ~~YI*~~ 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 with cost.

15-

VERIFICATION

I JOGINDRA SINGH....., aged

about 54 years at present working as

ADDL. DIST. GROUP CENTRE, CRPF,

Gurukul, who is the ... 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, 4, 9, 12 are true

to my knowledge and belief, those made in paragraph

2, 3, 5, 6, 7, 8, 10, 11 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 4-th day of May 2007 at Bunwahato

m
(JOGINDRA SINGH)
DEPONENT

6
54
OFFICE OF THE ADDL. DIGP, GROUP CENTRE, CRPF, GUWAHATI-23

No. J.II-INST/2007 PAIRVI

Dated, the

April 2007

To

Shri. H. Rahman
Asstt. Solicitor General Of India
Guwahati High Court

Subject:

WPCs / OA FILED BY THE CRPF PERSONNEL,
BEFORE THE HON'BLE HIGH COURT / CAT IN
CONNECTION WITH PATIENT CARE ALLOWANCE /
HOSPITAL PATIENT CARE ALLOWANCE

Sir,

It is to inform you that, huge numbers of cases of WPC / O.A filed by this department personnel for granting patient care allowance are pending before the Hon'ble High Court as well in CAT, Guwahati. In the instant matters, our higher authority has directed us to inform you as well all the CGC in the High Court / CAT Guwahati that, "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 judgement 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 extention of the benetit 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."

2. In view of above, you are requested that, in all those cases Hon'ble court have given decision to consider the representation of the petitioner or delivered judgment for grant of Hospital patient care allowance / patient care allowance, a reply may please be given to the petitioner's counsel and the Hon'ble courts may be apprised as stated above as patient care allowance will be sanctioned immediately on receipt of decision of the issue from Ministry Of Home Affairs.

Contd.....P/2.....

Your kind co-operation in this regard will be highly appreciated.

Yours faithfully

(V.K.SHARMA) AC (Legal)
For Addl. DIGP, GC CRPF, GTY.

NO. J.II-INST/2007-PAIR VI

Dated, the

09 April 2007

Copy forwarded to the following CGCs of Guwahati High court for similar action please.

1. Shri. Chandra Baruah, CGC
2. Shri. Niran Borah, CGC
3. Shri. Usha Das, CGC
4. Brig. N.Deka, (Retd), CGC
5. Shri. Nilutpal Baruah, CGC
6. Shri. D.C.Chakraborty, CGC
7. Shri. Ashok Kumar Bora, CGC
8. Smt. Ranu Borah, CGC
9. Shri. N.Z. Ahmed, CGC
10. Shri. M.U.Ahmed, CGC
11. Shri. Dilip Baruah, CGC

(V.K.SHARMA) AC (Legal)
For Addl. DIGP, GC CRPF, GTY.