

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

(DESTRUCTION OF RECORD RULES, 1990)

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✓ O.A/T.A No. 186/2007

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SECTION OFFICER (Judl.)

Barhate
08/10/17

CENTRAL AVIATION AUTHORITY
COMMITTEE OF ENQUIRY

ORDERS SHEET

1. Original Application No. 186/07

2. Misc Petition No. /

3. Contempt Petition No. /

4. Review Application No. /

Applicant(s) A Venkraj vs Union of India & Ors

Advocate for the Applicant(s) Rajesh Mazumdar
Parul Devi

Advocate for the Respondent(s) C.G.S.C.

Notes of the Registry	Date	Order of the Tribunal
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5.7.2007

The claim of the Applicant is for grant

of Hospital Patient Care Allowance (HPCA in short) from 1987 to 2000. The Applicant is serving as non-combatised Nursing Personnel and he claimed that he is entitled to HPCA.

Mr.R.Mazumdar, learned counsel for the Applicant submitted this Tribunal had occasion to consider similar matters in O.A. 296/2006 & O.A. 314/2006 wherein reliefs have been granted to the Applicants therein. Mr.M.U.Ahmed, learned Addl. C.G.S.C. appearing for the Respondents sought for time to get instruction in the matter.

Considering the issue involved and submission I am of the view that the O.A. has to be admitted. Admit the O.A. Issue notice to the Respondents. Post the case after six weeks for filing of reply statement. Post the case on 7.8.2007.

5.7.07

Please comply.

Vice-Chairman

Notice of Order Sent to
D/Section for issuing /bb/
to R-1 to 4 by regd.
A/c post. D/No-738 to 741
(127) dt 19/7/07

24.8.07

Counsel for the respondents wanted time to file written statement. Let it be done. Post the matter on 17.9.07.

① Service report awaited.

23.8.07.

Vice-Chairman

lm

17.9.07

At the request of learned counsel for the Respondents four weeks further time is granted to file written statement. Post the matter on 7.11.07.

W/Ls not b/leaf.

26.11.07.

Vice-Chairman

lm

07.11.2007

Mr.R.Mazumdar, learned counsel for the Applicant and Mr.M.U.Ahmed, learned Addl. C.G.S.C. are present.

W/Ls not b/leaf.

27.11.07.

List the case along with the connected matters.

Member (A)

/bb/

W/Ls not b/leaf.

28.11.07.

Mr. R. Mazumdar, learned counsel for the Applicant and Mr.M.U.Ahmed, learned Addl. Standing counsel for the Union of India are present. Counsel for the Respondents prays for four weeks time to file written statement on behalf of the Respondents. Prayer is allowed.

Call this matter on 01.01.08

(Khushiram)
Member(A)

lm

O.A. 186/2007

01.01.2008

Mrs.P.Rai, learned counsel appearing for the Applicant is present. None appears for the Respondents. No written statement has yet been filed in this case.

St. 1.1.08

Pl. send order copies to all the Respondents.

✓ K.08

Call this matter on 28.01.2008 expecting written statement from the Respondents.

Send copies of the order to all the Respondents in the addresses given in the Original Application.



(Khushiram)
Member (A)



(M.R. Mohanty)
Vice-Chairman

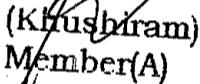
Order dt. 1/1/08
sent to D/Section
for issuing to
resp. nos. 1 to 4
by post.

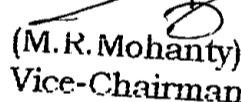
/bb/

28.01.2008

Judgment pronounced in open

Court. Kept in separate sheets. Application
is disposed of


(Khushiram)
Member (A)


(M.R. Mohanty)
Vice-Chairman

Lm

Page Break

22.1.08

WPs filed to
the Respondents. Undeliverable
given for Service.



12/2/08
Copy of the Judgment
sent to the Office
for issuing the same
to the parties alongwith
a copy to the ADD.CS.

05.18.08
Judgment issued
date of nos 1073
to 1076 on 12.2.08



CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A. No 186 of 2007

DATE OF DECISION: 28.01.2008

Mr.A.Venuraj Applicant/

Mr.R.Mazumdar Advocate for the
Applicant/s.

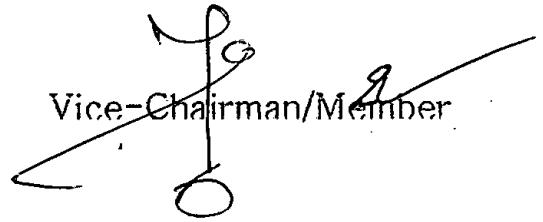
..... Versus –
U.O.I. & Ors Respondent/s

Mr. M.U.Ahmed, Addl.C.G.S.C. Advocate for the
Respondents

CORAM

THE HON'BLE MR.M.R.MOHANTY, VICE-CHAIRMAN
THE HON'BLE MR.KHUSHIRAM, ADMINISTRATIVE MEMBER

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 their Lordships wish to see the fair copy of the Judgment? Yes/No


Vice-Chairman/Member

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH

Original Application No.186 of 2007

Date of order: This the 28th Day of January, 2008.

**HON'BLE MR. MANORANJAN MOHANTY, VICE-CHAIRMAN
HON'BLE MR. KHUSHIRAM, ADMINISTRATIVE MEMBER**

1. Nursing Assistant A.Venuraj
Force No871220409
Central Reserve Police Force
168 Bn,(located at Tezpur) Applicant

By Advocate Mr.Rajesh Mazumdar, Parul Rai

-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-110066
4. The Inspector General (Medical) Group Center, Central Reserve Police Force, Guwahati, Amerigog Respondents.

By Mr.M.U.Ahmed, Addl. C.G.S.C.

ORDER (ORAL)

M.R.MOHANTY, V.C:

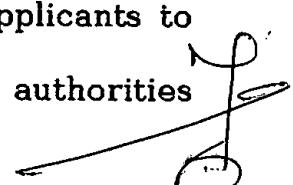
1. On consent the learned counsel appearing for the parties the case is taken up to-day for disposal.
2. Heard Mr. R. Mazumdar, learned counsel appearing for the Applicant, and Mr.M.U.Ahmed, learned Addl. Standing Counsel appearing for the Respondents; on whom a copy of this O.A had already been served.
3. The Applicant, a C.R.P.F. Hospital Staff, has filed this O.A. under Section 19 of the Administrative Tribunals Act 1985 with

prayer for a direction to the Respondents to grant him the Hospital Patient Care Allowance for the period prior to 08.09.2000.

4. It appears that the Applicant did not raise any grievance before the Respondents to grant him Hospital Patient Care Allowance for the period prior to 08.09.2000. Existence of a grievance/right is not enough to rush to this Tribunal. One must approach the authorities, at the first instance, to get redressal of his grievances and, only when the authorities neglect to redress his grievances or refuse to grant him the relief prayed for; then only he should approach the Court/Tribunal for intervention. Section 20 of the Administrative Tribunal Act, 1985, also requires that one must approach the authorities, for redressal of his grievances, before approaching this Tribunal. The Applicant has filed the present case, as it appears, without raising any grievance before the Respondents/competent authorities for grant of arrears of Hospital Patient Care allowances for the period between October 1987 and September, 2000. The Applicant is, however, depending upon a view of Hyderabad Bench of this Tribunal rendered in O.A.No.243 of 2005 decided on 05.08.2005 and of the view of this Bench of Tribunal rendered in O. A.No.296 & 314 of 2006 decided on 05.07.2007.

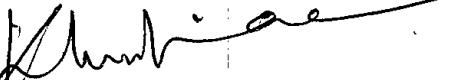
5. The learned counsel for the Applicant has pointed out that by filing written statement the Respondents have raised the same objections, which have already been answered by this Tribunal by its order dated 05.07.2007 rendered in O.A.No296 of 2006 and O.A.No.314 of 2006.

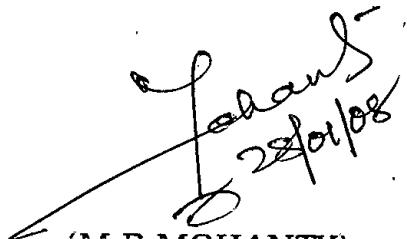
6. But without entering into the merits of the matter this case is hereby disposed of by granting liberty to the Applicants to raise their grievances before the Respondents/competent authorities



and, if any such grievances are raised (by way of filing representation in writing; by end of February, 2008) by the Applicant, then the Respondents should give due consideration to the same and pass a reasoned orders by end of April, 2008.

7. With the above observations and directions, this case stands disposed of.


(KHUSHIRAM)
MEMBER(A)


(M.R.MOHANTY)
VICE-CHAIRMAN

LM

- 4 JUL 2007

Guwahati Bench

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

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

ORIGINAL APPLICATION NO..... 186 /2007

A. Venkraj

.....APPLICANTS

VS

Union of India and others

.....RESPONDENTS.

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Filed by

(Advocate)

THE CENTRAL ADMINISTRATIVE TRIBUNAL:

GUWAHATI BENCH: GUWAHATI

O A NO.....186...../2006

A. Venuraj 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 or from the date of their appointment, whichever is later 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 his initial appointment. Hence this application.

1987-2000

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL:
GUWAHATI BENCH: GUWAHATI

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

ORIGINAL APPLICATION NO.....186...../2007

1. Nursing Assistant A. Venuraj
Force no 87(220409)
Central Reserve Police Force.
168 Bn, (located at Tezpur)

.....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, 110066
4. The Inspector General (Medical)
Group Center, Central Reserve
Police Force, Guwahati, Amerigog.

..... Respondents

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 applicant from October
1987 onwards or his date of joining services whichever was
later, though he is legally entitled to the same and similarly
placed personnel have been given the same.

Filed by
A. Venuraj
Date of filing
14/07/2007
Docket No. Regd. No. 186/2007

A. Venuraj

2. Jurisdiction of the Tribunal

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

3. Limitation

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

4. Facts of the case.

4.1. That the applicant being citizen of India is entitled to all the rights and privileges and protections granted by the Constitution of India.

4.2. That the applicant is serving as Non-combatised *Nursing Assistant* in the Central Reserve Police Force.

4.3. That the applicant, in addition to his salary is entitled to all the benefits and allowances as are applicable to the Hospital Staff serving in the other Central Government Health Services. As such, the applicant is 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.

4.4. That the Government of India, Ministry of Health and Family Welfare vide letter dated 25.1.88, conveyed the

A. Venkai

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.

A. Venka

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

4.5 / 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.

4.6 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.

4.7 That 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

A. Venkay

5

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 Lt. 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.

4.8 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.

4.9 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

4.10 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.

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

4.11 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

A
Veracity

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

4.12 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.

4.13 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 Lt. Administrative Tribunals, the High Courts and the Hon'ble Supreme Court. This fact is also reflected in the order dated 10-9-2004 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 10-9-2004 passed in WP(c) no 474/2004 is annexed hereto as Annexure VII.

4.14 That the applicant in the present Original application has been given the benefit of Hospital Patient Care Allowance with effect from September 2000. The allowance as applicable to the applicant from October 1987 has not yet been paid to him for reasons best known to the respondents.

4.15 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 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.

A. Venkata

4.16 That it is stated that similarly placed personnel had placed his claim for entitlement of Hospital Patient Care allowance from October 1987 as per circular dated 25-1-1988 and/or from his date of appointment, which ever is later.

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

4.17 ~~4.16~~ 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 from 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 IX.

5. That the applicant are challenging the action of the respondents in not paying Hospital Patient Care to the applicant 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.

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 applicant 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 applicant the due benefit from the date from he was 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 applicant 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 applicant from 1-8-1987 or from the date of his appointment whichever is later in accordance with the 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 applicant from the same date as given to other similarly situated persons.

6.6 For that it is humbly submitted that the entitlement of the applicant 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 applicant 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 applicant most respectfully prays that your Lordships may be pleased to grant the following reliefs to the applicant.

8.1 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 applicant for the period to be arbitrary, discriminatory and illegal; and

- 8.2 Grant the cost of this application in favor of the applicants and against the respondents; and
- 8.3 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.

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

- (i) I.P.O number: 34G 654580
- (ii) Date: 3/7/02
Issued by the Guwahati post office
- (iii) Payable at Guwahati.

10. LIST OF ANNEXURES:

As stated in the Index to the application.

VERIFICATION

I, Sri...A...Venuraj, force no. 871220409,
 Civil no. 168/Bn, CRPF, Tezpur aged about 43 years,
 serving as ~~Naik~~ Asstt. in the Central Reserve police Force, do
 hereby solemnly verify that the statements made in
 paragraphs no 1,2,3,4(1 to 3),5,7,8 are true to the best of my
 knowledge and the statements made in paragraphs
 4(4 to 14, 16, 17).....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 ^{2nd} day of
 July....., 2007 at Tezpur.

A. Venuraj

15

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, Warding 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 wage/age 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 issue is 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.

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

*Ans
True copy
Rajat
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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, Kavarati 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 to 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 Dec. The revised rates will be as under:

1) Group 'C' employees (non- Ministerial) working in month to Rs. 700/- per month in Central Government hospitals and hospitals under the National Capital Territory of Delhi and other Union Territories.

2) Group 'D' employees (non- Ministerial) working in month to Rs. 695/- per month in Central Government hospitals and hospitals under the National Capital Territory of Delhi and other Union Territories.

3) Group 'C' and 'D' (Ministerial) CGHS employees working in month to Rs. 690/- per month in CGHS Dispensaries.

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.

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B.28015/60/87-H dated 25th January 1988,
Z.28015/102/88-H dated 30th October 1989 and
8.11011/1/90-CGHS(P) dated 10th July 1990.

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

4.1 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 (Bh.), Dist. Ganjam, Orissa.
9. The Medical Officer, Incharge, Regional Leprosy Training & Research Institute, Latur, Post Box No. 3112, Raipur, 410701 (Madhya Pradesh).
10. The Director, Regional Leprosy Training & Research Institute, Souriburi, 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. INDMC, 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.

7. The Secretary, H & FW, Deptt., Pondicherry,
Pondicherry.

8. Director, Lala Ram Swaroop Institute of TB &
Leprosy, New Delhi.

9. The Director, All India Institute of Medical
Sciences, New Delhi.

10. The Director, Postgraduate Institute of Medical
Education & Research, Chandigarh.

11. Ministry of Labour, Shram Shakti Bhawan, 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 2/28/15/41/GB-II(L)

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

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

17. The Secretary, Ministry of Home Affairs (UT Divn.),
New Delhi.

18. POC(M) - A) / PDA(H) / MH Section / Leprosy Section / ME
Section.

19. POC(H) / Section / CCD / Section / MH (UG) Desk / ME (PG)
Desk / CGHS GR / 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

1. Shri Ram Krishan, Co-Convenor, Joint Council of

ESI & AIIMS, DHEF ESI & AIIMS, K-45, Srinivaspuri, New
Delhi-110054.

2. Shri

Shri P. Dangey, Convenor, Joint Council of
ESI & AIIMS Unions, H.O. Aggarwal
Bhawan, G-11, Road, Tis Hazari, DELHI-110054.

(LAL SINGH)

UNDER SECRETARY TO THE GOVT. OF INDIA

ANNEXURE-P/

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

CIVIL RULE NO. 1417/95

Sri Nikunj 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 9.3.87 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

Albela
 True copy
 Rajesh
 Adv

Minister, vide the O. D. 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.

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.O. Verma, Member (J)Shri Ajit Kumar Jain and 22 Ors.
Versus

The Union of India & Ors.

Applicant

O.R./E.R.

SANGLYINE G.L. (MEMBER (A))

23. Group of employees working under the hospitals of the CRPF hospitals at Guwahati and Sambalpur have filed this instant original application. They have been allowed to join in one single application vide our order dated 16.1.1995. They aggrieved against non-payment of 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 8.2.1994 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. 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 intimated 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. 1437/95.

24. 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 para (iii) (e) of the sanction order No. J-II-6/93-28420-II dated 23.11.1994 (Annexure-4); that is, the applicants were to give an undertaking that the amount paid to them would 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

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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 S. C. 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 O.O) 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 a 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)

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 of 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

Alurid
from copy
Rajesh
PDR

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 hearing18/3/2002

Date of Judgment (Oral)18/3/2002

Hon'ble Mr. Justice

JUDGMENT (ORAL)

JN Sarma

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 wherefrom 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

28

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 a copy	Date fixed for notifying the requisite number of stamps and fees.
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Date of delivery of requisite stamps and fees.	Date on which was ready for delivery.
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Annexure VII

IN THE GAUHATI HIGH COURT

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

CIVIL APPELLATE SIDE

Appeal from

W.P.(S)

No.

474 of 2002

Civil Rule

N/Asstt. Sanjoy Kumar Pandey

Appellant

Petitioner

Versus

Union of India

Respondent

Opposite Party

Appellant

Mr. S. Chakrabarty

For Petitioner

Mr. B. D. Bhattacharya

Mr. S. Chakrabarty

Respondent

C. G. S. C.

For

Opposite Party

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

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

Date 30.9.2004 WPC No 174/03

BEFORE
THE HON'BLE MR JUSTICE B.K.SHARMA

Heard Mr.S.Dutta learned counsel for the petitioners and Mr H.Rahman learned 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.

Gaurav Nath Dutta, learned counsel for the petitioners submits that the issue is no longer res integra and has already been decided by this court in WPC 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

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 Civil 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 not sanctioned the said allowance.

The stand of the respondents in the said affidavit-in-opposition is that as per the orders of Director(Med. II) dated 18.03.2002, 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

Court-8/01-80,000 21-8-2001 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.

For the foregoing 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 hereto dated 25.1.88 and 1.7.90 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.

" swift pelvis stand wed. No contr.

VERIFIED TO BE TRUE COPY

Date 15 10.16.41

Superintendent (Copying Section)

Gaithersburg High Council

Authorised U/H 76, Art 1 DATE

ANNEXURE

VII

— 33 —

TRUE TYPED COPY

TO

To CMH/IC
BH-3, CRPF
Guwahati-23.

Sub: DRAWAL OF P. C. A. ARREAR.

With due regard I beg to say that I, a 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 19/00 after dismissal of U.P filed by the department. This PCA was due from 10/87. As per GO 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,

SDA

ON SUMUTHY PHARMACIST

BH-3 CRPF GHY-23

DATED 10/10/03
Allied
Done copy
Rajesh adar

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. Chinu (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- 500 005

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 7.9.2005 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

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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 hospitals working 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 9/1995 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 order) 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 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 3.9.2000 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. 70/- 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. 180/- per month for the period 15.10.1987 to 1.8.1997 at Rs. 120/- 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 within a period of three months from the date of receipt of a copy of this order. The OAs are accordingly allowed. No costs."

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

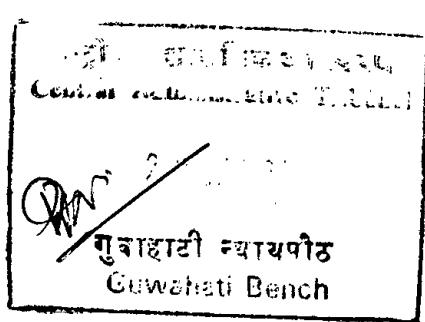
5. The respondents have taken objection on the point of limitation. In this context, referring to the judgment of the Hon'ble Supreme Court in the case of MR GUPTA V. UNION OF INDIA AND OTHERS ((1995) 5 SCC 628), Id. Counsel for the respondents submitted that since the Order of the Guwahati Bench of this Tribunal has been implemented by the respondents and the applicant was granted HPCA as per directions of the Ministry from 18.9.2001 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 S. M. KOTRAYYA AND OTHERS ((1991) 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, 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 the 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 of 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 'A' and 'D' non ministerial hospital employees by order dated 25.1.1988 and revised by order dated 28.9.1993 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 copy of this Order.
8. In the result, the OA is allowed to the extent indicated above with no Order as to costs.



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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH, GUWAHATI

OA NO. 186/2007

Shri A. Venuraj

Shri. M. U. Ahmad
Motin Ud-Din Ahmed
M.A.
Addl. Central Govt. Counsel
Guwahati Bench
2/1/07

...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

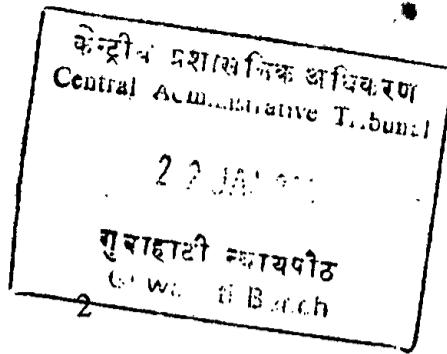
am... SH: JOGINDRA SINGH, S/O SH: HARPAL SINGH

aged about 54 years, Resident of Group Centre, CRPF, PO -

Ameniog, Guwahati-23 is competent for this affidavit on behalf of the respondents in the above case. 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.

मेरा पुलिस उप-महानिरीक्षक
ADDL. D.I.G.P. (C.C. C.R.P.F.)
प.प केन्द्र केरियुबल गुवाहाटी-23
GUWAHATI-23 (ASSAM)



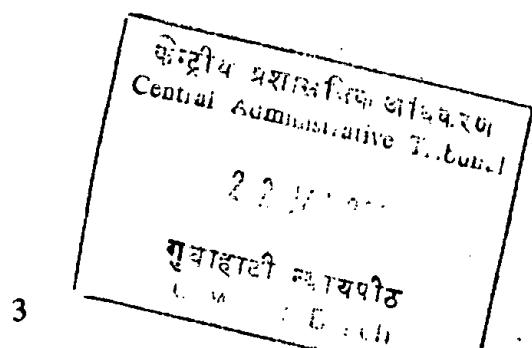
- (c) That the application is bad for non-joinder of necessary parties and misjoinder of unnecessary parties.
- (d) That the application is also hit by the principles of waiver estoppels and acquiescence and liable to be dismissed.
- (e) That any action taken by the respondents was not stigmatic and 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.

1) That the respondents before giving the parawise reply would like give the Brief History of the case, which may be treated as part of the Written Statement.

The Government of India, Ministry of Home Affairs vide their Order No. 27011/44/88-PF dated 29/9/1989 had introduced a scheme for combatisation of Group 'C' and 'D' Hospital Staff. Since then all the posts are being filled by combatised ranks. However, those already serving were given the option to get combatised or to continue in civilian posts till superannuation. The applicant was non-combatised Hospital Staff in CRPF.

Earlier some combatised and non-combatised Group C and D Hospital Staff serving in CRPF have filed Court Cases in various Courts for sanction of Patient Care Allowance and concerned Hon'ble Courts have passed orders in their favour. In order to implement the courts orders, they were granted Patient Care Allowance. Later on, the Union of India and others have filed SLP in the Hon'ble Supreme Court (SLP No. 1093/95 Vs. T.M. Jose and others along with 7 others SLPs and Stay order was granted

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 কেন্দ্ৰীয় প্ৰশাসনিক অধিবৰ্ষণ
 ADDL. D.I.G.P. (C) C.R.P.F.
 ১০১ কেন্দ্ৰ কেৰিংপুণ্ডৰ গুৱাহাটী-২৩
 GUWAHATI-23 (ASSAM)

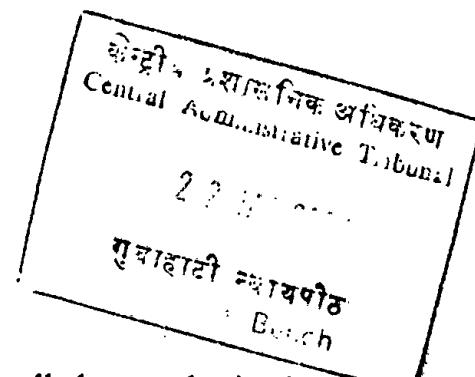


on 13.9.1996. Accordingly, payment of Patent Care Allowance sanctioned to the petitioners was stopped.

In the meantime, the Govt. of India, Ministry of Home Affairs vide letter No. 27012/4/2000-PF.IV dated 08.9.2000 allowed Patient Care Allowance/Hospital Patient Care Allowance w.e.f. 08.9.2000 to Group C and 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 terms and conciliations. Accordingly, Directorate General, CRPF, New Delhi 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. 08.9.2000. Thereafter, the SLP filed by the Union of India in the matter regarding payment of PCA was listed in the Hon'ble Supreme Court dismissed the Appeal filed by the Union of India and others.

Accordingly, the case was referred to Ministry of Home Affairs for grant of Patient Care Allowance/Hospital Patient Care Allowance to all the combatised Group C and D Hospital Staff as applicable to non-combatised group C and D Hospital Staff. The Ministry of Finance, Department of Expenditure vide their U.O. No. 19050/2/2001-E-IV dated 14/1/2002 decided to grant the PCA/HPCA only to those combatised Group C and D Hospital Staff who are petitioners in the Court Cases. In order to implement the orders of Hon'ble Supreme Court and as decided by the Ministry of Home Affairs, the Directorate General, CRPF, New Delhi has issued orders vide Signal No. J.II-2/2002-Med. II (MHA) dated 18/1/2002 to sanction PCA/HPCA to all the Civilian eligible staff during the pendency of SLP. However, the case was again referred to Ministry of

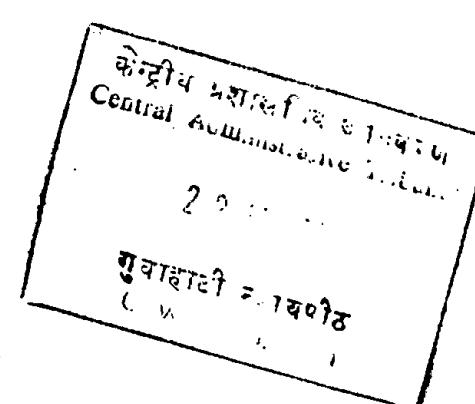
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 ADDL D.I.G.P. C.C. C.R.P.F.
 ১০৮ ফেন্স ফোর্ম্যুল গুৱাহাটী-২৩
 GUWAHATI-23 (ASSAM)



Home Affairs for grant of PCA/HPCA to all the combatised Group C and D Hospital Staff, which is still under consideration with Ministry of Finance.

PARAWISE REPLY

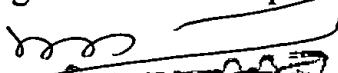
- 2) That with regard to the statement made in paragraph 1 of the OA, the answering respondents beg to state that the contention of the applicant is not tenable. The Govt. of India, Ministry of Health and Family Welfare vide their letter No. Z-28815/6087-H dated 25/1/1988 has issued orders for payment of Patient Care Allowance to Group C and D (Non-ministerial) employees including Drivers of Ambulance, Cars working in the Central Govt. Hospital and Hospitals under Delhi Administration only and not to the Para Medical Staff of CRPF. Since, the applicant is working in CRPF, which is under the control of Ministry of Home Affairs (MHA), above order is not applicable to him. Further, no specific orders have been issued from the Ministry of Home Affairs, their cases 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 18/1/2002 ^{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 regularly as per existing rates.
- 3) That with regard to the statement made in paragraphs 2, 3, 4.1 and 4.2 of the OA, the answering respondents beg to offer no comment.
- 4) That with regard to the statement made in paragraphs 4.3 to 4.7 of the OA, the respondents beg to submit that the contentions of the applicant is not tenable. The Govt. of India, Ministry of Health and Family Welfare vide their letter No. Z-28815/6087-H dated 25/1/1988 has issued orders for

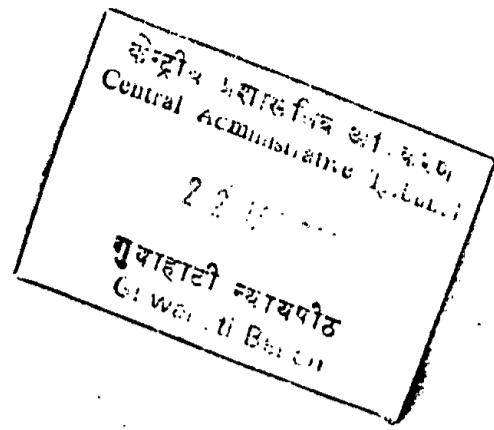


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payment of Patient Care Allowance to Group C and D (Non-combatised employees including Drivers of Ambulance, Cars working in the Central Govt. Hospital and Hospitals under Delhi Administration only and not to the Para Medical Staff of CRPF. Since the applicant is working in CRPF, which is under the control of Ministry of Home Affairs, above order is not applicable to him. Further, no specific orders have been issued from the Ministry of Home Affairs vide their letter No. 27012/4/2000.PF.IV dated 8.9.2000 and Ministry of Finance UO 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.

- 5) That with regard to the statement made in paragraphs 4.8 and 4.14 of the OA the answering respondents beg to submit that the benefit of HPCA/PCA extended to the petitioners involved various court cases and judgment and order passed by the Hon'ble Courts in their favour.
- 6) That with regard the statement made in paragraph 4.15 of the OA, the answering respondents beg to submit that the contentions of the applicant is not tenable. All the petitioners 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 by the Govt. of India, MHA. Orders for grant of benefit form the prospective effect has not issued by the Govt. Of India, MHA for grant 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 of the OA, the answering respondents beg to submit that the benefit of HPCA/PCA extended to the petitioners involved in the various court cases and judgment and order passed by the Hon'ble Courts in their favour.


एक्स-प्रान्तीक न्यायालय
ADDL D.I.G.P. (C) C.R.P.P.
१४ केन्द्र एक्स-प्रान्तीक न्यायालय-23
GUWAHATI-23 (ASSAM)



8) That with regard to the statement made in paragraphs 6, Ground of Relief, of the OA, the answering respondent begs to submit that the contentions of the applicant is not tenable. The Govt. of India, Ministry of Health and Family Welfare vide their letter No. Z-28815/6087-H dated 25/1/1988 has issued orders for payment of Patient Care Allowance to Group C and D (Non-ministerial) employees including Drivers of Ambulance, Cars working in the Central Govt. Hospital and Hospitals under Delhi Administration only and not to the Para Medical Staff of CRPF. Since, the applicant is working in CRPF, which is under the control of Ministry of Home Affairs(MHA), above order is not applicable to him. Further, no specific orders have been issued from the Ministry of Home Affairs, their cases 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 18/1/2002 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.

9) That with regard to the statement made in paragraph 7 the OA; the answering respondents beg to submit that the contentions of the applicant are not tenable. The Govt. of India, Ministry of Health and Family Welfare vide their letter No. Z-28815/6087-H dated 25/1/1988 has issued orders for payment of Patient Care Allowance to Group C and D (Non-ministerial) employees including Drivers of Ambulance, Cars working in the Central Govt. Hospital and Hospitals under Delhi Administration only and not to the Para Medical Staff of CRPF. Since, the applicant is working in CRPF, which is under the control of Ministry of Home Affairs (MHA), above order is not applicable to him. Further, no specific orders have been issued from the Ministry of Home Affairs, their cases could not be considered.

[Signature]
দায়িত্বপ্রাপ্ত প্রকাশনীর পক্ষে
ADDL. D.I.G.P. G.C. C.R.P.P.
৯ প ফেন্ন পোর্টপুর গুৱাহাটী-২৩
GUWAHATI-23 (ASSAM)

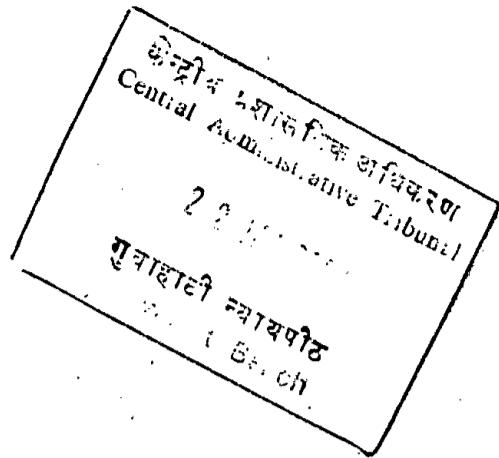
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Central Administrative T. Bure.
22 जून 1955
गुरुहाटी बाबुपुरा
C. W. B. Branch

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 18/1/2002 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 or grant of benefits from the date of enlisting not received from the Govt. of India, MHA.

- 10) That with regard to the statement made in paragraph 8 of the OA the answering respondents beg to submit that the contentions of the applicant is not tenable. 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 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 benefit of PCA/HPCA from 1/12/1987 or of appointment whichever is later not received from Govt. of India, Ministry of Home Affairs.
- 11) That with regard to the statement made in paragraph 9 of the OA, the answering respondents beg to no comment.
- 12) Those in view of the reasons and circumstances stated above the answering respondents pray that the Hon'ble Tribunal may be pleased to dismiss the instant Original Application.

~~संपर्क गुप्तसंघ संघीय समिति~~
ADDL. D.I.G.I. GC. C.R.P.F.
पू.प फेन्न फॉरिम्पुण्डु गुपाहाटी-23
GUWAHATI-23 (ASSAM)

VERIFICATION



I. S.H.: JAGINDRA SINGH, S/o: SH: HARPAL SINGH, aged about 54 years at present working as Addl. D.I.G.P., Group Centre, C.R.P.F., Guwahati and I am competent and duly authorized to swear this affidavit on behalf of the respondents and taking steps in this case, being duly authorized and competent to sign this verification for all respondents, do hereby solemnly affirm and state that the statement made in paragraph 1, 3h7, 9 are true to my knowledge and belief, those made in paragraph 3210 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 16th day of January 2007 at Guwahati

(JAGINDRA SINGH)
DEONENT
पश्च युद्ध उपायकान्तरिक्ष
ADDL. D.I.G.P. GC: C.R.P.F.
पुष्प ऐन देवरंगुदल गुपाहाटी-23
GUWAHATI-23 (ASSAM)