

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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✓
O.A/T.A No 277/2007
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SECTION OFFICER (Judl.)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

1. Original Application No. 277/07

2. M/s Petition No. _____

3. Contempt Petition No. _____

4. Review Application No. _____

Applicant(s) A. Shamsudeen & Ors. vs Union of India & Ors

Advocate for the Applicants Rajesh Mazumdar.....

Advocate for the Respondent(s) Dr. Case: G. Boruah.....

Notes of the Registry	Date	Order of the Tribunal
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The application is in form
is filed C. F. for Rs. 30/-

File Date: PC/07
22/07/07

Date: 26.9.07

Registrar

DR

Petitioners giving
for issue notices
one received with
envelopes, copy
served.

DR

11/10/07

26.12.07

12.10.07

On the prayer of Mr. R. Mazumdar, learned
counsel appearing for ^{the Applicants,} Applicant No.2 (R. Chellappan
Pillai,) Applicant No.3 (Smt. Tulashi Bala Das),
Applicant No.4 (Umesh Prasad) are permitted to
withdraw ^{from this} the case with liberty to file fresh Original
Application ^{and,} as consequence, ^{this} Original No.277 of
2007 is confined in respect of Applicant No.1 (A.
Shamsudeen) only.

Issue Notice on the Respondents requiring them
to file reply by 07.12.2007.

Send copies of this order to all the
Applicants and to the Respondents (alongwith
Notices) in the address given in the Original
Application.

Free copies of this order be also handed over
to the counsel for both the parties.

Khushiram
Member(A)

M.R. Mohanty
(M.R. Mohanty)
Vice-Chairman

DR

Notice & order set to 2/section
for issuing to R- 1 to 9 day
regd. ALD post.

DR D/No-1137601140
DT- 5/11/07.

MA-277/07

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over to the death part.
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07.12.2007

No written statement has yet been

filed in this case.

① Service report
awarded.

24
6/12/07

Call this matter on 31.12.2007, awaiting written statement from the Respondents.

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

(Khushiram)
Member (A)

(M.R.Mohanty)
Vice-Chairman

31.12.2007

No written statement has yet been filed in this case by the Respondents. Mr. G. Baishya, learned Sr. Standing counsel for the Union of India seeks four weeks time to file written statement. The court adjourned the hearing.

order of 7/12/03
answering to resp.
order 1 to 4 day pos

~~Car~~ 12/07 D/No. 1748 to 1751

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on 1-2-3 PM 1982

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18/12/07 into 1000pm 31.12.20

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1990-01-10 20:00:00

No written statement has yet been filed in this case by the Respondents. Mr.G.Baishya appearing learned Sr. Standing counsel for the Union of India seeks four weeks time to file written statement. Prayer is allowed.

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

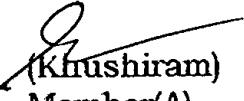
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25.1.08

/bb/

(M.R.Mohanty
Vice-Chairman)

28.01.2008. Judgment pronounced in open Court. Kept in separate sheets. Application is disposed of


(Krushiram)
Member(A)


(M.R. Mohanty)
Vice-Chairman

Lm

Page Break-----

copy of the judgment
dt 28.1.08 received
on behalf of Mr. G.
Biju
Biju Das
Advocate
12.2.08

27.2.08
Copy of the
judgment sent to
the office for
recording the same
to the register.

etd

17.3.08
Biju Das
D.N.C. 1223 to
1225 dd 3.3.08.
yours

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A. No 277 of 2007

DATE OF DECISION: 28.01.2008

A.shamsudeen & Ors. Applicant/s

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

- Versus -

U.O.I. & Ors Respondent/s

Mr.G.Baishya, Sr.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

6

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH

Original Application No.277 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. A Shamsudeen, S/O M.Abdul Rahiman,
Force No.880020035, Rank Pharmacist,
Group Centre CRPF Hospital, Salbagan,
Agartala, Tripura (W)-799012
2. R.Chellappan Pillai, S/O.V.Raghawan Pillai,
Force No.850879068, Rank Hospital
Cook, Group Centre C.R.P.F. Hospital
Salbagan, Agartala, Tripura (W)-799012
3. Smti Tulashi Bala Das, D/O Late Rabiram Das,
Force No.821240926, Rank Nursing Assistant,
Composite Hospital, 9th Mile,
Central Reserve Police Force, Amerigog,
Kamrup, Assam
4. Umesh Prasad, Force no.841520041,
Rank Pharmacist, 9th Battalion, CRPF AD.Nagar, Tripura.

By Advocate Mr.Rajesh Mazumdar

-Versus-

1. Union of India, Through the Secretary,
Ministry of Home Affairs, New Delhi
2. The Director General of Police,
Central Reserve Police Force,
Central Government Organization,
Complex, New Delhi-110003.
3. Addl. Inspector General Group
Center, Central Reserve Police Force,
Hospital Salbagan, Agartala, Tripura (W)799021.
4. The Inspector General (medical),
Composite Hospital, Group Center, Central Reserve
Police Force, Amerigog, Guwahati, Assam.

Respondents.

By Mr. G. Baishya, Sr.C.G.S.C.



ORER(ORAL)M.R.MOHANTY,V.C:

1. The Applicant, a C.R.P.F. Hospital Staff, has filed this Original Application under Section 19 of the Administrative Tribunals Act, 1985 with prayer for a direction to the Respondents to grant him Hospital Patient Care Allowance for a period prior to 08.09.2000.
2. By order dated 12.10.2007 notices were directed to be issued to the Respondents requiring them to file reply by 7th, December, 2007. Accordingly, notices were dispatched on 5.11.07. Despite notices no written statement were filed by 07.12.2007; for which the matter was adjourned to 31.12.2007. On 31.12.2007 the matter was adjourned to today/ 28.01.2008 requiring the Respondents to file reply. Despite that, no reply has yet been filed, in this case, by the Respondents.
3. On consent of learned counsel appearing for the parties, this case is taken up to-day for disposal.
4. Heard Mr. R. Mazumdar, learned counsel appearing for the Applicants and Mr. G. Baishya, learned Sr. Standing Counsel appearing for the Respondents; on whom a copy of this O.A. had already been served.
5. It appears that the Applicant did not raise any grievance before the Respondents to grant him Hospital Patient Care Allowance for a period prior to 08.09.2000. Existence of a grievance/right is not enough to rush to the Court/ Tribunal. One must approach the authorities, at the first instance, to get redressal of his grievance and, only when the authorities neglect to redress the grievances or refuse to grant the desired relief; 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.

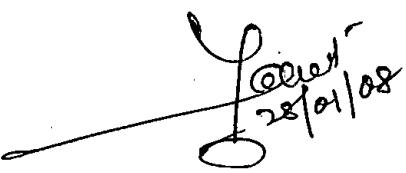
6. In the aforesaid premises, without entering in to merits of this matter, this case is hereby disposed of by granting liberty to the Applicant to raise his grievances before the Respondents/competent authorities and, if any such grievances are raised (by way of filing representation, by end of February, 2008) by the Applicants, then the Respondents should give due consideration to the same and pass a reasoned orders by end of April, 2008.

7. The learned counsel for the Applicant has pointed out that objections that were raised by the Respondents were 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. While disposing of this case we require the Respondents to consider the views of this Tribunal while considering the representation of the Applicant.

8. With the above observations and directions this case is disposed of.

9. Send copies of this order to the Applicants and to the Respondents in address given in the O.A. Free copies of this order be also handed over to the learned counsel appearing for both the parties.


(KHUSHIRAM)
MEMBER(A)


(M.R.MOHANTY)
VICE-CHAIRMAN

11 OCT 2007

ग्राहकी २००७

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: GUWAHATI BENCH:
GUWAHATI

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

ORIGINAL APPLICATION NO....277..../2006

A. Shamsudeen, and others

.....APPLICANTS

-Vs-

The Union of India and others

.....Respondents

SYNOPSIS

The applicants are serving as non-combatised hospital staff in the Central Reserve Police Force. The applicants in the present application are praying before this Hon'ble Tribunal for issuing necessary directions to the respondents to sanction the "Hospital Patient Care Allowances" to the applicants from the period 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. The applicants are relying on the fact that the admissibility of the "Hospital patient care allowance" to the applicants and similarly situated persons is no longer res - integra in view of the decisions of the Apex Court and several Hon'ble High Courts and Administrative Tribunals and as such the right of the petitioners would accrue from the date on which such allowance was introduced or the date of enlistment. The applicants are also relying on a judgment and order dated 5-7-2007 passed by this Hon'ble Tribunal in OA No. 296/2006 and OA no 314/2006 filed by similarly placed hospital staff, whereby directions were issued to the respondents to pay Hospital Patient Care Allowance to the applicants 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.

Filed by

Rajesh Mazumdar
(RAJESH MAZUMDAR.)

ADVOCATE

COUNSEL FOR THE APPLICANTS.

11001/2001

गुवाहाटी बैच परिषद
Gauhati Bench

LIST OF DATES

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 by several orders.
12-03-1996	Civil Rule 1417/95 was disposed by the Hon'ble Gauhati High Court by granting Hospital Patient Care Allowance (HPCA) to medical staff of CRPF.
7-10-2001	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).
	Representations by applicants for grant of HPCA from October 1987 to September 2000 have not been replied to by the respondents.
05-07-2007	This Hon'ble Tribunal has disposed of OA No. 296/2006 and OA no 314/2006 filed by similarly placed hospital staff directing the CRPF to pay Hospital Patient Care Allowance to the applicants 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.

11 OCT 2007

गुवाहाटी न्यायालय

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.....277...../2007

1. A. Shamsudeen. And others

.....APPLICANTS

VS

Union of India and others

.....RESPONDENTS.

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7.	Vakalatnama	

Filed by

Rajesh Mazumdar
RAJESH MAZUMDAR
(Advocate)

11 OCT 2007

गुवाहाटी = रायपुर
Guwahati = Raipur

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL:

GUWAHATI BENCH: GUWAHATI

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

ORIGINAL APPLICATION NO.....277...../2006

1. A. Shamsudeen, S/o. M. Abdul Rahiman, Force No. 880020035, Rank Pharmacist, Group Centre CRPF Hospital, Salbagan, Agartala, Tripura (W) -799021.
2. R. Chellappan Pillai, S/o. V. Raghawan Pillai, Force No. 850879068, Rank Hospital Cook, Group Centre CRPF Hospital, Salbagan, Agartala, Tripura (W) -799012.
3. Smti Tulashi Bala Das, d/o Late Rabiram Das, Force No. 821240926, Rank Nursing Assistant, Composite Hospital, 9th Mile, Central Reserve Police Force, Amerigog, Kamrup, Assam.
4. Umesh Prasad, Force no 841520041, Rank Pharmacist, 9th Battalion, CRPF AD. Nagar, Tripura.

On 12/10/07
SAP

.....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, ~~Central Government~~ ^{Organisation} Complex, New Delhi-110003.
3. ~~AD~~ Inspector General ~~Medical~~ Group ⁴, Center, Central Reserve Police Force, Hospital Salbagan, Agartala, Tripura (W) - 799021.
4. The Inspector General (Medical), Composite Hospital, Group Center, Central Reserve Police Force, Amerigog, Guwahati, Assam.

..... Respondents

Act by
Smti Tulashi Bala Das
Through Rojan Bagheria Adv.

11 OCT 2007

गुवाहाटी न्यायालय
Guwahati Bench

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, 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.

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

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 for the purposes of the application. The applicants have authorized Nursing Assistant Tulashi Bala Das, Force no. 821240926 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.

4. Limitation

Tulashi Bala Das

11 OCT 2007

গুৱাহাটী ন্যায়পীঠ
Guwahati Bench

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 a citizen of India are entitled to all the rights and privileges and protections guaranteed by the Constitution of India.

5.2. That the applicant No. 1 had joined the services of the Central Reserve Police Force in the year 1988 and he is presently serving as a Pharmacist. The applicant No. 2 had joined the services of the Central Reserve Police Force in the year 1985 and he is presently serving as a Hospital Cook in the Group Centre CRPF Hospital, Salbagan, Agartala, Tripura (W) -799012. The petitioner no 3 joined the services of the Central Reserve Police Force in the year 1982 and is serving as a Nursing Assistant in the Composite Hospital, CRPF Group Centre, Amreigog, Assam. The applicant no 4 is serving as Pharmacist in the 9th Battalion, CRPF AD.Nagar, Tripura.

5.3. That the applicants in addition to their salary are drawing all the benefits and allowances as are applicable to the Hospital Staff serving in the other Central Government Health Services. As such, the applicants were also entitled to Patient Care Allowance at the same rate as is applicable to

Tulashri Bala Das

11 OCT 2007

गुवाहाटी न्यायपीठ
Guwahati Bench

the nursing Personnel serving under the Central Reserve
Police Force and other Central Health Services.

5.4 That the Government of India, Ministry of Health and Family Welfare vide letter dated 25.1.88 conveyed the sanction of the president of the grant of Hospital Patient Care Allowance to Group " C " and " D " non Ministerial employees including drivers of ambulance cars, but excluding the staff Nurses @ Rs- 80/- and Rs. 75/- per month respectively with effect from 1.2.89 subject to the condition that no night weightage 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 are issued with the concurrence of Ministry of Finance vide their DO NO. 1167/ PM/ 87 dated 15.10.87.

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

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

5
Jukshi Bala Das

11 OCT 2007

गुवाहाटी न्यायपीठ
Guwahati Bench

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.

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

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Guwahati Bench Das

प्रतिक्रिया
to Bench

herewith and marked as ANNEXURE-

III.

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

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

5.8 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.

Subash Baladas

11 OCT 2007

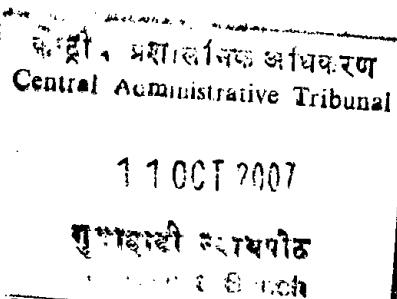
गुवाहाटी न्यायालय
Guwahati Bench

5.9. 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.

5.10. That the applicants placed their claim for entitlement of Hospital Patient Care allowance from October 1987 as per circular dated 25-1-1988. However, the respondents have preferred not to take any action on the representation nor has the arrears of hospital Patient Care Allowance from October 1987 to September 2000 been paid to the applicants.

5.11. That OA no 296/2006 and OA 314/2006 filed by similarly placed Hospital staff before this Ld. Tribunal, praying for a direction to the respondents to sanction Hospital Patient Care Allowance to the applicants for 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, was disposed of vide order dated 5-7-2007 granting the prayer of the applicants therein with a direction to the respondents to sanction the HPCA from October 1987

Subashini Beldarao 78



to September 2000 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 order dated 5-7-2007 passed by the Hon'ble Tribunal is annexed as Annexed as V.

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

Grounds.

- 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

11 OCT 2007

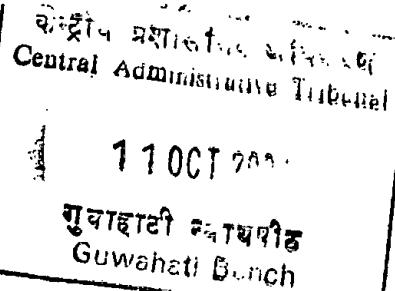
गुवाहाटी न्यायालय

Guwahati Bench

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 be 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 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

2
Neha Bora Das



other similarly situated persons are drawing the allowance.

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

7. DETAILS OF REMEDIES EXHAUSTED: -

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

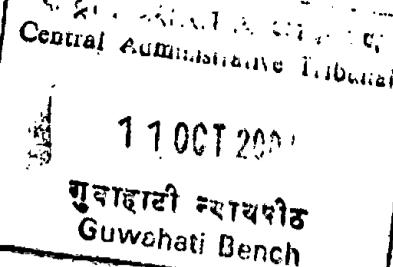
8. MATTERS NOT PREVIOUSLY FILED OR PENDING WITH ANY OTHER COURT:

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

9. RELIEF SOUGHT FOR:

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

2
Sukendri Bala Das.



9.1 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

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

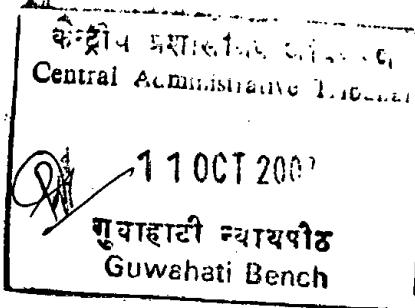
9.3 To grant such further or other reliefs as this Hon'ble Tribunal may deem fit, proper and necessary in the interests of justice and in the circumstances of the case.

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

- (i) I P O number: 32 G 040936
- (ii) Date: 26/9/01
- (iii) Issued by the Guwahati post office
- (iv) Payable at Guwahati.

11. LIST OF ANNEXURES:

As stated in the Index to the application.



VERIFICATION

I, Smti. Tulashi Bala Das....., d/o Rati Raliam Das....., by profession Nursing Assistant, do hereby solemnly verify that the statements made in paragraphs no 1, 3, 4, 5, 15, 25, 8, 5, 10, 6, 7, 8, 9 are true to the best of my knowledge and the statements made in paragraphs 5, 2, 5, 4, 5, 5, 5, 6, 5, 7, 5, 9, 5, 11, 12 being matters of records are true to my information derived there from 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 26th day of September, 2007 at Guwahati.

Tulashi Bala Das

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

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

Sir,

With reference to DOMS 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) hospital 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 the Ministry of Finance vide their Dy. No. 1167/FS/27 dated 15.10.1987.

Yours faithfully,

sd/- illegible

Under Secretary to the Government of India.

Certified to be true Copy

Rajesh Nageswar
Advocate

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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) Hospital employees From Rs. 80/- p.m. to Rs. 160/- p.m.
2. Group "D" (Non- Ministerial) Hospital employees From Rs. 75/- p.m. to Rs. 150/- p.m.
3. Group "C" & "D" (Non- Ministerial) CGHS employees From Rs. 70/- p.m. to Rs. 140/- p.m.
2. The terms and conditions for payment of Hospital patient Care Allowance/ patient Care Allowance will remain the same as mentioned in this Ministry's letter No. B. 28015/60/ 87-H dated 25.1.1988. Z.28015/102/ 88-H dated 30.10.1989 and B-11011/1/90-CGHS dated 10.7.90.
3. The expenditure involved will be met out of the budge grant of concerned hospitals/CGHS Organisation for the year 1998-99.

Your faithfully.

Sd/- Illegible.

UNDER SECRETARY TO THE GOVERNMENT OF INDIA.

Certified to be true Copy

Rajesh Nagarkar.
Advocate

ANNEXURE-III

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 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) employees working in CGHS Dispensaries w.e.f. 29th December 1998. The revised rates will be as under:

1. Group "C" (Non- Ministerial) From Rs. 160/- per month to Rs. working in Central Government 700/- per month hospitals and hospitals under the National Capital Territory of Delhi and other Union Territories.
2. Group "D" (Non- Ministerial) From Rs. 150/- per month to Rs. 695/- per month working in Central Government hospitals and hospitals under the National Capital Territory of Delhi and other Union Territories.
3. Group "C" & "D" (Non- Ministerial) From Rs. 140/- per month to Rs. CGHS employees working in CGHS 690/- per month. Dispensaries
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 25th January 1988 , Z.28015/102/ 88-H dated 30th October 1989 and B-11011/1/90-CGHS (P) dated 10th July90.
3. The expenditure involved will be met out of the budget grant of concerned hospitals/CGHS Organization.
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.

Certified to be true Copy

Rajesh Nagarkar
Advocate

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

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

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

Mr. Dutta, learned counsel for the petitioners submits that the issue is no longer res-integra and has already been decided by this Court in WP(c) No. 1417/95 (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 SLP preferred by the respondents. The SLP was dismissed by the Apex Court by order dated 17.10.2001.

The petitioner made a representation dated 15.11.02 (Annexure 8 to the writ petition) before the departmental authority asking for extension of similar benefit as was extended to other similarly situated persons who were the petitioners in Civil Rule No. 1417/95. However, the respondents took the plea that since the present petitioners were not involved in the said Writ petition i.e. Civil Rule No. 1417/95 they were not entitled to the said allowances. In fact, such a stand has been taken in the affidavit-in-opposition filed by the respondents. In Para-13 of the said affidavit-in-opposition, the respondents have stated that since the petitioners were not involved in any court cases, they were not sanctioned the said allowance. The stand of the respondents in the said affidavit-in-opposition is that as per the orders of Director (Medical) vide Signal No. J.II-2/2002-Med.II MHA dated 18.1.03 the aforesaid allowance to be sanctioned to the persons who were Group 'C' and 'D' combatised Hospital staff only who were petitioners of various court cases and orders for granting the said allowance had been passed by the Court. Thus the stand of the respondents is not on the ground of ineligibility of the petitioners to get the said allowance. The only ground is that, since the petitioners have not approached the court of law, they

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Rajesh Nagpal
Advocate

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

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

The Writ Petition stands allowed. No costs.

Sd/-

B.K.Sarma, Judge

Certified to be true Copy

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI
BENCH

Original Application Nos. 206 & 311 of 2006.

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

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

O.A. 206 of 2006

1. Pharmacist ON Sumathy
Force No. 841540104
2. Nursing Assistant
Sathihabu
Force No. 861191304
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
Kalaiyutti, Force no.
851580428

Sisai Larmachari N. Munin
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. 311 of 2006

1. Nursing Assistant
M S Suthakaran
Force no. 882050038
2. Pharmacist Prafulla Kumar Salu
Force no. 840720893
(The above are serving in 6th
Batta, Central Reserve Police)

Certificate is true Copy

Rajesh Agarwal

Advocate

3. Force, Kumar Ghat, Tripura.)
 Nursing Assistant Kapil Deo Ram,
 Force no 710559411, Group Control,
 Central Reserve Police Force,
 Khatkhatti, 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

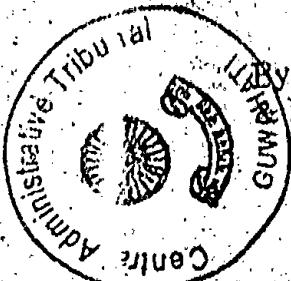
By Mr M.U.Ahmed, Addl.C.G.S.C (O.A.No.296/06)
 & Miss U. Das, Addl. C.G.S.C (O.A. 314/2006)

ORDER

SACHIDANANDAN K.V. (V.C)

The claim in these O.A.s 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



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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.

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

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

Assam Rifles and National Police Academy, Hyderabad at the same rates as was being given to the employees similarly placed in the CGHS dispensaries or Central Govt. Hospitals in Delhi/outside Delhi on the same term and conditions. Accordingly the Directorate General vide letter dated 22.9.2000 passed orders to sanction PCA/HPCA to 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



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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 11th CPC had since began working with a task of recommending allowances to the Govt. employees, as such Central Para Military forces may take time from the court in case any court order pending compliance on the issue.

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

5. I have given due consideration to the arguments advanced by the counsel for the parties and materials placed on record. Annexure-I 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 the 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.1447/95 (Niranjan Das & 23 Others, Petitioner v. Union of India, Respondent) by order dated 12.3.96, the Writ petition was allowed and the same benefit was given to the writ petitioners. The order passed by the learned Single Judge in this case shall stand quashed in view of the



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

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

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

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

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

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

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

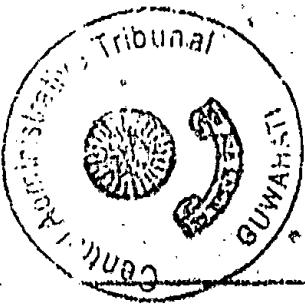
"A case for grant of Hospital patient care allowance/patient care allowance to all combatised Group 'C' and 'D' Hospital staff is under consideration with Ministry of Home Affairs in view of judgment pronounced by various courts. Further quoted that, MHA vide their UO No. II-27012/31/2006.PF III dated 19.3.07 have intimated that "the proposal for extension of the benefit of Hospital patient care allowance/patient care allowance to combatised Group 'C' and 'D' non 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 pertaining to the combatant Group 'C' and 'D' non ministerial staff and not for non combatant Group 'C' and 'D' employees and therefore the said order is not pertaining to the interest of the applicant.

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

if the orders passed by the Tribunal has attained finality. This aspect may be verified by the respondents and if so they are hereby directed to pass appropriate orders accordingly and communicate the same to the applicants of these O.A.s within a period of 1 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.



S/ VICE-CHAIRMAN

Date of Application : 28.8.07

Date on which copy is ready : 28.8.07

Date on which copy is delivered : 28.8.07

Certified to be true copy.

Section Officer (AO)
Section Officer (AO)

C. A. T. Gurahati Branch
Guwahati-5

28/8/07