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

(DESTRUCTION OF RECORD RULES, 1990)

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O.A/T.A No... 31.8/2007

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SECTION OFFICER (Judl.)

Brahma  
11/10/17

CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH:

1. Original Application NO. 318/07

2. M.Bs Petition No.                     

3. Contempt Petition No                     

4. Review Application No.                     

Applicant(S)...R. Chellappan Pillai....VS-Union of India & Crs

Advocate for the Applicants...Rajesh Mazumdar.....

Advocate for the Respondant(S):.....Case.....

Notes of the Registry	Date	Order of the Tribunal
<p>Application is in form is filed/C.F. for Rs. 50/- deposited vide IPO/PO No. <u>66F831986, 66F831987</u> Dated <u>9.11.07</u> <u>64F395053</u></p> <p><u>Reg.</u> Registrar</p> <p><u>Pri</u></p> <p>Petitioner's copy for issue notices are received with envelopes copy not served.</p> <p><u>11/1/08</u></p> <p>Received copy of order dated 4.1.08 for Applicant's advocate's uptal Malakar 40/01/08</p> <p>18.3.08 Budget issued vide 2/NOT. 205 to 208 J.O. 17.1.08 K/</p>	<p>04.01.2008</p> <p>Lm</p>	<p>Judgment pronounced in open Court. Kept in separate sheets. Application is disposed of. No order as to costs.</p> <p>(Khushiram) Member(A)</p> <p>(M.R. Mohanty) Vice-Chairman</p>

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH

Original Application No. 318/2007

DATE OF DECISION : 04-01-2008

Shri R. Chellappan Pillai

.....Applicant/s

Mr. Rajesh Mazumdar

.....  
Advocate for the  
Applicant/s

-Versus -

Union of India & Ors.

.....Respondent/s

Mrs. Manjula Das, Addl. C.G.S.C.

.....Advocate for the  
Respondent/s

CORAM

THE HON'BLE MR MANORANJAN 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/Mamber(A)

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CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH

Original Application No.318 of 2007

Date of Order: This the 4<sup>th</sup> Day of January, 2008

HON'BLE MR.MONORANJAN MOHANTY, VICE-CHAIRMAN

HON'BLE MR.KHUSHIRAM, ADMINISTRATIVE MEMBER

Hospital Cook R.Chellappan Pillai

Force no 850879068

Central Reserve Police Force,  
Presently posted at Group Centre,  
CRPF Hospital, Salbagan, Agartala,  
Tripura (West)-799012.

.Applicant.

By Advocate Mr.Rajesh 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 Central Reserve Police Force,  
East Block, 10 R.K. Puram  
New Delhi-110066.
4. The Commandant, 9<sup>th</sup> Battalion, Central  
Reserve Police Force, Presently posted  
at AD Nagar, Agartala  
Tripura (West)

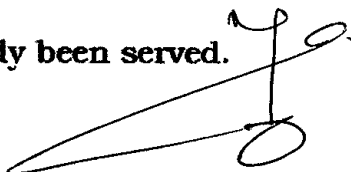
Respondents.

By Advocate Ms. Manjula Das, Addl.C.G.S.C

**ORDER (ORAL)**

**M.R.MOHANTY,V.C:**

Heard Mr.Rajesh Mazumdar, learned counsel appearing for the Applicant and Mrs. Manjula Das, learned Addl. Standing counsel appearing for the Union of India, on whom copy of this Original Application has already been served.



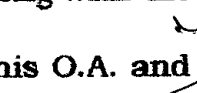
2. The Applicant, a CRPF Hospital Staff, has filed this Original Application under Section 19 of the Administrative Tribunal Act, 1985, with a prayer for direction to the Respondents to grant him the Hospital Patient Care Allowance for a period prior to 08.09.2000. The case of the Applicant is that he is getting Patient Care Allowance with effect from 08.09.2000; only.

3. It appears that the Applicant did not raise any grievances, as yet, before the Respondents to grant him Patient Care Allowance for the 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. Only when the authorities neglect to redress the grievances or refuse to redress the law-ful grievances, then only one should approach the Court/Tribunal for intervention. Section 20 of the Administrative Tribunals Act, 1985 also requires that one must approach the authorities, for redressal of his grievances, before approaching this Tribunal.

4. 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 Care Allowance for the period between 01-08.1987 to 07-09-2000.

5. In the aforesaid premises, this O.A is, hereby, disposed of, at the Admission stage, 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 January, 2008, then the Respondents should give due consideration of the same.

6. Copies of this order be sent to the Respondents, along with the copies of this Original Application, in the address given in this O.A. and



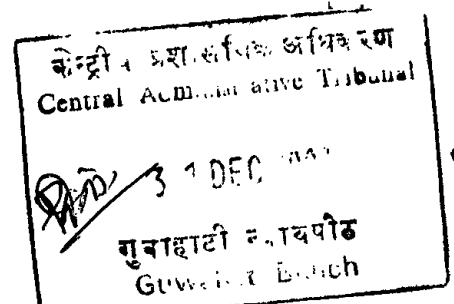
the Respondents should (a) treat the copy of this O.A as a representation (of the Applicant) to the Respondents; (b) consider the same in terms of the Rules/Govt. instructions and (c) pass necessary consequential order, as due and admissible under the rules, by end of March, 2008.

7. Also send copies of this order to the Applicant in the address given in the O.A. and to the counsels appearing for the parties.

  
(KHUSHIRAM)  
ADMINISTRATIVE MEMBER

  
(M.R. MOHANTY)  
VICE-CHAIRMAN

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: GUWAHATI BENCH: GUWAHATI

ORIGINAL APPLICATION NO. 318 /2007

Hospital Cook R.Chellappan Pillai

-Vs-

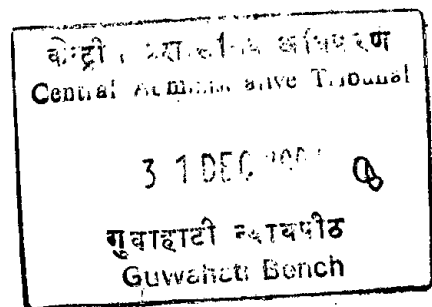
Union of India and others.

**SYNOPSIS**

The present application has been filed under Section 19 of the Administrative Tribunals Act, 1985. The applicant is a non-combatised hospital cook attached with the 9<sup>th</sup> Battalion, Central Reserve Police Force and is presently posted at Tripura. The applicant has been drawing Patient Care Allowance since 8-9-2000 till date. It is stated that different benches of the Central Administrative Tribunal, the High Courts and also the Supreme Court has upheld the entitlement of the hospital staff of the Central Reserve Police Force to Patient Care Allowance as per OM dated 25-1-1988, which was later revised by OM dated 28-9-1998, 2-1-1999. The Respondents have not paid the allowance to the applicant for the period 1-8-1987 to 7-9-2000. It is stated that the respondents have taken a specific stand that the Patient care allowance for the said period would be made available to only those persons who would approach the Hon'ble Courts and obtain orders. It is stated that the Hon'ble Hyderabad Bench and the Hon'ble Bench of this Tribunal has disposed of petitions filed by similarly situated persons praying for a similar relief as prayed for in this application, based on similar grounds, by directing the respondents to pay the patient care allowance to the applicants therein for the period from 1-8-1987 to 7-9-2000 at the applicable rates. The applicant therefore prays that this Hon'ble Tribunal would be pleased to issue directions to the respondents to pay the patient care allowance to the applicant for the period of 1-8-1987 to 7-9-2000.

Filed by

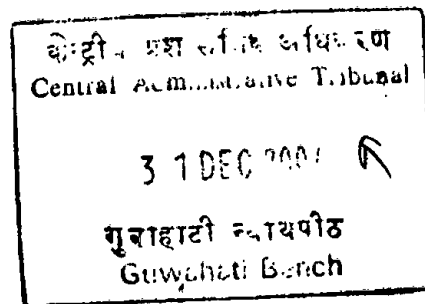
*Rajesh Mazumdar*  
(RAJESH MAZUMDAR)  
ADVOCATE.  
(Counsel for the applicant)



### LIST OF DATES AND EVENTS

- 25-01-1988                      The Government of India sanctioned Hospital Patient Care Allowance to Group C and D Non-Ministerial Staff of Central Govt. Hospital.
- 28-09-1998,                      The rates of the aforesaid allowance were  
02-01-1999                      revised.
- 12-03-1996                      Civil Rule 1417/95 disposed of granting Hospital Patient Care Allowance to medical staff of Central Reserve Police Force.
- 10-06-1996                      OA No. 09/1995 disposed of by this Hon'ble Tribunal upholding the right of Non-combatised employees to the allowance.
- 17-10-2001                      Hon'ble Supreme Court dismissed Civil Appeal No. 11985/96 and 1093/95 filed by Central Reserve Police Force and thereby confirmed eligibility of paramedical staff of Central Reserve Police Force to Hospital Patient Care Allowance.
- The applicant is being paid HPCA from 8-9-2000 onwards. The allowance from 1.8.1987 to till 7-9-2000 has not yet been paid.





05-08-2005

Hon'ble Central Administrative Tribunal, Hyderabad bench, disposed of OA No. 243/05 filed by similarly placed hospital staff directing the Central Reserve Police Force 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.

5-7-2007

This Hon'ble Tribunal disposed of OA no 296/2006 and OA No. 314/2006, which were filed seeking similar relief on similar grounds, directing the respondents to sanction the patient Care Allowance to the applicants therein for the period 1.8.1987 to till 7-9-2000.

12-10-2007

Applicant was permitted to withdraw from OA No. 277/2007, filed before this Hon'ble Tribunal, wherein he had been arrayed as Applicant No. 4, with liberty to file fresh Original Application

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गुवाहाटी न्यायपीठ  
Guwahati Bench

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: GUWAHATI BENCH  
GUWAHATI

ORIGINAL APPLICATION NO. 318 /2007

Hospital Cook R. Chellappan Pillai

-Vs-

The Union of India and others

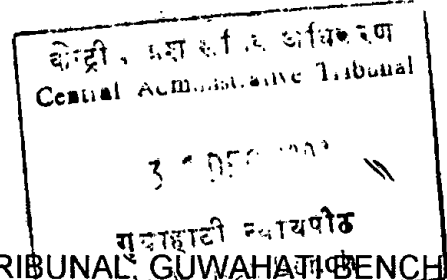
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**FILED BY**

*Rajesh Mazumdar*  
(RAJESH MAZUMDAR)  
ADVOCATE.

5, Pub-Sarania Road, Chandmari, Guwahati-3



*Filed by the applicant.  
Through Paper & Phys. Sec.  
Adhocate*

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

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

**ORIGINAL APPLICATION NO. 318 /2007**

Hospital Cook R. Chellappan Pillai  
Force no 850879068,  
Central Reserve Police Force,  
Presently Posted at Group Centre  
CRPF Hospital, Salbagan, Agartala,  
Tripura (West)-799012.

.....Applicant

**-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, Central Reserve Police Force, East Block, 10, R.K. Puram New Delhi, 110066.
4. The Commandant, 9<sup>th</sup> Battalion, Central Reserve Police Force, presently posted at AD Nagar, Agartala, Tripura (West).

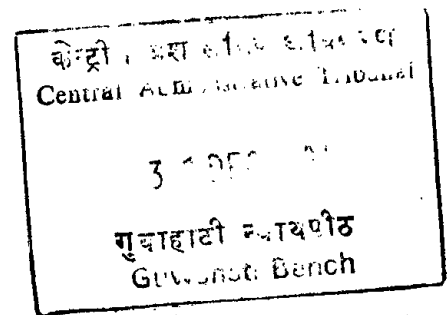
..... Respondents

**DETAILS OF THE APPLICATION:**

**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 for the period from 1.8.1987 to till 7-9-2000, though they are legally entitled to the same and similarly placed personnel have been given the same. It is stated that the respondents have taken a consistent stand that payment cannot be made to those person who do not obtain orders from the Hon'ble Courts.

**R. CHELLAPPAN PILLAI**



## 2. Jurisdiction of the Tribunal.

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

## 3. Limitation

The applicant further declares that the application is within the limitation period prescribed in Section 21 of the Administrative Tribunals Act, 1985 and as per law laid down by the various Courts of law.

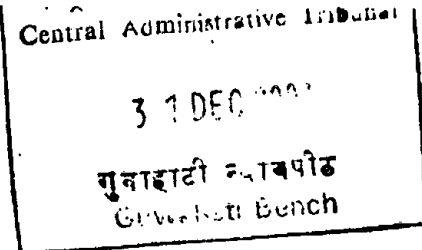
## 4. Facts of the case.

4.1. The applicant respectfully states that he is a non-combatised Hospital Cook serving in the Central Reserve Police Force (hereinafter referred to as the "Force") and he joined the services in the year 1985. The applicant further states that he is attached to the Hospital Group Centre, of the Force and presently deployed in the State of Tripura, which falls under the jurisdiction of this Hon'ble Tribunal.

4.2. The applicant states that in addition to salary he is entitled to all the benefits and allowances as are applicable to the Nursing personnel and Hospital Staff serving in the other Central Government Health Services. As such, the 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.

4.3 The applicant states 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

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

Copy of letter dated 25.1.88 of the Government of India, Ministry of Health and Family Welfare is annexed herewith and marked **ANNEXURE A1**.

4.4 The applicant states 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 were 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 A2**.

4.5 The applicant states that the Government of India, Ministry of Health and Family welfare by yet another communication dated 2.1.99

*R. CHELLAPPAN PILLAI*

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at Bench

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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 A3.**

4.6 The applicant states 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 staffs of the Force working in Bhubaneswar Hospital are being granted the Hospital Patient Care Allowance, but they are not given the said benefit. The Principal Bench of the Central Administrative Tribunal while allowing the application held that it would be discriminatory if the Paramedical staff in working in Bhubaneswar Hospital of the Force received the benefit of the allowance and the other similar paramedical staffs working in other hospital are not extended the same benefit. Consequently the Ld. Tribunal directed that all the Applicants in the Original Application who are paramedical staff should be granted Hospital Patient Care Allowance at the appropriate rate from the relevant date as per Government of India's instruction dated 25.1.88 and 28.2.90 subject to the conditions stated therein.

*R. CHELLAPPAN PILLAI*

4.7 The applicant states 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.

4.8 The applicant states 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. The Hon'ble Court vide its order dated 12.3.96 allowed the writ petition with the direction that all the applicants of the Civil Rule who are paramedical staff should get Hospital Patient Care Allowance as per instruction of the Government of India dated 25.1.88 subject to the condition mentioned therein. It was also directed to implement the order within a period of three months from the date of receipt of the order.

Copy of the order-dated 12.3.96 passed by the Hon'ble Gauhati High Court in civil rule No. 1417/95 is annexed herewith and marked as **ANNEXURE A4.**

4.9 The applicant states that this Hon'ble Tribunal in OA no 9/1995, vide order dated 10<sup>th</sup> 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.

4.10 The applicant states that the Union of India had filed a SLP Civil Appeal no 11985 of 1996 and 1093 of 1995 before the Supreme Court of

*R. CHALLAPPA PILLAI*

India challenging the orders passed the Principal Bench and the Hyderabad Bench of the Central Administrative Tribunal. The respondents had agitated the question of law as to whether the paramedical staff of the Central Reserve Police Force would be entitled to the benefit of Patient Care Allowance. The Supreme Court vide its order dated 17-10-2001 has dismissed the Appeals filed by the respondents. The issue of the eligibility of the paramedical staff to the patient care allowance has been decided in the affirmative by the Supreme Court vide its order dated 17-10-2001

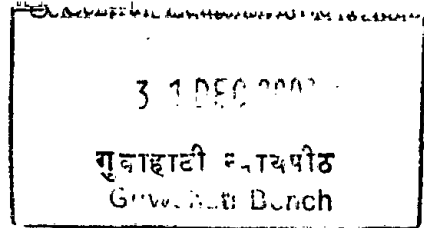
4.11 The applicant states that similar issue came up in another form before the Division Bench of the Hon'ble Gauhati High Court in Writ Appeal NO. 155/97. The aforesaid Writ Appeal was allowed by the Hon'ble Court vide order dated 18.3.2002 mentioning the fact that the special Leave petition preferred before the Hon'ble Supreme Court challenging the legality of the payment of Hospital Patient Care Allowance to the paramedical staff of the Force 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- A5.**

4.12 The applicant states 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

*R. CHELLAPPAN PILLAI*





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.

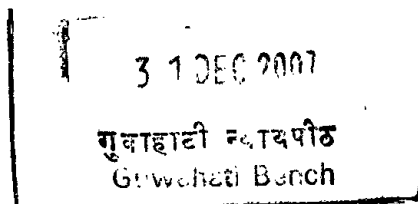
A True copy of the order dated 30-9-2004 passed in WP(c) no 474/2003 is annexed hereto as **ANNEXURE A6**.

4.13 The applicant states that the applicant in the present Original applicant is drawing the benefit of Hospital Patient Care Allowance with effect from 8/9/2000. The allowance for the period from 1-8-1987 to 8-9-2000 has not yet been paid to the applicant for reasons best known to the respondents.

4.14 The applicant states that 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 1-8-1987 as per the circular dated 25-1-1988 and subsequent circulars enhancing/revising the rate of Hospital Patient Care Allowance as applicable to them.

4.15 The applicant states that similarly situated personnel had placed their claim for entitlement of Hospital Patient Care allowance from October 1987 as per circular dated 25-1-1988 and/or from their date of appointment, whichever is later.

*R. CHELLAPPAN DILLAI*



4.16 The applicant states that by an order dated 22/10/2005 the Chief Medical Officer of the respective Base Hospital had informed that there were no orders for payment of patient Care Allowance to personnel other than those who have got orders in favor of them from the Court. The personnel therein were in fact asked to submit claims with Hon'ble Courts favorable decision.

A true copy of the order dated 22/10/2005 is annexed hereto and marked as **ANNEXURE A7.**

4.17 The applicant states that OA no 243/2005 was filed by a Hospital staff before the Ld. Central Administrative Tribunal, Hyderabad Bench praying for a direction to the respondents to sanction Hospital Patient Care Allowance to the applicant fro the period 1-8-1987 to 7-9-2000 as per the revised rates sanctioned by the Government of India, vide letters dated 28-9-1998 and 2-1-1999 as had been done in respect of similarly situated employees. The Hon'ble Tribunal vide order dated 5-8-2005 was pleased to direct the respondents to pay the applicant the Hospital Patient Care Allowance from 1-8-1987 or from the date of his appointment, whichever is later, at the rates of allowance sanctioned to Group C and D non-ministerial hospital employees by order dated 25-1-1988 and revised by order dated 28-9-1998 and subsequent orders of revision of the allowance.

A copy of the order dated 5-8-2005 passed by the Hon'ble Tribunal is annexed hereto and marked as **ANNEXURE A8.**

4.18 The applicant states that similarly situated Pharmacists and other hospital staff had filed OA no 296/2005 and OA No 314/2006 before this

*R. CHELLAPPAN PILLAI*

Tribunal, praying for a directions to the respondents to sanction Hospital Patient Care Allowance to the applicant 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 and as had been directed by the Hyderabad Bench of the Hon'ble Tribunal. This Hon'ble Tribunal vide order dated 5-7-2007 was pleased to direct the respondents to pay the applicants therein Hospital Patient Care Allowance from 1-8-1987 or from the date of 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 order dated 5-7-2007 passed by the Hon'ble Tribunal is annexed hereto and marked as **ANNEXURE A9**.

##### **5. Grounds for relief with legal provisions**

The applicant is 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.**

5.1 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.

5.2 For that the question of entitlement of the applicant to Hospital Patient Care Allowance as per order dated 25-1-1988 and subsequent OM

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मुद्राहारी न्यायपीठ

C. A. T. Bench

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 they were entitled to the benefit, i.e. 1-8-1987 or their date of appointment which ever is later.

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

5.4 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 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.

5.5 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.

5.6 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.

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गुवाहाटी न्यायपीठ  
Guwahati Bench

5.7 For that it is submitted that since the entitlement of Group "C" and "D" persons working in the hospitals of the Central Reserve Police Force to the HPCA/PCA 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.

6. **DETAILS OF REMEDIES EXHAUSTED: -**

The applicant states that in view of the stand taken by the respondents in the case of other similarly situated personnel, 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.

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

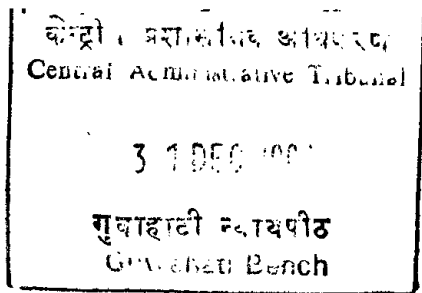
The applicant declares that he was a party in OA No. 277/07 filed before this Hon'ble Tribunal with a similar cause of action and praying for a similar relief. However he was granted the liberty to withdraw from the OA 277 / 07, with liberty to file fresh Original Application. It is stated that no other application, writ petition or suit is pending before any of Court or Tribunal.

A true copy of the order dated 12-10-2007 is annexed hereto and marked as **Annexure Aiv.**

8. **RELIEF SOUGHT FOR:**

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

*R. CHELLAPPAN PILLAI*



- 8.1 Direct the respondents to sanction the Hospital Patient Care allowance to the applicant 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
- 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 relief as this Hon'ble Tribunal may deem fit, proper and necessary in the interests of justice and in the circumstances of the case.

**9. Interim order, if any, prayed for :**

The applicant has not filed any prayer for interim relief.

10. In the event of application being sent by Registered post, it may be stated whether the applicant desires to have oral hearing at the admission stage and if so, he shall attach a self addressed Post-Card or Inland Letter, at which intimation regarding the date of hearing could be sent to him.

The applicant states that clause 10 of the statutory format does not apply to him.

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

*R. CHELLAPPAN PILLAI*

31 DEC 2007

গুৱাহাটী ন্যায়পীঠ

66F 83/1986, 66F 83/1987.

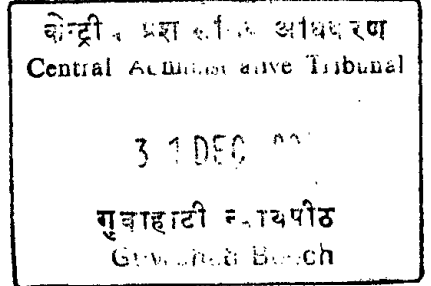
- (i) I P O number: 64E 595053,  
(ii) Date: 11-9-07.  
(iii) Issued by the Guwahati post office  
(iv) Payable at Guwahati.

## 12. LIST OF ENCLOSURES:

1. True Copy of letter dated 25.1.88..... (Annexure A1)
2. True Copy of the letter dated 28.9.98..... (Annexure A2)
3. True Copy of the letter dated 2. 1. 99 ..... (Annexure A3)
4. Copy of the order-dated 12.3.96 passed in civil rule No. 1417/95..  
(Annexure A4)
5. Copy of the order dated 18.3.02 passed in writ Appeal No. 155/97  
... (Annexure A5)
6. Copy of the order dated 30-9-2004 passed in WP(c) no 474/2003  
.... (Annexure A6)
7. True copy of order dated 22/10/2005 ..... (Annexure A7)
8. True copy of the order dated 5-8-2005 ..... (Annexure A8)
9. True copy of the order dated 5-7-2007 ..... (Annexure A9)
10. True copy of the order dated 12-10-2007 ..... (Annexure A10)

---VERIFICATION---

R. CHELLAPPAN PILLAI



**VERIFICATION**

I, Force No. 850879068, Hospital Cook, R. Chellappan Pillai, s/o V. Raghawan Pillai, aged about 41 years, working as a non-combatised Hospital Cook in the Central Reserve Police Force, presently attached with Group Centre CRPF Hospital, Salbagan, Agartala, Tripura (West), do hereby verify that the contents of paragraphs number 1, 4, 6, 7, 8, 9, 10, 11, 12, are true to my personal knowledge and the contents of paragraphs 2, 3, and 5. believed to be true on legal advice and that I have not suppressed any material fact.

Date: 24/12/2007

Place: <sup>Agartala.</sup>  
Guwahati

*R. CHELLAPPAN PILLAI*

Signature of the applicant.



ANNEXURE-A1

No. 2.28015/60/87-H

Government of India

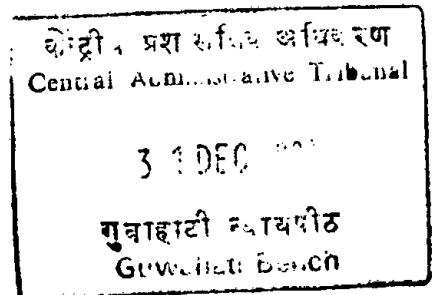
Ministry of Health &amp; Family Welfare

Nirman Bhawan, New Delhi.

Dated the 25<sup>th</sup> 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 concurrency 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.

*This is a true copy of the original document.*  
*Rajesh Kumar*  
*Delhi*  
*14/12/07*

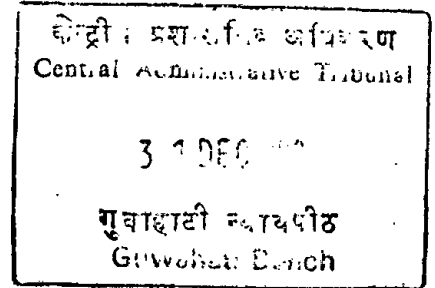
ANNEXURE-A2

Government of India  
Ministry of Health & Family Welfare

Nirman Bhawan, New Delhi.  
Dated the 28<sup>th</sup> 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.

*This is a true copy of the original document.*  
*Rajesh Majumdar*  
*Advocate*  
*28/12/07.*

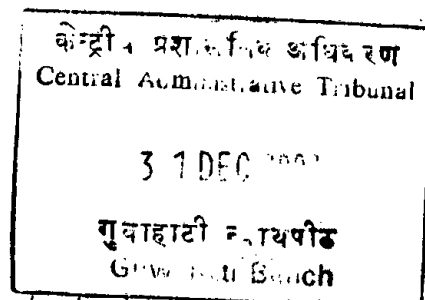
ANNEXURE-A3

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

Nirman Bhawan, New Delhi.  
Dated the 02<sup>nd</sup> 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. 29<sup>th</sup> December 1998. The revised rates will be as under:

1. Group "C" (Non- Ministerial) working in Central Government hospitals and hospitals under the National Capital Territory of Delhi and other Union Territories. From Rs. 160/- per month to Rs. 700/- per month
2. Group "D" (Non- Ministerial) working in Central Government hospitals and hospitals under the National Capital Territory of Delhi and other Union Territories. From Rs. 150/- per month to Rs. 695/- per month
3. Group "C" & "D" (Non- Ministerial) CGHS employees working in CGHS Dispensaries From Rs. 140/- per month to Rs. 690/- per month.

2. The terms and conditions for payment of Hospital patient Care Allowance/ patient Care Allowance will remain the same as mentioned in this Ministry's letter No. B. 28015/60/ 87-H dated 25<sup>th</sup> January 1988, Z.28015/102/ 88-H dated 30<sup>th</sup> October 1989 and B-11011/1/90-CGHS (P) dated 10<sup>th</sup> July 90.

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.

*This is a true copy of the original document.*  
*Regd. Officer*  
*24/12*

**ANNEXURE A4**

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

CIVIL RULE NO. 1417/95

Sri Nikunja Das and ors. ....Petitioners

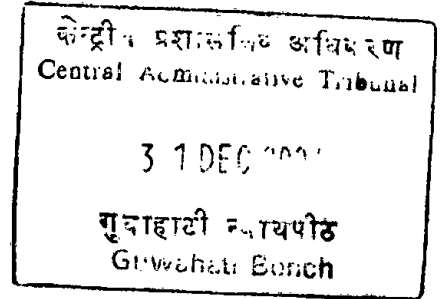
-versus-

Union of India and Anr. .... Respondents.

**PRESENT**  
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

**ORDER**

This case has been filed by 24 persons, all employees of G C CRPF, Hospital, working in different hospitals 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 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 concurrency of the Ministry of Finance vide their

Dy. No. 1167/FS/27 dated 15.10.1987. "

*This is a true copy of the original document*  
*Rajesh Palghat*  
*Advocate*  
*14/12.*

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 paramedical staff working in Bhubaneshwar Hospital, CRPF receive the benefit of this allowance and the other similar paramedical 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 OA who are paramedical staff should be granted hospital patient care 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 time of receipt of the copy of this order. There will be no order 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 may 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 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. This order should be implemented within a period of 3 months from the date of receipt of this order. The petitioners may obtain 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 paramedical staff but they are working in different hospitals.

This disposes of this writ application.

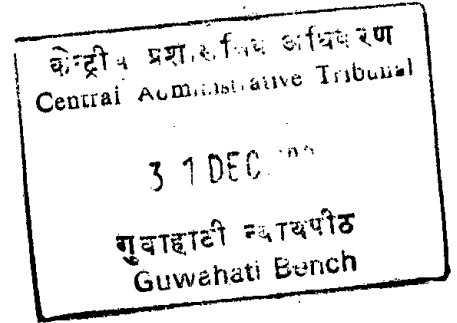
Sd/- JN Sarma  
Judge.

## ANNEXURE A5

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, Abhoypur,  
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

*This is a true copy of the original document.*  
*Rajesh Meghwal.*  
*Advocate*  
*14/12..*

PRESENT

THE HON'BLE MR. JUSTICE JN SARMA

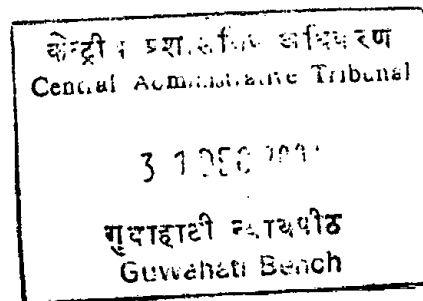
THE HON'BLE MR. JUSTICE I.A.ANSARY

Appearance for the appellants.....None

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

Date of hearing ...18/3/2002

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

Hon'ble Mr. Justice J N SarmaJUDGMENT (ORAL)

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

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

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

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

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

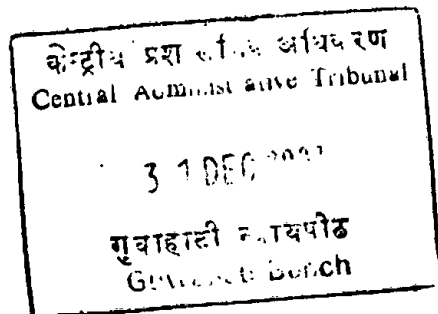
Sd/- I A Ansari  
Judge

Sd/- J N Sarma  
Judge

ANNEXURE A6.

Date 30.9.2004

WP (C) No 474/03



BEFORE

THE HON'BLE MR JUSTICE B.K.SHARMA

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

*This is a true copy of the original document.  
Rajesh Kumar  
Advocate  
14/12.*



No. J.II-2/2002-Med.II MHA dated 18.1.03 the aforesaid allowance to be sanctioned to the persons who were Group 'C' and 'D' combatised Hospital staff only who were petitioners of various court cases and orders for granting the said allowance had been passed by the Court. Thus the stand of the respondents is not on the ground of ineligibility of the petitioners to get the said allowance. The only ground is that, since the petitioners have not approached the court of law, they are not entitled to get similar benefit as was given to the other similarly situated persons. The principles involved in granting the aforesaid allowance have already been finalized by this court in the aforementioned 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

2997

3991  
22/10OFFICE OF THE CHIEF MEDICAL OFFICER INCHARGE, BH-3, CRPF, GUWAHATI

No. J.II-4/C5-EC-II

Dated, the

October 2005

To

No. 821390072 Pharm. B.M. Kumar,  
 No. 841540104 Pharm. O.N. Sumathi,  
 No. 871160378 W/Asstt. Meenakshi Anna,  
 BH-3, CRPF, Guwahati-23.

স্বাক্ষরিত।  
 চাকরী নং: ৮৮৮৮৮৮৮৮

Subject:- PATIENT CARE ALLOWANCE:

Reference: Your application dated 30-5-05 and 3-8-05.

গুৱাহাটী  
 ২২/১০

It is to inform that there is no orders for payment of patient care allowance to the personnel other than those who have got orders in favour of them from the court. You may therefore submit claim for PCA alongwith Hon'ble Court's favourable decision for payment of PCA.

*(Signature)*  
 (Dr. Dipak Mahapatra)  
 Chief Medical Officer I/C  
 BH-3, CRPF, Guwahati -23.

This is a true copy of the original document.  
 Rejis. Officer.  
 14/12.

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

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

केन्द्रीय प्रशासनिक न्यायालय  
Central Administrative Tribunal

31 DEC 2005

गुवाहाटी न्यायपीठ  
Guwahati Bench

Between:

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

..Applicant

**AND**

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

.....Respondent

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

**CORAM:**

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

**ORDER**

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

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

*This is a true copy of the original document.*  
*Rajesh Mehta*  
*Saboo*  
*14/12*

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गुवाहाटी न्यायपीठ

Guwahati Bench

36

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

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

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

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

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गुवाहाटी बेंच

Guwahati Bench

37

allowance. The order shall be implemented with within a period of three months from the date of receipt of a copy of this order.

The O.As are accordingly allowed. No costs."

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

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

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

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

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

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

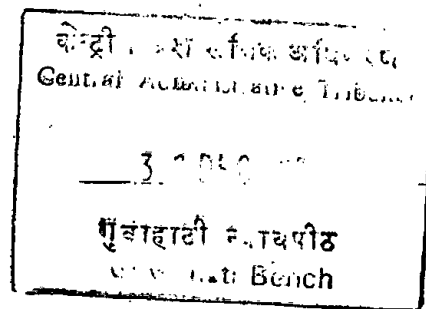
Some similarly situated employees have approached the Bangalore Bench of this Tribunal by filing OA Nos. 1093/2002 and batch seeking for the following reliefs:-

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

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

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

" in the light of these facts, the respondents <sup>are</sup> ~~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



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

7. That being the position, as the applicant is similarly situated to that of the applicants before the Bangalore Bench of this Tribunal is entitled to get the same relief as has been granted by the Bangalore Bench of this Tribunal. The respondents are therefore directed to pay the applicant the HPCA with effect from 1.8.1987 or from the date of his appointment whichever 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 26.9.1998 and subsequent orders of revision of the allowance. The respondents shall complete the above exercise within a period of two months from the date of receipt of a copy of this Order.

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

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI  
BENCH

Original Application No.296 & 314 of 2006.

Date of Order : This the 5<sup>th</sup> Day of July, 2007.

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

O.A. 296 of 2006

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

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

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

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

.....Applicants

O.A. 314 of 2006

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

This is a true copy of the original document.  
Rajesh Megh  
Adv.  
14/12



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

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

.....Applicants

By Advocate Shri R. Mazumdar

- Versus -

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

.....Respondents

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



### ORDER

SACHIDANANDAN K.V. (V.C)

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

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

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Guwahati Bench

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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.

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



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

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केन्द्रीय प्रशासनिक अदालत  
Central Administrative Tribunal

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Guwahati Bench

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

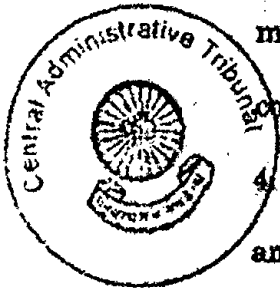


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गुवाहाटी न्यायपीठ  
Guwahati Bench

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



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

केन्द्रीय प्रशासिक प्रयोगशाला  
Central Administrative Tribunal  
3-10-87  
मुद्राहारी नारायण  
C. A. T. Bench

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

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

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

This issued with the concurrence of Ministry of finance vide their Dy. No. 1167/FS/27 dated 15.10.87."

The Annexure-II letter dated 23.9.1996 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



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Guwahati Bench

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

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

This disposes of this writ application."

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

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

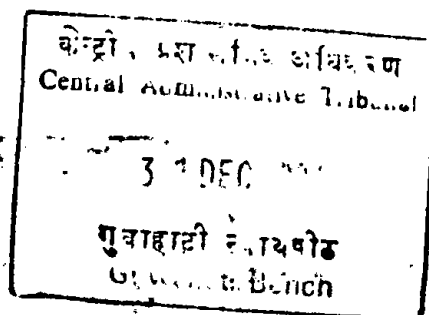
Considering that the period for which payment is to be made may date back to as early as 1987, we allow the respondents reasonable time for implementation of this order. In no case, however, the respondents shall delay the payment beyond 31.10.1996.

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



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

"Accordingly this Writ Appeal is allowed and the Writ Petition i.e. Civil Rule No.4029/86 shall also stand allowed. In Civil rule No.1417/95 (Niranjan Das & 23 Others, Petitioner v. Union of India, Respondent) by order dated 12.3.86, 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 :

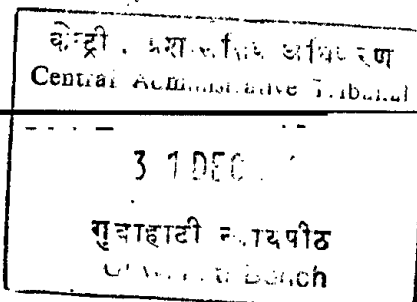
".....Thus the stand of the respondents is not on the ground of ineligibility of the petitioners to get the said allowance. The only ground is that, since the petitioners have not approached the court of law, they are not entitled to get similar benefit as was given to the other similarly situated person. 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.1417/85 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.

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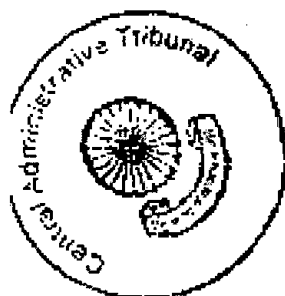
In the result, the O.A. is allowed to the extent indicated above with no order as to costs."

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

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

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

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





केन्द्रीय प्रशासनिक न्यायालय  
Central Administrative Tribunal

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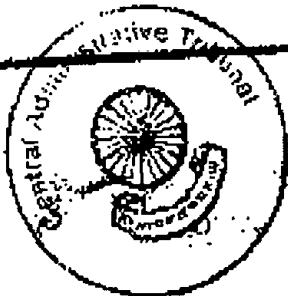
गुवाहाटी न्यायपीठ  
Guwahati Bench

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

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

54/ VICE CHAIRMAN



PE

Date of Application : 10.10.07  
 Date on which copy is ready : 10.10.07  
 Date on which copy is received : 10.10.07  
 Certificate to be true copy

Section Officer (J.O.)  
 G. A. T. Guwahati Bench  
 Guwahati-5.

10/10/07

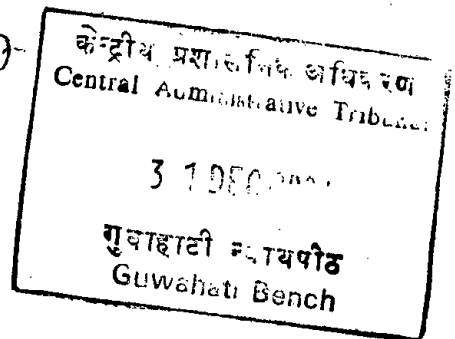
CENTRAL ADMINISTRATIVE TRIBUNAL  
GUWAHATI BENCH:

1. Original Application NO. 277/07

2. MiBs Petition No. \_\_\_\_\_

3. Contempt Petition No. \_\_\_\_\_

4. Review Application No. \_\_\_\_\_



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

Advocate for the Applicants Rajesh Mazumdar

Advocate for the Respondant(s) CASE

Notes of the Registry	Date	Order of the Tribunal
	12.10.07.	On the prayer of Mr. R. Mazumdar, learned counsel appearing for Applicant No. 2 (R. Chellapp Pillai), Applicant No. 3 (Smt. Tulashi Bala Da Applicant No. 4 (Umesh Prasad) are permitted to withdraw from this case with liberty to file fresh Original Application as consequence of this Original No. 277/2007 is confined in respect of Applicant No. 1 (Shamsudeen) only.
		Issue Notice on the Respondents requiring the to file reply by 07.12.2007.
		Sent copies of this order to all Applicants and to the Respondents (alongw 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.



TRUE COPY

प्रतिनिधि

अधिवक्ता अधिकारी

Section Officer (Judl)

Central Administrative Tribunal

गुवाहाटी न्यायपीठ

GUWAHATI BENCH

गुवाहाटी/Guwahati

12/10/07

Sd- vice Chairman

Sd- Member (A)

This is a true copy of the original document.  
Rajesh Mazumdar  
Advocate  
10/12