

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI -5

(DESTRUCTION OF RECORD RULES, 1990)

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✓ O.A./TA/ NO. 119/08 2008-2008
R.A./CP/NO. 2015
E.P./M.P./NO. 2015
MP 97/08

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Ben
10/8/15
SECTION OFFICER (JUDL.)

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10/8/15

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH:

1. Original Application No. 119/08
2. Miscellaneous Petition No. _____
3. Contempt Petition No. _____
4. Review Application No. _____

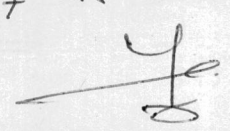
Applicant(S)... D. S. Chouhan & Ors... VS-Union Of India & Ors

Advocate for the Applicant(S): Smt. Poonam Yadav

Mr. G. Baishya,

Sr. Counsel

Advocate for the Respondant(S): _____

Notes of the Registry	(1) Date	Order of the Tribunal
<p>This application is in form is filed/C. P. Rs. 50/- deposited with the Registry No <u>28.99.56578</u> Dated <u>30.6.08</u></p>	10.7.2008	<p>Non appears for Applicant. Put up when moved. Send a copy of this order to the Applicant.</p> <p style="text-align: right;"> Vice-Chairman</p>

Registar

28.07.2008

Heard Ms. Poonam Yadav, learned counsel appearing for the Applicants, who has filed memo seeking permission to withdraw the case. Prayer is allowed.

The O.A. is dismissed as withdrawn.

Send copies of this order to each of the Applicant and to Ms. Poonam Yadav, learned counsel appearing for the Applicant and Mr. G. Baishya, learned Sr. Standing Counsel appearing for the Union of India; on whom a copy of the O.A. has already been served.

(Khushiram)
Member(A)

(M.R. Mohanty)
Vice-Chairman

Petitioners' GPs for issue notices are received with envelopes, copy undertaking given for service

8/7/08

DL 10.7.08

Pl. send copies of this order to the Applicants.

23/7/08

Copies of order dt. 10/7/08 send to D/Section for issuing to applicants by post.

24/7/08 D/NO-3242-3260
DL-25-7-08

Received copy of
order dated 28/7/08
for all the Applicants
in 17 nos and on
behalf of Mr. P. Yadav,
Advocate, Shillong.

[Signature]
(R. G. M. K. K.)

Kanchi's Trace,

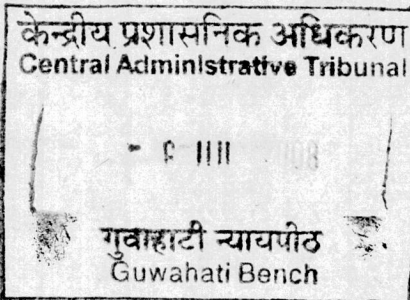
Leak stop, Shillong.

copy received
12.8.08

for
MR. G. B. S. Y. 2
S. C. & S. C. 101

True copy received
on behalf of
respondent
by Har Vipar Kumar
leg. Sec. in charge
Assam Rifles
on 27/7/10

[Signature]



ORIGINAL

CENTRAL ADMINISTRATIVE TRIBUNAL : GAUHATI BENCH
AT GAUHATI

O.A NO...119.....2008

An application under section 19
of Administrative Tribunal Act 1985

M/371073 H/ NA

Shri D.S Chauhan and 16 others

.....APPLICANTS

Versus

1. The Union of India, Ministry of Home affairs, represented by the Secretary Ministry of Home Affairs, New Delhi- 110001
2. The Ministry of Health and Family welfare, represented by the Secretary, Health and Family Welfare, New Delhi - 110001
3. The Directorate General of Assam Rifles, Shillong-11, East Khasi Hills, Meghalaya - 793001

.....RESPONDENTS

SYNOPSIS OF THE APPLICATION

The instant application is filed by the Assam Rifles medical staff working in various ranks under the Director General of Assam Rifles seeking arrears and payment of Patient Care allowances, which has been paid to other similarly placed Employees working in the C.R.P.F Hospital and similarly placed civilians of Assam Rifles and same time being denied to the applicants herein, the applicants name, designation and the year of employment alongwith other details are placed below. Hence this application.

Sl.no. Name, Rank/Rgtl. no.	Year of appointment	Present posting
1. <u>M/370278X Nb/Sub</u> Mohan Singh Gurung	14.2.1996	Shillong
2. <u>M/370399, N/Sub</u> D. Pathak	06.01.1979	Shillong
3. <u>M/371073 H/NA</u> D.S Chauhan	28.12.1987	Shillong
4. <u>M/370659 H/NA</u> P.Narayan Kutty	12.02.1985	-do-
5. <u>M371182F Rfn/NA</u> Rajeswar Kumar Pandey	31.10.1999	-do-

contd....2

①
Filed by Shri D.S. Chauhan,
& others through Poonam Jadan,
Advocate.

Shri D.S. Chauhan
P.N. Kutty
M. K. Pandey
8/7

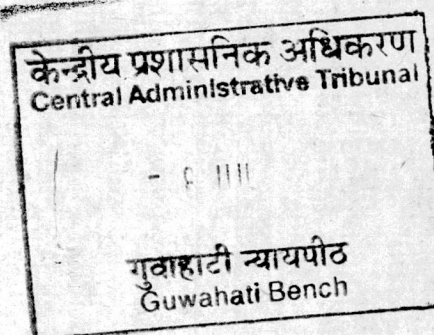
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Sl.no.	Name, Rank/Rgtl.no.	Year of Apptt.	Present posting
6.	<u>M/371465H Rfn/NA</u> Mohd. Sahid Ansari	28.12.2001	Shillong
7.	<u>M/371230W Rfn/NA</u> Sandeep Kumar	20.6.2000	-de-
8.	<u>M/370684 H/NA</u> J.Ayaaypan Nair	02.5.1985	-de-
9.	<u>M/370708W H/NA</u> XXXXX370552XHXMX S.K Chandel	16.5.1985	-de-
10.	<u>M/370552 H/NA</u> Om Prakash	17.05.1985	-de-
11.	<u>M/371045 Rfn/NA</u> Kuldeep Singh	20.12.1987	-de-
12.	<u>M/371038/Rfn/NA</u> S. Kumar .D	09.12.1987	-de-
13.	<u>M/371064 H/NA</u> R.K Sharma	28.12.1987	-de-
14.	<u>M/370562 H/NA</u> P.B Dhar	13.5.1985	-de-
15.	<u>M/370618 H/NA</u> Ajit Kumar	05.05.1985	-de-
16.	<u>M/370553 H/NA</u> Dilwar Singh	13.5.1985	-de-
17.	<u>M/370842 H/NA</u> Vijayan. S	20.5.1985	-de-

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Dehane

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List of dates

- 25.1.20088 : The Govt. of India, Min. of Health and family Welfare New Delhi had conveyed sanction for payment of Hospital Patient Care Allowance to the Group of C and D (Non ministerial) Employees including drivers of Ambulance cars, but excluding the staff nurses at the rate of Rs.80/- and Rs.75/- Per month, subject to the condition that no night weightage allowance, if sanctioned by the Central Govt. will be admissible to these employees working in the central Govt. Hospitals and Hospital under delhi administration. (ANNEXURE-1)
- 28.9.98 The rate of Hospital patient care allowance has been further revised from Rs.80/- per month to Rs.160/- PM in the case of Group C (non-ministerial) staff and from Rs.75/-PM to Rs.150/- PM in the Case of Group D (Non-ministerial Hospital employees. (ANNEXURE-11)
- 2.1.1999 The rate of Hospital Patient Care allowance has further been revised from Rs.160/-PM to Rs.700/- Per month in the case of GP 'C' Employees (Non-ministerial) in the Central Govt. Hospitals and from Rs.150/-PM to Rs.695/-PM in case of Group 'D' (Non-ministerial) employees. (ANNEXURE-111)
- 12.3.96 A set of medical staff of G.C CRPF working at different hospitals filed a writ-petition Civil Rule no.1417/95 claiming Hospital Patient Care allowance. Accordingly this writ petition was allowed with the direction that all the petitioners in the civil rule, who are para medical staff should get Hospital Patient care allowance as per the instruction contained in Govt. of India letter dated 25.1.88. (A true copy of the order dated 12.3.96 passed in WP(C) no.1417/95 annexed as ANNEXURE-1V).
- 30.9.2004 A set of combatised medical staff of CRPF filed a writ petition no.474/2003 claiming Hospital Patient allowances at par with similarly placed group C&D (non-ministerial) and the writ petition has been allowed with the direction to pay HPCA to the petitioner. (ANNEXURE -V)

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8.12.2006

A set of para medical ~~staff~~ of CRPF had filed a Writ Petition SWP no.890/2005, before the High Court of Jammu and Kashmir at Jammu and the Writ Petition was allowed with the direction to pay PCA/HPCA to the applicants (ANNEXURE-V1)

5.7.2007

That OA no.296/2006 and 314/2006 filed by the similarly placed CRPF (Hospital nursing staff) before this Hon'ble Tribunal claiming HPCA from 1.9.87 had been admitted with the direction to the Respondents to sanction the Hospital patient care allowance.

(ANNEXURE-V114)

2.9.2007

A joint representation for clarification of payt. of PCA/HPCA to non-ministrial employees(Medical staff) was made and forwarded under Assam rifles Hospital letter no.3603/ARH/2007/2118 dated 2.9.07 but no reply has been received from the Authority concerned (ANNEXURE-V111)

31.3.2008

A pleader's notice was issued by Smt. Peenam Yadav, Advocate, shillong demanding payment of PCA/HPCA to medical staff combatised. (ANNEXURE-1X)

10.6.2008

The Directorate General of Assam Rifles, Shillong under his no.1.11018/11/2008/Law/470 dated 10.6.2008 has given reply of pleader's notice that the combatant staffs(medical branch) are getting perks, such as leave, rations which is not applicable in case of civilian staffs. So HPCA is only applicable to civilian staffs but not for combatised.
(ANNEXURE-X)

Therefore it is most humbly submitted that the Hospital Patient care allowance is being given to similarly placed personnels but the same is denied to the present applicants with out any ryme and reasons and with out any justification.

.....

Bhaskar

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : GAUHATI
AT GAUHATI

(An application under section 19 of the Central administrative Tribunal Act'1985)

ORIGINAL APPLICATION NO. 119 2008

Shri D.S Chouhan and othersAPPLICANTS

Versus

Govt. of India and othersRESPONDENTS.

I N D E X

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FILED BY

fyadav

(POONAM YADAV)

ADVOCATE

Shachin

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL GAUHATI BENCH
GAUHATI

(An application under section 49 of the Central administrative Tribunal 1985)

ORIGINAL APPLICATION NO. 2008

M/37103 H/NA
D.S Chauhan and 16 othersAPPLICANTS

Versus

1. Union of India, represented by the
Secretary, Ministry of Home affairs,
New Delhi- 110001
2. The Ministry of Health & F.W, represented by Secy
Ministry of H & F.W, New Delhi - 110001
3. The Director General of Assam Rifles, Shillong-11

.....RESPONDENTS

1. PARTICULARS OF THE ORDERS AGAINST WHICH THE APPLICATION IS MADE.

This application is made against the non-payment of the Hospital patient care allowance to the applicants from Oct' 1987 thought they are entitled legally to the same and simi- placed personnels have been given the said allowance.

2. JURISDICTION OF THE TRIBUNAL

The applicant declare that the subject matter of this application is within the jurisdiction of the Hon'ble Court.

3. LIMITATION

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

4. FACTS OF THE CASE

- 4.1 That the applicants being the citizen of India are entitled to all the rights and previledges and protection granted by the Constitution of India.

- 4.2 That the applicants are serving as para-medical staffs in Assam Rifles under Directerate General of Assam Rifles, Shillong-11.

- 4.3. That the applicants in addition to the Salary were drawing all the benifits and allowances applicable to the Nursing personnel and the Hospital in other Central Government

.....2

Filed by Shri D.S. Chauhan
Through Potnam Yadav
Advocate

D. S. Chauhan

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Health Services. As such the applicants were also entitled to Hospital Patient Care Allowance at the same rate as in applicable to the civilian nursing personnels serving in Assam Rifles under the Director General of Assam Rifles and other Health Services.

- 4.4 That the Govt. of India, Ministry of Health Services and Family Welfare vide letter dated 25.1.88 conveyed the sanction of the President for the grant of Hospital Patient Care allowance to group C and D (non-ministrial) 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 1.2.87 subject to the condition that no night weightage allowance, if sanctioned, by the Central Govt. will be admissible to these Employees working in Central ~~XXXXXX~~ Govt. Hospitals and Hospitals under the Delhi Administration. The aforesaid letter was issued with the concurrence of Finance Department vide their letter no.1167/PM/87 dated 15.10.87.

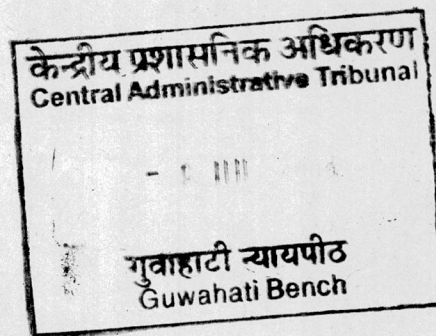
(Copy of letter dated 25.1.88 issued from Govt. of India, Min. of Health and family Welfare is annexed herewith as ANNEXURE-1)

- 4.5 That the Scheme of granting Hospital Patient care allowance to the group C and D (non-ministrial Hospital Employees) was later on revised yet another communication of the Govt. of India, Ministry of Health of Family Welfare dated 28.9.98. Pursuant to the aforesaid communication, the rate of Hospital Patient care allowance were revised from Rs.80/- PM to Rs 160/- per month in the case of group C (Non-ministrial) Employees of Hospital Rs.75/- PM to Rs.150/- PM in the case of Group D Non-ministrial Hospital Employees.

(Copy of the letter of the Govt. of India, Ministry of Health and family welfare dated 28.9.98 is annexed herewith and marked ANNEXURE-11)

- 4.6 That the Govt. of India Ministry of Health and family Welfare by yet another letter dated 2.1.99 further revised the rate of Hospital Patient care allowance from Rs. 160/- PM to Rs.700/- Per month in the case of group C employees (non- ministrial) working in the central Govt. Hospital and Hospital under National Capital Teriteries of Delhi and other Union teriteries from 150/- to Rs.695/- Per month in the case of Group D employees (non-ministrial) working in the central Govt. Hospital and under the Delhi and other Union

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Union Territories.

(Copy of the letter of Govt. of India, Ministry of Health and Family Welfare dated 2.1.1999 is annexed herewith and marked as ANNEXURE-111).

4.7 That in respect of entitlement of Hospital Patient Care allowance to the Assam Rifles medical staff (combatised), it is stated that a set of medical staff of G.CCRPF working at different Hospitals filed a writ petition, Civil Rule no.1417/95, claiming Hospital Patient Care Allowance for combatised nursing staffs. Accordingly this writ Petition was allowed with the direction that all the Petitioners, in the civil rule who are para-medical staffs should get Hospital Patient Care allowance as per the instruction as per the instruction contained in Govt. of India letter dated 25.1.88.

(A true copy of the order dated 12.3.96 passed in WP(C) no.1417/95 is annexed herewith and marked as ANNEXURE -1V)

4.8 That the entitlement of group C and D (non-ministrial) civilian employees working in the hospital of CRPF at par with the Hospital staff working in the Central Health services is no longer RES-INTEGRA and has been settled by several decisions of the Learned Administrative Tribunal, the Hon'ble High Court and 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 ~~XXXXX~~ WP(C)474/2003, in which non-payment of HPCA to similarly placed combatised Hospital staff of the Central Reserve Police was deprecated by the Hon'ble High Court.

(A true copy of the order dated 30.9.2004 passed in WP(C)no.474/2003 is annexed herewith and marked as ANNEXURE-V)

contd.....4

D. J. Harker

Contd.....4

- 4.9 That in respect of payment of Hospital Patient Care Allowance to the para medical staff it is further stated that a set of para medical staff of CRPF had filed a Writ Petition SWP no. 890/2005 before the High Court of Jammu and Kashmir and Writ Petition was allowed with the direction to pay Hospital Patient Care Allowance to the applicants.

(A true copy of the Writ petition no. SWP. no. 890/2005 dated 8.12.2006 is annexed herewith as ANNEXURE- V1)

- 4.10 That O.A 296/2006 and O.A no. 314/2006 filed by the similarly placed CRPF Hospital Nursing staff before this Hon'ble Tribunal praying for direction to the Respondents to sanction H.P.C.A to the applicants from the period 1.8.87 to 7/9/2000 as per the revised rate sanctioned by the Govt. of India , vide letters dated 28.9.98, and 2.1.1999 as had been done in respect of similarly situated civilian employees was disposed of vide order dated 5.7.2007 granting the prayers of the applicants therein with the direction to Respondents to sanction the HPCA from 10/87 to 9/2000 at the rates of allowances sanctioned to the Group C and D non-ministrial Hospital by order dated 25.1.1998 and revised by order dated 28.9.88 and subsequent order dated 28.9.88 for revision of allowances.

(A copy of the order dated 5.7.2007 passed by this Hon'ble Tribunal is annexed herewith and marked as ANNEXURE-V11)

5. That the applicants are challenging the action of the respondents for not paying the Hospital Patients care allowance to the applicants as similarly placed CRPF Medical Staff and GR-C Employees (Non-Ministerial) Medical Staff of Assam Rifles from 1.08.1987 till date on the following amongst others .

GROUNDS

- 6.1 For that the impugned actions of the Respondents are illegal and arbitrary and are without application mind and as such are not tenable in law.

D. Chakraborty

contd.....5

- 6.2 For that the Question of entitlement of the applicant to HPCA as per order dated 25.1.1988 and subsequent Office Memorandum 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 they were entitled to benefit i.e. 1.8.1987 or from their date of appointment which ever is later.
- 6.3 For that the action of the respondents in denying the applicants the benefit of an allowances which is allowed to other similarly situated persons is in clear violation of the Principle of equity and as such, the respondents are liable to be directed by this Honble Tribunal to grant the HPCA to the applicant from 1.8.1987 or from the date of their appointment which ever is later in accordance with the circular passed by the Govt. of India in this regard.
- 6.4 For that the respondents have acted in gross violation of the Principle of (equal pay for equal work) when they have denied the benefit of HPCA to the applicant from the same date as given to other similar situated persons.
- 6.5 For that it is humbly submitted that the entitlement of the applicant could ~~arise~~ arise from the date since when the other similarly situated persons are drawing allowances.
- 6.6. For that it is submitted that since the entitlement of persons working in the Hospital of the CRPF has already been settled by the Court of Law, the act of respondents in attempting to curtail the entitlement is without any force and against all canons of law.
7. DETAILS OF REMEDIES EXHAUSTED
- A joint petition for clarification of payment of HPCA to Medical Staff was made and forwarded under Assam Rifle Hospital letter No. 3603/ARH/2007/2118 dated 2.9.2007 but no reply has been received from the authorities concern (ANNEXURE - VIII)
- A Pleaders notice was issued by Smt. Poonam Yadav, Advocate, Shillong demanding payment of HPCA to the Medical Staff vide notice no. dated 31.3.2008.
- (ANNEXURE - IX)

.....6

D. Acharya

C....6

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

6

गुवाहाटी न्यायपीठ
Guwahati Bench

But the Directorate General of Assam Rifle, Shillong under his no.1.11018/11/2008/Law/470 dated 10.6.2008 has given reply of pleader's notice that the Combatant Staffs Medical branch are getting perks such as leave, rations which is not applicable in case of Civilians non-Combatised staffs. (ANNEXURE-X)

There is no other alternative and efficacious remedy available to the applicants except invoking the jurisdiction of the Honble Tribunal under sec 19 of the Administrative Tribunal Act, 1985.

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

The applicants further declared that he has 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 other court or Tribunal.

9. RELIEF SOUGHT FOR :

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

9.1 Direct the respondents to sanction the HPCA to the applicant for the period from 1.8.1987 to till date as has been done in respect of similarly situated persons (Medical Staffs) by declaring the action of the respondents in not paying the HPCA to the applicants for the period from 1.8.1987 to till date 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 and that this Honable Tribunal may deem fit and proper and necessary action in the interest of Justice and in circumstances of the case.

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

1. I.P.O / Bank Draft
2. Date of issue
3. Issued by
4. Payable at Guwahati

289 956578

30.6.2008

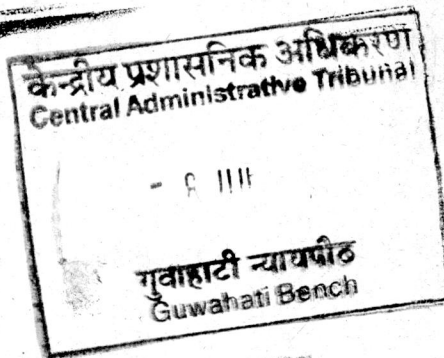
Po. Laban, Shillong-4
Guwahati.

11. LIST OF ENCLOSURES

..... 7

As stated in the
index to the application.

Shankar



contd.....8

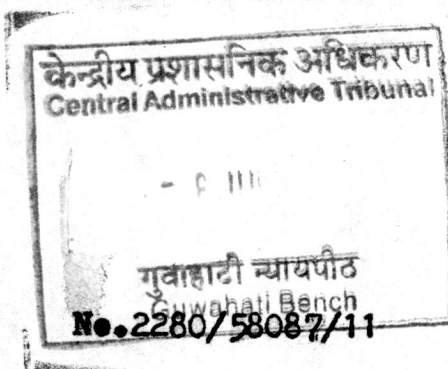
VERIFICATION

I, Shri D.S Chauhan, son of late Autar Singh, aged about 39 years, by profession, Nursing Assistant, in Assam Rifles, Shilong do hereby solemnly affirm and verify that the statements made in paragraphs 4, 41, 4-3 are true to the best of my knowledge and the statement made in paragraphs 4.4 to 4.10 being the matters of records are true to my information derived therefrom and which I believe to be true and the rest are my humble submission before this Hon'ble Tribunal.

And I sign this verification on this 25 day of July 2008 at Gauhati.

D. S. Chauhan

D. S. Chauhan



ANNEXURE-I
8

Government of India
Ministry of health & Family Welfare

Nirman Bhawan, New Delhi

Dated 25th. January 1998

To

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

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

Sir,

With reference to DOMS no.B 12017/3/87-MH dated 9.4.87 on subject mentioned above.I am directed to convey the sanction of the President to grant of Hospital Patient care allowance to Group 'C' and 'D' (Non -ministrial) hospital employees including drivers of Ambulance cars but excluding staff nurses at the rate of Rs.80/- and Rs.75/- permonth respectively with effect from 1.2.87 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 hospital and hospitals under the Delhi Administration.

2. The expenditures involved will be met out of the budget grant of the concerned Hospitals during the financial year 1987-88.

This issues with the concurrence of Ministry of Finance vide their Dy.No.1167/FS/27 dated 16.10.1987

Yours faithfully

Sd/- illegible

Under Secretary to the Govt. of India

True copy

Attested
for
Advocate Shikong

ANNEXURE II

9

No.28015/26/98/MH/(H)

Government of India, Ministry of Health &
Family welfare: Nirman Bhawan
New Delhi

Dated, 28th September 1998

To

1. The Director General of Health services,
Nirman Bhawan, New Delhi
2. The Director,
Central Govt. Health Scheme, Nirman Bhawan
New Delhi

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

Sir,

2 of

I am directed to convey the sanction/the to revise the rate of Hospital Patient care allowance to group C and D (non-ministrial) hospital employees and patient care allowance payable to group C and D (non ministrial) CGHS Employees with effect from 1.8.87. The revised rate will be as under:-

1. Group C (non-ministrial) : From Rs. 80/- P.M to Rs.160/- PM Hospital employees
2. Group 'D'(Non-ministrial): From Rs.75/P.M to Rs. 150/- P.M Hospital employees
3. Group C and D (Non -ministrial): From Rs.70/-PM to Rs. PM CGHS Employees

2. The terms and conditions for payment of Hospital patient care allowance and Patient Care allowance will remain the same as mentioned in this ministry's letters no.Z.28015/60/87/H dt. 25.1.88, Z.28015/102/88/H dated 30.10.89 and B.11011/1/90-CGHS dated 10.7.90

3. This issues with the approval of Ministry of Finance (Department of expenditure) vide their no. U.O.no.1278/E.111/(a)98 dated 23.9.1998.

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

Yours faithfully

True copy

Advocate. Singh

Sd/- Lal Singh
UNDER SECRETARY TO THE GOVERNMENT OF INDIA

(u)
No. Z.28015/41/98-H(1)

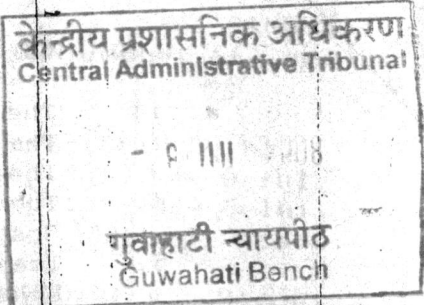
Government of India

Ministry of Health & Family Welfare

Nirman Bhavan, New Delhi
dated 02nd January, 1999

To

- (1) The Director General of Health Services,
Nirman Bhavan,
NEW DELHI - 110011.
- (2) The Director,
Central Government Health Scheme,
Nirman Bhavan,
NEW DELHI - 110011.



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

Sir,

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

HOSPITAL PATIENT CARE ALLOWANCE

- | | |
|--|---|
| i) Group 'C' employees (non-Ministerial) working in Central Government hospitals and hospitals under the National Capital Territory of Delhi and other Union Territories. | From Rs. 160/- per month to Rs. 700/- per month |
| ii) Group 'D' employees (non-Ministerial) working in Central Government hospitals and hospitals under the National Capital Territory of Delhi and other Union Territories. | From Rs. 150/- per month to Rs. 695/- per month |

PATIENT CARE ALLOWANCE

- | | |
|---|--|
| iii) Group 'C' and 'D' (non-Ministerial) CGHS employees working in C.G.H.S. Dispensaries. | From Rs. 140/- per month to Rs. 690/- per month. |
|---|--|

2. The terms and conditions for payment of Hospital Patient Care Allowance/Patient Care Allowance will remain the same as mentioned in this Ministry's letters No. Z.28015/60/87-H dated 25th January, 1988; Z.28015/102/88-H dated 30th October, 1989; and B.11011/1/90-CGHS(P) dated 10th July, 1990.

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

Contd....2/...

Advocate, Guwahati

4. This issues with the approval of Ministry of Finance (Department of Expenditure) vide D.O. No.19050/1/98-E IV dated 08th December, 1998.

Yours faithfully,

(LAL SINGH)

Under Secretary to the Government of India

Copy, to :

1. The Additional Director (CGHS), Nirman Bhavan, New Delhi.
2. The Medical Superintendent, Dr. R.M.L. Hospital, New Delhi.
3. The Medical Superintendent, Safdarjung Hospital, New Delhi.
4. The Principal & Medical Superintendent, LHMC & Assoc. Hospitals, New Delhi.
5. The Director, Central Institute of Psychiatry, Ranchi, Bihar.
6. The Director, All India Institute of Physical Medicine & Rehabilitation, Haji Ali Park, Mahalaxmi, Mumbai - 400034.
7. The Director, Central Leprosy Teaching & Research Institute, Tirumani, Chengalpattu, Tamil Nadu.
8. The Medical Superintendent, Regional Leprosy Training & Research Institute, P.O. Aska (Balansore), Distt. Ganjam, Orissa.
9. The Medical Officer Incharge, Regional Leprosy Training & Research Institute, Rajpur, Post Box No. 112, Raipur - 449201 (Madhya Pradesh).
10. The Director, Regional Leprosy Training & Research Institute, Gouripur, Bankura, West Bengal.
11. The Director, JIPMER, Pondicherry.

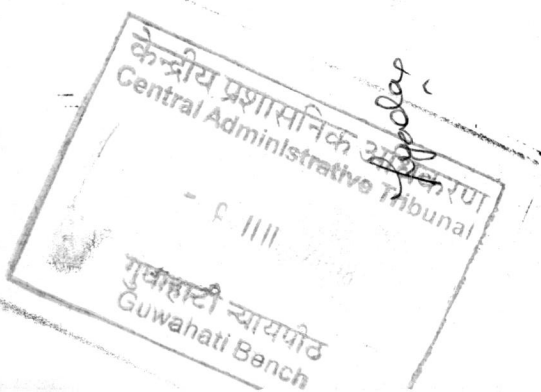
(LAL SINGH)

Under Secretary to the Government of India

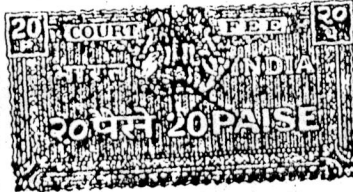
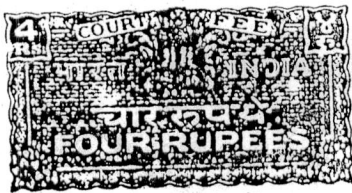
Copy, to :

1. The Principal Secretary (H&FW), Govt. of NCT of Delhi, 5, Sham Nath Marg, Delhi/Commissioner MCD, Delhi/Secy. NDMC, New Delhi.
2. The Administrator, Chandigarh Administration, Chandigarh.
3. The Administrator, Andaman & Nicobar Islands, Port Blair.
4. The Administrator, Daman & Diu, Moti Daman, Daman.
5. The Administrator, UT of Lakshadweep, Kavāratī via Calicut.
6. The Collector, Dadra & Nagar Haveli, SILVASSA - 396230.
7. The Secretary, H&FW Deptt., Govt. of Pondicherry, Pondicherry.
8. The Director, Lala Ram Swaroop Institute of TB & Allied Diseases, New Delhi.
9. The Director, All India Instt of Medical Sciences, N. Delhi.
10. The Director, Postgraduate Institute of Medical Education & Research, Chandigarh.
11. Ministry of Labour, Shram Shakti Bhavan, New Delhi.
12. The Director, ESIC, Kotla Road, New Delhi.
13. Shri B. Kumar, Under Secretary E.III(A), Ministry of Finance, (Deptt. of Expenditure, North Block, New Delhi).
14. The Secretary, DoPET, North Block, New Delhi.

Contd...3/...



ANNEXURE-IV

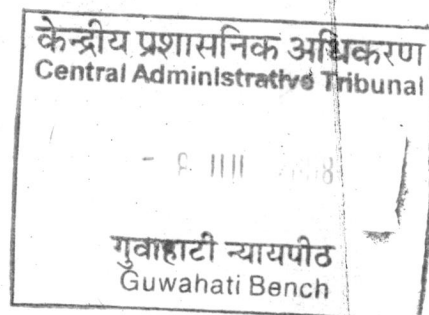


Date of application for the copy.	Date fixed for requisite stamps and folios.	Date of delivery of requisite stamps and folios.	Date on which the copy was ready for delivery.	Date of handing over the copy to the applicant.
14/3/96	19/3/96	19/3/96	21/3/96	21/3/96

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

CIVIL RULE NO. 1417/95

1. Sri Nikunja Das
2. Sri Mani Singh
3. Smti. Anu Dutta
4. Md. Harun
5. Chote Lal
6. K. Ramu
7. Smti. Manik Chand Begun
8. K. S. Abraham
9. Shail Kumar
10. Mohan Kumar Ministry Rajak
11. Sankar Lal
12. Rajender Choudhury
13. Sishupal Singh
14. Mahesh Kumar
15. K. Sarsamma
16. Md. Hussain
17. Pintu Ranjan Dev
18. G. Ravi
19. M. A. Ahsan Ansari
20. Munna Prasad
21. Renu Boro
22. Yash Pal Singh
23. Md. Yusuf
24. Padam Bahadur

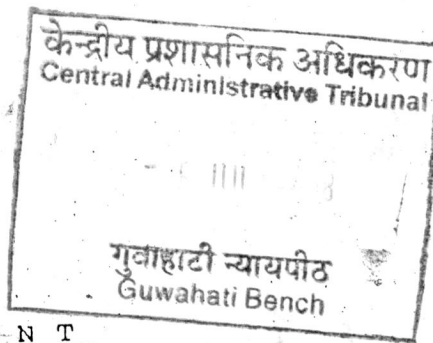


Attests
for
Advocate

-Vs-
The Union of India & Anr.

... Petitioners

... Respondents
contd/



:2:

12



P R E S E N T

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

For the petitioner: Mr. S. Dutta
Mr. K.K. Das

For the respondent: C.G.S.C.

Date

O R D E R

12.3.96

This case has been filed by 24 persons, all employees of G.C., C.R.P.F. Hospital, working ^{/at different hospital} whereby they claim that the respondents may be directed to pay to them the Hospital Patients Care allowance as per the Government instruction dated 25.1.88, Annexure-I including the arrears allowances. Annexure-I is quoted below:-

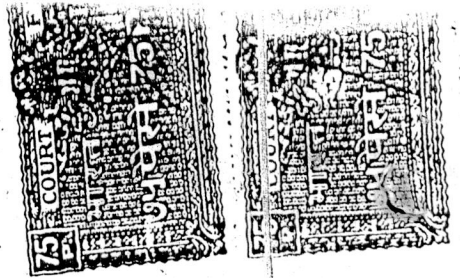
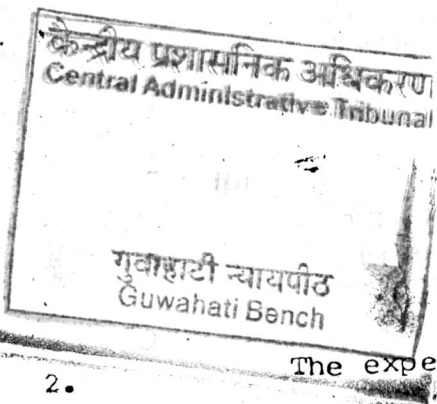
"Subject :- Grant of Hospital Patient Care allowance to Group 'C' and 'D' (Non-ministerial) Hospital employees.

Sir,

With reference to DMS 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} ~~cars~~, but excluding Staff Nurses, as the rate of Rs. 80/- and Rs. 75/- per month respectively with effect from 1.12.87 subject to the condition that no Night Weightage allowance is sanctioned by the Central Government will be admissible to these employees working in the Central Government Hospitals and hospitals under the Delhi Administration.

contd/

*Alister
for
Advocate-Deputy*



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

3. This issues with the concurrence of Ministry of Finance vide their Dy.No.1167/PM/87 dated 15.10.87."

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

"6. It would be discriminatory if para-medical staff working in Bhubaneswar Hospital C.R.P.F. receive the benefit allowance and the other similar paramedical of this ~~xxxxxx~~ staff working in other hospitals and who have filed this application are not extended the same benefit. Accordingly it would be fit and proper to direct that all those applicants in this O.A. who are para-medical staff ~~xxxxxx~~ 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 date of receipt of the copy of this order. There will be no orders as to costs."

To the same effect there was an order passed by the Central Administrative Tribunal, Hyderabad. It is admitted by Shri K.N. Choudhury that there are such orders. But he submitted that he has filed an appeal before the Supreme Court and in that appeal a notice has been issued and the matter is now pending before the Apex Court. Shri Dutta, learned

contd/

Attest
Hyderabad
Ad. V. V. S. S. S.



Advocate for the petitioner submits that he is willing to give an undertaking on behalf of his client that the same order ^{be} passed in this case subject to the result of the appeal pending before the Apex Court. Accordingly this writ application is allowed with the direction it would be fit and proper to direct that all the applicants in this Civil Rule, who are para-medical staff should get hospital patients care allowance as per instruction of the Government of India dated 25.1.88 subject to the condition mentioned therein. This order should be implemented within a period of 3 months from the date of receipt of this order. The petitioners may obtain the certified copy of this order to produce the same before the authority to do the needful in terms of this order.

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

This disposes of this writ application.

Sd/- J.N. Sarma
Judge

17/3/96
21/3/96
4/3/76

Checked to be true Copy
Ganesh Kalia
21/3/96
Superintendent (Copying)
GUWAHATI MEMU COURT
Authorised U/o 79 Act. 1 of 1988

21/3/96

Attested
for
Advocate

Date 30.9.2004

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 allowance. 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

Alleged
Appellee
Advocate
slg

15 29

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 finalised 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.

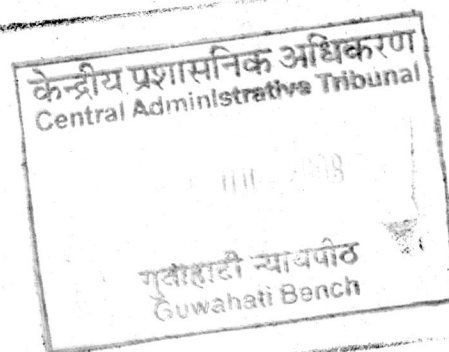
For the forgoing reasons and discussions, I dispose of this writ petition with a direction to the respondents to grant the Hospital patients care allowance to the petitioners as per the Annexures 1 and 2 letters dated 25.1.88 and 11.7.90 and the aforesaid judgment of this court which has since been affirmed 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

Accepted
Advocate

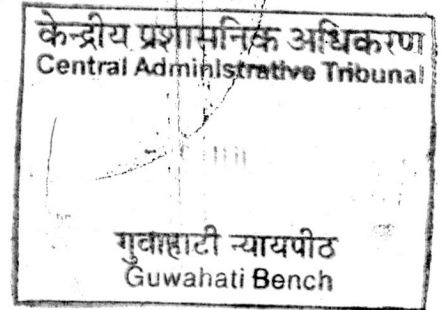


HIGH COURT OF JAMMU AND KASHMIR AT JAMMU
PRESENT
THE HON'BLE MR. JUSTICE Y.P. NARGOTRAJ
SWP NO. 890/2005

Annexure VI
A-6
16

1. Sumita Rout, F. No: 029150052, INSP (Dietician),
Comp Hosp, C. R. P. F, Bantalab Jammu. Age 27 years,
2. Neha Sharma, F. No: 029150043, SI (Physiotherapist),
Comp Hosp, C. R. P. F, Bantalab Jammu. Age 25 years,
3. Ganesh Prasad, F. No: 831520021, ASI (Pharmacist),
H. Q 26 Bn C. R. P. F Channihimat, Jammu, Age 52 years,
4. Tarlochan Singh, F. No: 911540108, ASI (Pharmacist)
Comp. Hosp, C. R. P. F, Bantalab Jammu. Age 39 years,
5. Kuldip Singh, F. No: 001620029, ASI (Pharmacist),
16 Bn C. R. P. F, C/o 56 APO Kupwara, J&K, Age 28 years,
6. Ghanashaym Naik, F. No: 980960011, ASI (Pharmacist)
148 Bn C. R. P. F Kishtwar, Jammu, Age 29 years,
7. Keshav Kumar F. No: 039150027, ASI (Dental Technician)
Comp. Hospital C. R. P. F, Bantalab, Jammu, Age 26 years,
8. Shyam Sunder Roy, F. No: 931232268, H C (X-Ray Asst.)
Comp Hospital, C. R. P. F Bantalab, Jammu, Age 30 years,
9. Kanhaiya Lal F. No: 831570385, (CT/ Nursing Asst.),
129 Bn C. R. P. F Channihimat, Jammu Age 42 years,
10. Balwinder Singh, F. No: 920810157, CT (Nursing Asst.),
H. Q-12 Bn C. R. P. F Channihimat, Jammu, Age 33 years,
11. Chander Pal, F. No: 92320088, CT (Nursing Asst.),
26 Bn C. R. P. F Channihimat, Jammu Age 34 years,
12. Prem Sheela, F. No: 901560161, CT (Nursing Asst.),
Comp. Hosp. C. R. P. F Bantalab, Jammu. Age 36 years,
13. Harwinder Singh, F. No: 059150049, (Ward Boy),
Comp. Hosp. C. R. P. F Bantalab, Jammu, Age 26 years,
14. Subash Chand, F. No: 951690145, ASI Pharmacist,
IV-Bn C. R. P. F Smailpur, Jammu, Age 34 years.

contd. on P/2.



Attested
by
Advocate

Copy to

High Court

JAMMU

16/1/06

15. Anil Kumar F. No: 991580126, ASI Pharmacist,
IV-Bn C. R. P. F, Smailpur, Jammu, Age 35 years,
16. Aditya Narayan, F. No: 991820153, ASI Pharmacist,
88 Bn C. R. P. F Dett. Srinagar, Age 30 years,
17. Dharminder Yadav, F. No. 961150312 Nursing Assistant,
62 Bn C. R. P. F, Srinagar J&K, Age 27 years.

... Petitioners...

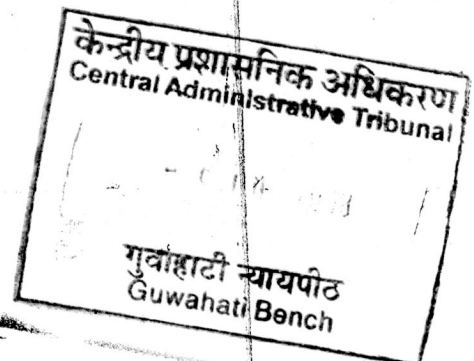
V/S

1. Union of India,
through Secretary Ministry of Home Affairs, New Delhi,
2. Director Medical, C. R. P. F, Lodhi Road, New Delhi,
3. Chief Medical Officer, C. R. P. F, Bantalab Jammu,
4. Inspector General, C. R. P. F, Jammu Range,
Group Centre Bantalab, Jammu,

... Respondents...

18/11/06
J&K
U.

Attested
for
Advocate Shalish



Learned counsel for petitioners submits that on identical facts SWP No.8/2004 came to be filed by some of the employees and the same was disposed of on 28.4.2005 in the following terms:

"The writ petition is allowed with the observation that it would be in the fitness of things and proper to direct that all the petitioners in this writ petition, who are Para-Medical Staff (Combatized) should get Hospital Patient Care Allowances in terms of Government of India instructions dated 25.1.1988 subject to the conditions indicated therein on the analogy of similarly situated employees granted PCA/HPCA by the orders of various Courts and also the Apex Court in its judgment dated October 17, 2001."

Mr. B. K. Kaw, learned counsel for petitioners submits that the present petition may also be disposed of in the above manner. Mr. Nargal, learned counsel for respondents submits that he would have no objection if this petition is also disposed of in the same manner in which SWP No.8/2004 has been decided.

In view of the submissions made, this writ petition is also disposed of in the same manner in which SWP No.8/2004 has been decided. The order shall be implemented by the respondents within a period of three months from the date a copy of this order is made available by the petitioners to the competent authority.

Jammu

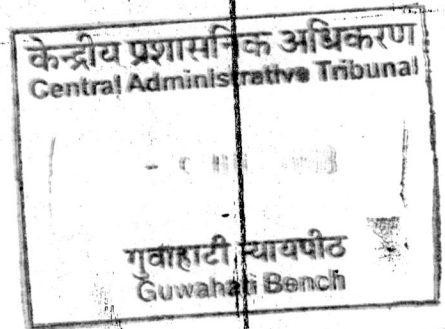
Dated: 8.12.2006

(Am)

Self- Hon'ble
(Y. P. Nargotra)
Judge

Advocate, Jammu

16/12/06
16/12/06



Corrected as per order dated 24.8.07 passed in MLP 85 & 87 of 2007

SL No. 160

ANNEXURE VII

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI
BENCH

19

Original Application Nos 200 & 311 of 2006

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

THE HONBLE SHRI K.V. SACHIDANANDAN, VICE CHAIRMAN

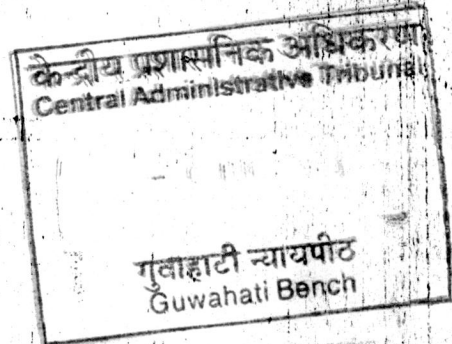
O.A. 200 of 2006

1. Pharmacist ON Sumathy
Force No. 841540104
2. Nursing Assistant
Sathibabu
Force No. 864191364
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
Kalabrami, Force no
851536128
7. Sufi Esmachan, N. Munan
Singh, Force no 860970111

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. Sudhakaran
Force no 882050033
 2. Pharmacist Profulla Kumar Sahu
Force no 840720393
- (The above are serving in G²
Battalion, Central Reserve Police

Advocate
Sag

3. Force, Kumar Ghat, Tripura.)
Nursing Assistant Kapil Deo Ram,
Force no 710559-111, Group Centre,
Central Reserve Police Force,
Khatkhati, Assam

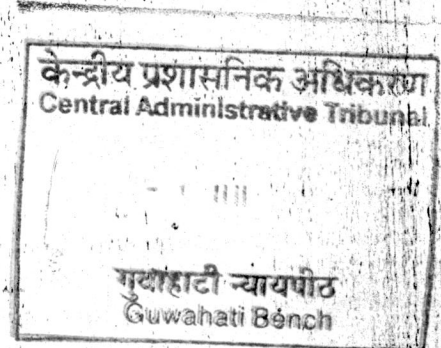
All the above are serving as non-combatised
Group C and D personnel in the Hospitals of
the Central Reserve Police Force.

By Advocate Shri R. Mazumdar

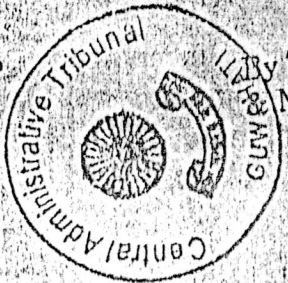
Versus -

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. Park,
New Delhi.
4. The Inspector General (Medical),
Central Reserve Police Force,
Group Centre, Amerigog,
Guwahati.

.....Applicants



.....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 applicants are served as non-combatised nursing

10567094875-

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.

Accepted
by
Advocate
[Signature]

[Signature]

22 38

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



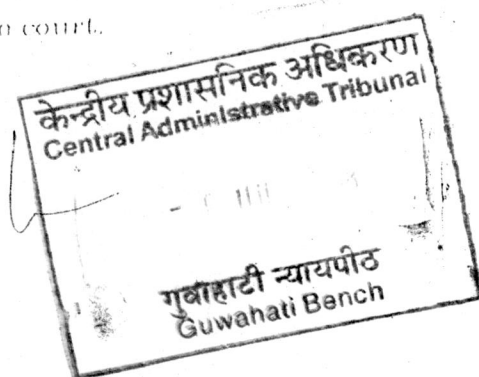
Attested
Advocate
Shullop

of CRPF. The rates of HPCA/PCA was revised for the employees similarly placed in the CGHS
केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
गुवाहाटी न्यायपीठ
Guwahati Bench

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.

Attested
by
Advocate
Shri



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."

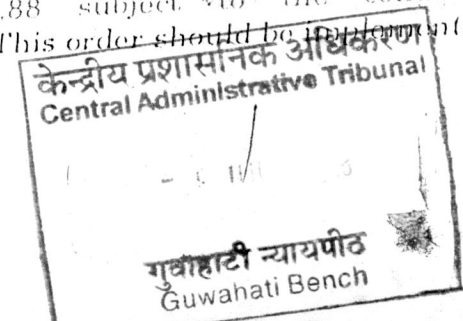
This issued with the concurrence of Ministry of finance vide their Dy. No. 1167/FS/27 dated 15.10.87."



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

Advocate
Advocate
Advocate



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-II, dated 25.1.1988 (Annexure I to this OA) at the monthly rate applicable to each applicant and from the date of admissible to each one of them after obtaining an undertaking from them individually to the effect that the amount paid will be refunded by them in full if as the result of the aforesaid appeal before the Hon'ble Supreme Court it is found that the allowance is not admissible to them.

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

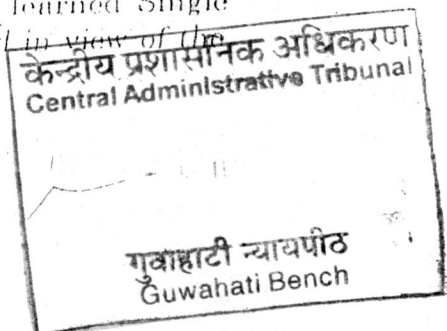
The application is allowed in terms of the directions given above. No order as to costs."

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

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



Order
by
Advocate, Guwahati



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."

Arrested
Hyderabad
Advocate
Shy

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

गुवाहाटी न्यायपीठ
Guwahati Bench

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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:

केन्द्रीय प्रशासनिक अधिकारी
Central Administrative Tribunal

गुवाहाटी न्यायापीठ
Guwahati Bench

"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.

Accepted
Advocate
28/9

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 1 months from the date of receipt of copy of this order and pay PC/WHPCA for the period from 1.8.1987 to 7.9.2000 as the revised rates sanctioned by the Government of India vide orders dated 28.9.1998 and 2.1.1999.

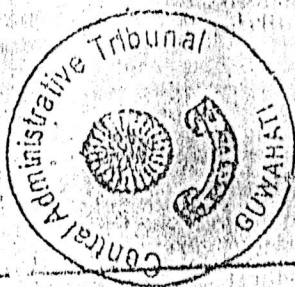
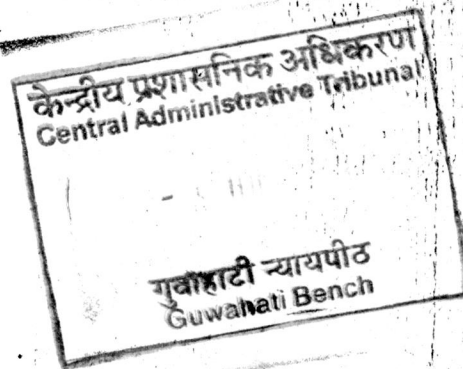
In the result, the O.A. is allowed to the extent indicated above with no order as to costs.

Sd/ VICE CHAIRMAN

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

(Signature)
 Section Officer (Legal)
 C. A. T. Guwahati Bench
 Guwahati-5.

(Signature)
 28/8/07



pg

Attended
Advocate
Shree

ANNEXURE - VIII

Assam Rifles Hospital
Happy Valley
Shillong - 07

29 Sep 2007

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L.3603/ARH/2007/ 2118

Mananideshalaya Assam Rifles
Directorate General Assam Rifles
(Medical Branch)
Shillong - 11

APPLICATION : FWD OF

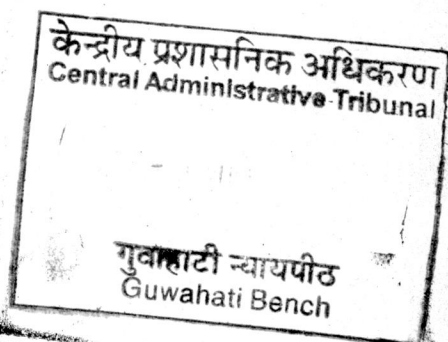
1. A joint application for clarification of grant of hospital patient care allowance to non-ministrial employees in respect of this hospital is fwd herewith for your further necessary action please.

2. Please ack.

net : 06(Six) copies.

(Dr. P Lengen)
CMO(CHS)
OC AR Hospital

(male staff)
Attested
by
Advocate Shy



Regd/Post with AD

From:

Poonam Yadav
Advocate
Shillong Bar Association.
Shillong.

ANNEXURE X

30

To,

Shillong, Date 31.3.2008

The Directorate General pf Assam Rifles Shillong-11

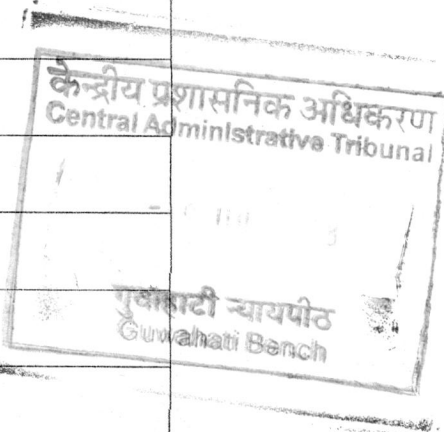
Subject:-

Notice

Dear Sir,

Under the instruction and on behalf of my following clients, I have to serve this notice as under:-

Regt No/Rank Name		Year of Appointment
1.	M/370278 X Nb/Sub Mohan Singh Grg	14.02.1976
2.	M/370399 N/Sub D.Pathak	6.01.1979
3.	M/371073/H/NA D.S.Chouhan	28.12.1987
4.	M/370657 /H/NA P.Narayan Kutti	12.2.1985
5.	M/371038M RFN/NA Shree Kumar.D	9.12.1987
6.	M/371182F RFN/NA Rajeshwar Kumar Pandey	31.10.1999
7.	M371465 H RFN/NA Mohd Sahid Ansari	28.12.2001
8.	M/371230 W RFN/NA Sandeep Kumar	20.6.2000
9.	M/370684 H/NA J.Ajayan Nair	02.05.1985
10.	M/3708 W H/NA S.K. Chandel	16.05.1985
11.	M/ 370552 H/NA Om Prakash	17.05.1985
12.	M/371045 RM/NA Kuldeep Singh	20.12.1987



1. That the Govt. of India, Min of Health and Family welfare, Nirman Bhawan New Delhi had conveyed Sanction for payment of Patient care allowance to the Group of C&D (Non Ministerial Govt. Employees as per the instruction dated 25.1.1988 (copy of the letter is enclosed.)

Poonam Yadav
Advocate

LABAN SO (793004)
RLAD A 2930
Counter No:1,OP-Code:01
To:DG,AR
SHILLONG, PIN:793011



Wt:20grams,
PS:25.00, , 01/04/2008 , 10:59
<<Have a nice day>>

- 37
2. That the similarly placed Para- military forces, namely C.I.S.F., C.S.F., C.R.P.F., and I.B.P. had been paid the above allowances to their personnels on the strength of the Government letter ibid and they are enjoying the benefit.
 3. That thereafter the rate of Patient care allowance has been enhanced time-to-time and paid to the above Para military forces.
 4. That my clients above named are the personnels of the oldest Para-military force and they are also entitled to the same benefit of Patient care allowance to that of personnels of B.S.F., C.R.P.F., I.T.B.F. and C.I.S.F.
 5. But the benefit of Patient care allowance had has been denied to the personnels (Para medical) of Assam Rifles of the Same Cadre, though the provision of the said order is implemented to them also.
 6. That there is no clear cut instruction / Provision that the Assam Rifles personnels (Para-medical) will not be entitled to draw Patient care allowance, hence my clients are entitled to draw the said allowance at par with other Para-military forces.
 7. That it would be discriminatory, if the Para-medical staffs working in other Para-military forces (combatised) receive the benefit of the allowances and the similar staffs of Assam Rifles who are also the Para-medical staffs have not been extended the same facilities.
 8. That my client/above named have not been lawfully denied the payment of Patient Care allowance and as such they are entitled to draw Patient care allowance at par with other Para-medical staffs of Para-military forces under Govt. of India as the order dated 25.1.1988 is applicable to Para-medical staffs of Assam Rifles also.

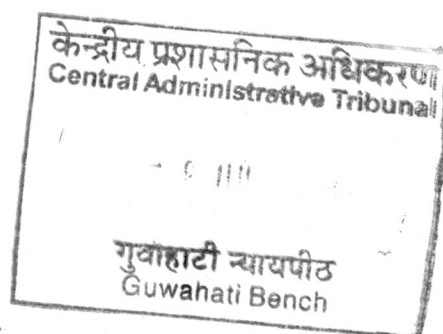
THEREFORE, I serve upon you this notice under section 80 CPC that the Govt./ Authority should immediately make the payment of Patient care allowance to my Client above named within 60 days of receipt of this notice, failing which on expiry of said period my client shall be constraint to file suit for the relief as aforesaid on the cause of action said above at the risks of the Govt. as to cost and consequences, which please note.

Enclosed
Order Dated
25.1.1988

Alister
Poonam
Advocate, Guwahati

Yours Faithfully

Poonam
(Poonam Yadav)
Advocate



ANNEXURE-X 46

Bharat Sarkar
Government of India
Grih Mantralaya
Ministry of Home Affairs
Mahanideshalaya Assam Rifles
Directorate General Assam Rifles
Shillong – 793011

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I.11018/ 11/2008/Law/ 470


10 June 2008

Poonam Yadav
Advocate
Shillong Bar Association
Shillong -1

NOTICE U/S 80 CPC

1. In inviting a reference to your notice dated 31 March 2008 and 10 May 2008.
2. It is brought to your notice that Hospital patient Case Allowance (HPA) is applicable only in the case of civilian employees (Non combatised). The same is being followed by CISF and SVP National Police Academy. Moreover the combatant staffs are getting perks such as leave, rations etc, which is not applicable in case of civilian employees.
3. It is further intimated that there is no discrimination in granting the allowance as the same is being followed by other CPMFs.
4. Your client may be informed accordingly.

Attested
by
Advocate, Shg


(T S Mankotia)
Capt
Asst Chief Law Officer
for Chief Law Officer

