

CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH

OA No.294/2005 and OA No.363/2005.

Jaipur, this the 21st day of April, 2006.

CORAM : Hon'ble Mr. M. L. Chauhan, Judicial Member.

1. Smt. Madhubala

W/o Shri Rajendra Singh,
Aged about 41 years,
R/o type-1, G.C.I., Hospital Campus,
C.R.P.F. Ajmer.

2. Smt. P. Mohini,

W/o Late M. Ravindram,
Aged about 50 years,
R/o Type-1, G.C.I. Hospital Campus,
CRPF Ajmer.

3. K. Netisan

S/o Kuppu Swami,
Aged about 52 years,
R/o type-1, G.C.I. Hospital Campus,
CRPF Ajmer.

4. Rajendra Kumar

S/o Duli Chand
Aged about 49 years,
R/o Type-1, G.C.I. Hospital Campus,
CRPF Ajmer.

5. Smt. Kamla Bai,

W/o Shri Sohan Lal,
Aged about 49 years,
R/o type-1, G.C.I. Hospital Campus,
CRPF Ajmer.

... Applicants in OA No.294/2005.

1. Hanumantha

S/o Shri Prabhu Ray,
Aged about 32 years,
R/o type-1, Qr.GC-1, Hospital Campus,
CRPF Ajmer.

2. Shaikh Aslam

S/o Shri Vosp Mohammed,
Aged 40 years,
R/o Quarter No.234 Type-II, GC-1, Hospital Campus,
CRPF Ajmer.

3. Kanahaiya Lal

S/o Shri Laxmi Narain,
Aged 45 years,

R/o Type-II, GC-1, Gulab Bari,
Ajmer.

4. Deshraj,
S/o Prakash Chand,
Aged 34 years,
R/o Quarter No.54 Type-I, GC-1, Hospital Campus,
CRPF Ajmer.
5. Indrawati Devi
W/o Shri Rajbir Singh,
Plot No. 140,
Golf Course Road,
Shiv Colony, Kundan Nagar,
Ajmer.
6. Harnam Singh
S/o Shri Plaloo Ram,
Aged about 47 years,
R/o Type-II, CG-1, Hospital Campus,
CRPF, Ajmer.
7. Rajkumar Singh
S/o Shri Bhanwar Pal Singh,
Aged about 28 years,
R/o Q. No.40, Type-1, GC-1, Hospital Campus,
CRPF Ajmer.
8. Chandra Shekhar
S/o Shri G. S. Shukla,
Aged about 28 years,
R/o Quarter NO.38, Type-1, GC-1, Hospital Campus,
CRPF Ajmer.
9. Sandeep Verma
S/o Shri Ram Sharan Verma,
Aged about 32 years,
R/o Qtr. No.35, Type-II, GC-1, Hospital Campus,
CRPF Ajmer.
10. Munna Lal
S/o Shri Babu Lal
Aged about 45 years,
R/o Qtr. No.9, Type-1, GC-1, Hospital Campus,
CRPF, Ajmer.
11. Sohan Singh
S/o Shri Heera Singh,
Group C-2, 41, Batallian,
CRPF Ajmer.
12. Panna Lal
S/o Shri Patram
Aged about 40 years,
R/o Q. No.33, Type-1, GC-1, Hospital Campus,
CRPF Ajmer.

13. Geeta
D/o Shri Shyam Lal,
Railway Hospital, T.V. WARd, Ajmer
14. Mahendra Singh
S/o Shri Gangaram,
Qtr. No.35, GC-1, Hospital Campus,
CRPF Ajmer.
15. Deepmala
W/o Shri Bhoop Singh,
Aged about 30 years,
R/o Q. No.178, Type-II, GC-1, Hospital Campus,
CRPF Ajmer.
16. Krishna Kumar Baswal
S/o Shri Ram Chandra Baswal,
R/o Qtr. No.40, Type-II, GC-1, Hospital Campus,
CRPF Ajmer.
17. Dinesh Kumar Meena,
S/o Sh. K. C. Meena,
143, B.M., CRPF Ajmer.
18. K. Kabri
S/o Shri R. Kabir,
143, B.M. CRPF Ajmer.

... Applicants in OA No.363/2005.

By Advocate : Shri V. K. Mathur in both the OAs.

Vs.

1. Union of India
Through Secretary,
Ministry of Home Affairs,
Government of India,
North Block, New Delhi.
2. The Deputy Inspector General of Police (DIG),
Central Reserve Police Force,
Golf Course Road,
Ajmer (Raj.)
3. The Additional Deputy Inspector General of
Police (ADIG),
G.C.I. Central Reserve Police Force,
Golf Course Road,
Ajmer (Raj.)

... Respondents.

By Advocate : Shri Gaurav Jain in both the OAs.

O R D E R

Per M.L. Chauhan.

By this order, I propose to dispose of both the OAs (OA Nos. 294/2005 and 363/2005) as common question of law is involved in these cases.

2 Briefly stated, the facts of the case are that the applicants are non gazetted, Ministerial ~~or~~ Hospital staff of CRPF under the Ministry of Home Affairs employed on different dates from the year 1987 till 2004. The grievance of the applicants is regarding grant of arrear of Patient Care Allowance w.e.f. 1.12.1987 or from the date when they have been engaged by the respondents. For that purpose, the applicants have placed reliance on the decision of the judgment rendered by the various High Courts as well as by the Apex Courts where the Hon'ble High Court has held that the nature of duty performed by the applicants is similar to that of staff in other establishments under the Ministry of Health. Learned counsel for the applicants has placed reliance on the judgements dated 12.07.1996 (Annexure A/6), 21.05.1996 (Annexure A/7) and 17.10.2001 (Annexure A/8). It is on the basis of these judgments, learned counsel for the applicants has stated that the applicants are also entitled to Patient Care Allowance/Hospital Patient Care Allowance w.e.f. 1.12.1987.

3. Notice of this application was given to the respondents. Respondents have filed reply. In the reply, the respondents have raised objection of limitation. By way of objection, it has been stated that the present applications have been filed before this Tribunal in the year 2005 demanding arrears of PCA allowance w.e.f. 1.12.1987, hence the same is barred by limitation. It is further stated that the applicants have stated in the OA that they submitted a representation but no date of the representation has been given, further to which authority it has been addressed, the same does not exists. It is further stated that even if for arguments sake, it is presumed that the representation was submitted by the applicants then too as per provisions of the Central Administrative Tribunal (Procedure) Rules, in case the representation filed and is not decided then after six months of filing of the representation it will be presumed that the same has been rejected. In the present casesuch time period has also been expired though no date of submitting representation has been given nor has been addressed to proper authority, therefore, it cannot be presumed that the representation has been submitted. Respondents have further stated that the applicant has preferred an application dated 25.10.2004 before the Secretary, Legal Aid Clinic, Sessions Court Premises, Ajmer, and the same has been dismissed vide order dated 7.1.2005.

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The limitation to file the present Original Application cannot be reckoned from the date when the application of the applicants has been decided by the Legal Aid Clinic. The members of the said forum did not give any benefit or relaxation in limitation for filing the present original application. The said forum has only observed that the applicants are free to file any litigation according to law. Thus, according to the respondents, this fact will not condone the delay in filing the present OA.

4. On merit, it has been stated that the Government of India, Ministry of Health and Family Welfare vide their letter No.Z.28815/60/87.H dated 25.1.88 has issued orders for payment of PCA to Group C and D (Non Ministerial) employees including Drivers of Ambulance, Cars working in the Central Government Hospitals and Hospitals under the Delhi Administration only. This benefit was not extended to the Para Medical Staff of CRPF. The MHA vide its letter dated 8.9.2000 allowed Patient Care Allowance/Hospital Patient Care Allowances to Group C and D civilian (non-combatised) employees. Since the previous orders were not for the CRPF, therefore, the applicants are entitled for PCA/HPCA w.e.f. 8.9.2000 and not entitled for arrears according to order dated 29.9.89 which was issued by the Government of India. The respondents have stated that all the applicants are getting PCA/HPCA w.e.f.

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8.9.2000. The respondents in the reply have, however, stated that earlier some combatised and non combatised Group C and D hospital staff filed court cases in various courts for sanction of Patient Care Allowance and the concerned Hon'ble Courts passed orders in their favour. In order to implement the court orders, they were sanctioned PCA. Later on, the Union of India and others filed SLP in the Hon'ble Supreme Court of India (SLP No.1093/95 vs. T. M. Jose and others) along with 7 others SLPs and stay was granted on 13.9.1996. Accordingly, payment of PCA sanctioned to the petitioners was stopped. It is further stated that in the meantime, the Government of India, MHA vide their letter No.27012/4/2000-PF.IV dated 8.9.2000 allowed Patient Care Allowance/Hospital Patient Care Allowance w.e.f. 8.9.2000 to Group C and D civilian (non-combatised) employees of BSF, CRPF, CISF, Assam Rifles and National Police Academy, Hyderabad at the same rates as was being given to the employees similarly placed in the CGHS dispensaries or Central Government Hospitals in Delhi/outside Delhi on the same terms and conditions. Accordingly, Director General vide letter No.A.IX-1/2000-Med.II(MHA) dated 22.9.2000 passed orders to sanction PCA/HPCA to all the eligible hospital staff w.e.f. 8.9.2000. Thereafter, the SLP filed by the UOI in the matter regarding payment of PCA was listed in the Hon'ble Supreme Court on 17.10.2001 and after hearing the

arguments from both the parties, the Hon'ble Supreme Court dismissed the appeal filed by the UOI and others. The respondents have further stated that after the dismissal of the SLP by the Hon'ble Supreme Court the matter was referred to Ministry for grant of PCA/HPCA to all the combatised Group C and D Hospitals staff. However the Ministry of Finance, Department of Expenditure vide their UO No.19050/2/2001-E-IV dated 14.1.2002 decided to grant the PCA/HPCA only to those combatised Group C and D Hospital Staff who were petitioners in court cases. In order to implement the orders of Hon'ble Supreme Court and as decided by MHA, the Director General has already issued orders vice signal No.J.11-2/2002-Med.II(MHA) dated 18.1.2002 to sanction PCA/HPCA to all civilian eligible staff during the pendency of SLP. However the case of the applicant was again referred to MHA for grant of PCA/HPCA to all the combatised Group C and D Hospital staff which is still under consideration with Ministry of Finance.

5. I have heard the Learned Counsel for the parties and gone through the material placed on record.

6. From the material placed on record, it is clear that the facility of Patient Care Allowance was not ^{initially} extended to the staff working in CRPF and staff of Para military hospital and such allowance was granted

to Group C and D non ministerial employees including drivers of Ambulance, cars working in the Central Government Hospitals under Delhi administration only. Such allowance was granted vide Ministry of Health and Family Welfare vide their letter No. Z.28815/60/87.H dated 25.1.88. Feeling aggrieved by such action on the part of Central Government, some of the combatised Group C and D staffs have filed court cases in various courts for sanction of Patient Care Allowance and the various courts held that non combatised employees of BSF, CRPF, CISF Assam Rifles and National Police Academy, Hyderabad, are entitled to the Patient Care Allowance/ Hospital Patient Care Allowance at the same rates as was given to the employees similarly placed in the CGHS dispensary in Delhi/outside Delhi on the same terms and conditions. Accordingly, Director General vide letter dated 22.9.2000 passed order to sanction PCA/HPCA to all eligible hospital staff w.e.f. 8.9.2000. It is not in dispute that the SLP filed by the Union of India against the decision rendered by the various courts was also decided on 17.12.2001 whereby the appeals filed by the Union of India and others were dismissed. It is also not in dispute that the respondents have granted the aforesaid allowance in accordance with Ministry of Health and Family Welfare Memo dated 25.1.1988 w.e.f. 1.12.1987 to those employees who have approached the various courts and obtained favourable order. From the material placed on record, it is also clear that the Ministry of Finance, Department of Expenditure vide

their OM dated 14.1.2002 have decided to grant the PCA/HPCA only to those combatised Group C and D Hospital staff who were petitioners in court cases but not to other employees who were similarly situated. The stand taken by the respondents in this case is that the matter has again been referred to the Ministry of Home Affairs for grant of PCA/HPCA to all combatised Group C and D staff which is still under consideration with the Ministry of Finance.

7 In view of the stand taken by the respondents that the matter regarding grant of PCA/HPCA to the non combatised employees is still pending under consideration with the Ministry of Finance, the plea taken by the respondents that the present OA is barred by limitation is self contradictory and cannot be accepted. Learned counsel for the applicant has also brought to my notice the decision rendered by the Bangalore Bench in the case of Shri Ajith A. & ors. Vs. Union of India & Ors., OA No. 1093 & 1106/2002 decided on 17.04.2003, whereby the Bench has held that the employees working in CRPF Hospital are entitled to HPCA at the same rates as are applicable to similarly placed Group C and D employees (non ministerial) of Central Government Hospitals by order dated 25.1.98 followed by order dated 28.9.98 and subsequent order of revision w.e.f. 1.12.1987 or the dates of their appointments whichever is later and for that purpose

the reliance was placed on the order of Cuttack Bench of the Tribunal in OA No. 299/89 decided on 8.5.1990 which was confirmed by the Supreme Court vide judgement dated 17.10.2001. At this stage it will be useful to quote the decision of the Apex Court in the case of Shri Narayan Yeshwant Gore vs. Union of India and others, 1995 (3) SLJ 189 whereby the Apex Court has held that similar treatment should be given to persons who are similarly situated. That was a case where the appellant before the Apex Court was on deputation to other department and was promoted as Assistant Director on ad hoc basis. ~~Further~~ the junior to the applicant was also promoted on ad hoc basis in the parent department and had continue to remain on ad-hoc basis for long time. One Shri Narendra Chadha filed a case thereby praying that all those officers who were appointed as Assistant Director in the organization on ad hoc basis should be deemed to have been appointed substantively from the date of their ad hoc appointment. The Apex Court has held that those officers who were appointed as Assistant Director in the organization should be deemed to have been appointed substantively from the date of their ad hoc appointment. In consequence of this decision, the junior persons who have been appointed on ad hoc basis in the parent department after the promotion of the appellant therein on ad hoc basis and before his repatriation to parent department became senior to the appellant. The appellant sought benefit of the

judgment rendered by the Apex Court in the case of Narendra Chaddha's case. The Apex Court has held that the appellant was similarly situated alongwith those who were granted benefits by the court, as such, the benefit of the judgment rendered in Narendra Chaddha's case be extended to the applicant and he should have been confirmed from the date his junior has been confirmed. The ratio as laid down by the Apex Court in the case of Narayan Yeshwant Gore (supra) is squarely applicable to the facts of the present case inasmuch as the respondents should have extended the similar treatment to the applicants whose cases are similar to those who have been extended the benefit. Since the respondents have stated that the matter of the applicants is still under consideration with the Ministry, under these circumstances, I am of the view that the ends of justice will be met if the direction is given to the respondents to decide the cases of the applicant regarding grant of PCA/HPCA within a period of 3 months from the date of receipt of a copy of this order keeping in view the ratio as laid down by the Apex Court in the case of Narayan Yeshwant Gore (supra) and also that Bangalore Bench in its decision dated 17.4.2003 in OA No. 1093/2002 and other connected matter, which is based on the decision of Apex Court dated 17.10.2001 (Annexure A/8), has held that the employees working in CRPF Hospital are entitled to HPCA at the same rate as are applicable to similarly placed Group C and D employees (non
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ministerial) of Central Government Hospital by order dated 25.1.1988 followed by order dated 28.9.1998 and subsequent order of revision w.e.f. 1.12.1987 or from the date of appointment whichever is later.

8 With these observations, both the OAs (OA No. 294/2005 and 363/2005) are disposed of with no order as to costs.



(M.L. CHAUHAN)

JUDICIAL MEMBER