

30/600

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

4

(DESTRUCTION OF RECORD RULES, 1990)

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Disposed date-20/8/97

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Dismissed date-20/5/98

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E.P/M.A No.

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SECTION OFFICER (Judl.)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

OA No. 1761/96

Sri S. Bhattacharyya & Ors. Applicant(s)

Union of India & Ors. Respondent(s)

Mr. A.K.G. Thakuria Advocates for the applicant(s)

Mr. S. Ali, Sr. C.G.S.C. Advocates for the Respondent(s)

Office Notes

Date

Courts' Orders

27-8-96

Learned counsel Mr.A.K.G.

This application is in
form and within time
C. F. of Rs. 50/-
deposited vide
IPO/BD No. 346467
Dated ... 2.1.8.96

S.A.
Dy. Registrar.

Thakuria for the applicant. Lear-
ned Sr.C.G.S.C. Mr.S.Ali for the
respondents.

Mr.Thakuria moves this applica-
tion on behalf of 12 applicants.
Heard Mr.Thakuria for Admission.

The applicants have prayed for
permission to file this application
jointly as the issues involved and
reliefs are same. Permission is
granted in terms of Rule 4(5)(a)
of the C.A.T. Procedure Rules 1987.

Perused the contents of the
application and the reliefs sought.
Application is admitted. Issue
notice on the respondents by regis-
tered post. Written statement
within 6 weeks. List for written
statement and further order on
7-10-96.

Pendency of this application
shall not be a bar for the respon-
dents to allow conditional payment
of Hospital Care Allowance to the
applicants.

3.9.96

Notice issued to the
concerned parties
vide J. No. 3047 Dt.
6.8.96

Bay

lm

Member

O.A.No.174/96

7.10.96

Mr S. Ali, learned Sr. C.G.S.C. for the respondents seeks further time to file written statement. Allowed.

List for written statement and further orders on 14.11.96.

ba
Member

nkm

mv
2/11

14.11.96

Learned counsel Mr A.K.G. Thakuria for the applicant. Learned Sr. C.G.S.C. Mr S. Ali for the respondents seeks time for filing written statement.

List for hearing on 29.11.96. In the meantime Mr Ali may file written statement or seek instructions.

ba
Member

nkm

mv
19/11

29-11-96

Dr.A.K.G.Thakuria counsel for the applicant. Leave note of Mr.S.Ali, Sr.C.G.S.C. Written statement has not been submitted.

Adjourned for hearing to 6-12-96.

ba
Member

lm

mv
29/11

6.12.96

Mr. S.Ali, Sr.C.G.S.C. for the respondents.

None for the applicant.

Hearing adjourned to 12.12.1996.

ba
Member

trg

mv
6/12

26.10.96

Notice duly served on Respond No. 1, 3, 6.

Ba

w/ statement - has not been filed

mv
13/11

w/ statement has not been filed

mv
29/11

1) Notice duly served on OP. No. 1, 3 & 6.

w/ statement - has not been filed

mv
5/12

w/ statement has not been submitted

mv
11/12

12.12.96

Mr.A.K.G. Thakuria for the applicants.

Mr. S.Ali, Sr.C.G.S.C. for the respondents.

Written statement has not been submitted by the respondents. However since it is a covered case hearing has been taken up. Counsels of both sides have completed their submissions. Hearing concluded. Judgement reserved.

[Signature]
Member

trd

12/12/96

20.12.96

Learned Sr. C.G.S.C. Mr S. Ali for the respondents. Judgment pronounced. The application is disposed of in terms of the directions in the order. No order as to costs.

[Signature]
Member

nkm

Received by
[Signature]
Advocate
3-1-97

6/1

Copy of the judgment issued to the parties vide d. no. 142 to 148.

Dtd. 7-1-97.

[Signature]

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH ::: GUWAHATI-5.

C.A. NO. 174 of 1996
T.A. NO.

DATE OF DECISION 20.12.1996

Shri Rupak Bhattacharjee & 11 Ors.

(PETITIONER(S))

Mr. A.K.G. Thakuria.

ADVOCATE FOR THE
PETITIONER (S)

VERSUS

Union of India & Ors.

RESPONDENT (S)

Mr. S.Ali, Sr. C.G.S.C.

ADVOCATE FOR THE
RESPONDENT (S)

THE HON'BLE SHRI G.L.SANGLYINE, ADMINISTRATIVE MEMBER.

THE HON'BLE

1. Whether Reporters of local papers may be allowed to see the Judgment ? *yes*
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the judgment ? *NO.*
4. Whether the Judgment is to be circulated to the other Benches ?

Judgment delivered by Hon'ble Administrative Member

[Signature]
20/12/96

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 174 of 1996.

Date of decision : This the 20th day of December, 1996.

The Hon'ble Shri G.L.Sanglyine, Administrative Member.

1. Shri Rupak Bhattacharjee,
Laboratory Technician,
 2. M.P.Keshary
Pharmacist,
 3. Banti Priya Hazarika
C.T.Asstt.
 4. Kushal Singh
N.Asstt.
 5. Nirlam Kumar Sani
Chowkidar
 6. Vimala Devi
Masalchi
 7. Sohanlal
S.K.
 8. Mithuram
S.K.
 9. Md. Idris Quazi
Pharmacist
 10. Sunil Kumar
Cook
 11. Shiv Dayal
Electrician
 12. Ratan Lal
Carpenter
- .. Applicants.

(Applicant Nos. 1 to 8 & 11 & 12 are working in the office of the Chief Medical Officer, Base Hospital-II, CRPF, Guwahati-23).

(Applicant No. 9 is working in the office of the Medical Officer, 14 BN., Noonmati, Guwahati).

(Applicant No. 10 is working in the office of the Medical Office, GC Hospital, CRPF, Khatkhati, Karbi Anglong District, Assam).

By Advocate Mr. A.K.G. Thakuria.

-versus-

20.12.96

1. The Union of India represented by the Secretary to the Govt. of India, Department of Home Affairs, New Delhi.
 2. The Secretary to the Govt. of India, Ministry of Health & Family Welfare, New Delhi.
 3. The Director General, CGO. Complēx, CRPF, New Delhi.
 4. The Chief Medical Officer, Base Hospital-III, CRPF, 9 Mile, Guwahati-23.
 5. Commandant, 14 Bn., CRPF, Noonmati, Guwahati
 6. Medical Officer, GC Hospital, CRPF, Khatkhati, Karbi Anglong, Assam
- Respondents

By Advocete Mr. S.Ali, Sr.C.G.S.C.

O R D E R

G.L.SANGLYINE (ADMINISTRATIVE MEMBER)

The applicants are working in Base Hospital-III, CRPF, Guwahati, Medical Hospital, 14 Bn, Noonmati, guwahati, and Medical Hospital, CRPF, Karbi Anglong, Assam. They have been allowed to submit this application jointly. Their prayer in this application is for payment of hospital patient care allowance with effect from 1.12.1987 in terms of Ministry of Health and Family Welfare, Government of India, letter No. 28015/60/87-11 dated 25.1.1988. They submit that the hospital patient care allowance was allowed vide order dated 3.2.1994 passed in O.A. No. 931 of 1993 by the Central Administrative Tribunal, Principal Bench, New Delhi and Order dated 24.2.1994 in O.A. No. 151 of 1994 passed by

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20.12.96

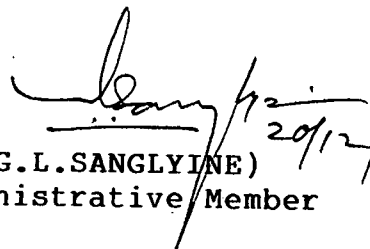
3

the Central Administrative Tribunal, Hyderabad Bench. They had approached the respondents on many occasions for payment of the hospital patient care allowance and representation dated 16.5.1994 was also submitted in this regard but the respondents have not paid the said allowance to them. Mr. Thakuria has pointed out that recently some Group 'C' civilian employees working under the hospitals of CRPF at Guwahati and Bongaigaon had filed application before this Bench of this Tribunal and vide order dated 10.6.96 passed in O.A. 9 of 1995 the prayer for payment of hospital patient care allowance was allowed with stipulated conditions. He submits that the respondents may be directed to allow the payment of the said allowance to the present applicants with similar conditions as stipulated in the order dated 10.6.1996.

2. I have heard Mr. Thakuria and Mr. Ali. I direct that a representation for payment of the hospital patient care allowance be submitted by each applicant individually to the competent authority concerned of the respondents within one month from the date of receipt of the copy of this order. This representation should be accompanied by an undertaking to the effect that the payment of the hospital patient care allowance to them shall be subject to the result of the Special Leave Petition before the Hon'ble Supreme Court as mentioned in para 2 of the order dated 10.6.1996 and that ^{the} amount paid to them will be refunded by them in full if as a result of the aforesaid appeal before the Hon'ble Supreme Court it is found that the allowance is not admissible to them. The competent authority of the respondents shall dispose of the representations of the applicants within one month from

the date of the receipt of the copy of this order after due scrutiny in each case that the applicant falls in the category of employees to whom Hospital Patient Care allowance is admissible. If it is found that the allowance is admissible to any of the applicants the allowance may be allowed conditionally in the lines indicated in the order dated 10.6.96 passed in O.A. 9 of 1995 aforesaid after taking appropriate undertaking from each of the applicant individually as indicated in the aforesaid order dated 10.6.1996.

The application is disposed of. No order as to costs.


(G.L.SANGLYINE) 20/12/96
Administrative Member

trd

Central Administrative Tribunal ; Guwahati Bench.

O.A.No. 174 of 1996.

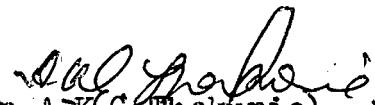
Shri Rupam Bhattacharjee and others ----- Applicants

-versus-

Union of India and others ----- Respondents

I N D E X.

<u>Serial No.</u>	<u>Particulars</u>	<u>Page Number</u>
1. Application	Application	1 to 11
2.	Affidavit	12
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9. Vakalatnama	Vakalatnama	24
10.	Receipt from C G S C	25
Total :		10 only.


(Dr. A.K.G. Thakuria),

Advocate,
20-8-96.

APPLICATION UNDER SECTION 19 OF THE
ADMINISTRATIVE TRIBUNAL ACT, 1985.

O.A. No. 174 of 1996.

*Filed by
100 Petitioners/applicants
through
A. A. G. Mathur
Advocate,
Rupak Bhattacharjee 22-8-96.*

For use in Tribunal Office

Date of filing 22-8-96

or

Date of receipt by post :

Registration No. SA 174/96

Signature :

Registrar :

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
PRINCIPAL BENCH : NEW DELHI
ADDITIONAL BENCH : GUWAHATI

BETWEEN

1. Sri Rupak Bhattacharjee
2. " M.P. Keshary
3. Srimati Banti Priya Hazarika
4. Sri Kaushal Singh
5. " Nirmal Kumar Sani
6. Srimati Vimla Devi
7. Sri Sohanlal
8. " Mithuram
9. Md. Idris Quazi
10. Sri Sunil Kumar
11. " Shiv Dayal
12. " Ratan Lal

Applicants No. 1 to 8 and 11 & 12 are all
residents of C R P F Complex, Base Hospital-111,
9-Mile, P.o.p.- Jorabat, Guwahati-781 023.

Applicant No. 9 is the resident of C/O
Commandant, 14 BN., CRPF, Noonmati, Guwahati.
Applicant No. 10 is residing C/O Medical Officer
Officer, G C Hospital, CRPF, Khatkhati,
Karbi Anglong District, Assam.

... Applicants.

/s/ -VERSUS-

1. The Union of India represented by the
Secretary to the Government of India,
Department of Home Affairs, New Delhi.
2. The Secretary to the Government of India,
Ministry of Health & Family Welfare, Delhi.
3. The Director General, CGO, Complex No. 1,
C R P F, Lodhi Road, New Delhi.
4. The Chief Medical Officer, Base Hospital
No. 111, C R P F, Guwahati-781 023.
5. Medical Officer, C/O Commandant, 14 BN.,
C R P F, Noonmati IOC Complex, Guwahati.
6. Medical Officer, G C Hospital, C R P F,
Khatkhati, Karbi Anglong District, Assam.

... Respondents.

Details of Application.

1. Particulars of the applicants:

- (i) Name & Designation :
1. Sri Rupak Bhattacharjee
Laboratory Technician.
 2. M.P. Keshary
Pharmacist
 3. Banti Priya Hazarika
C T Asst.
 4. Kushal Singh
N. Asst.
 5. Nirmal Kumar Sani
Chowkidar
 6. Vimla Devi
Masalchi

Rupak Bhattacharjee

7. Sohanlal

S.K.

8. Mithuram

S.K.

9. Md. Idris Quazi

Pharmacist

10. Sunil Kumar

Cook

11. Shiv Dayal

Electrician

12. Ratan Lal

Carpenter.

(11) Office in which employed : 1) Applicants No. 1 to 8 and 11 & 12 are all working in Base Hospital-111, C R P F, Guwahati-23.

ii) Applicant No. 9 is working in the Medical Hospital, 14 Bn, Noonmati, Guwahati

iii) Applicant No. 10 is working working in medical hospital CRPF, Karbi Anglong, Assam.

(111) Office Address : 1) Applicants No. 1 to 8 & 11 and 12 all of Office of the Chief Medical Officer, Base Hospital-111, CRPF, Guwahati-23.

ii) Applicant No. 9 is working in the Office of the Medical Officer, 14 BN., Noonmati, Guwahati.

iii) Applicant No. 10 is working in the Office of the Medical Officer, GC Hospital, CRPF, Khatkhati, Karbi Anglong Dist., ASSAM.

P n Pak Bhalla cheng

- iv) Address for service of all notices :
1. The Union of India represented by the Secretary to the Govt. of India, Deptt. of Home Affairs, New Delhi.
 2. The Secretary to the Govt. of India, Ministry of Health & Family Welfare, New Delhi.
 3. The Director General, CGO, Complex, CRPF, New Delhi.
 4. The Chief Medical Officer, Base Hospital-111, CRPF, 9-Mile, Guwahati-23.
 5. Commandant, 14 BN., CRPF, Noonmati, Guwahati.
 6. Medical Officer, GC Hospital, CRPF, Khatkhati, Karbi Anglong, Assam.

2. Particulars of the respondents :

- (i) Name & designation of the respondents :
1. The Union of India represented by the Secretary to the Government of India, Department of Home Affairs, North Block, New Delhi.
 2. The Secretary to the Government of India, Ministry of Health & Family Welfare, New Delhi.
 3. The Director General, CGO, Complex, CRPF, Lodhi Road, New Delhi.
 4. The Chief Medical Officer, Base Hospital-111, CRPF, 9-Mile, Guwahati-23.

5. Medical Officer, C/O Commandant, 14 BN.,
C R P F , Noonmati, Guwahati.

6. Medical Officer, G C Hospital, C R P. F.,
Khatkhati, Karbi Anglong, Assam.

3. Particulars of the order against which application is made:

This application has been made/ filed against
the non-payment of the benefit of Hospital Care Allowance
to the applicants with effect from 1-12-87.

4. Jurisdiction of the Tribunal : The applicants declare that the
subject matter of this application pray:
praying for relief of payment of
Hospital Patient Care Allowance is
within the jurisdiction of this
Hon'ble Tribunal.

5. Limitation : The applicants further declare that the
grievance in respect of which the application
has been made has arisen by reason of
continuance non-payment of their each month's
Hospital Patient Care Allowance and as such,
this application is within the limitation
prescribed in Section 21 of the Administrative
Tribunal Act, 1985.

6. Facts of the case :

1) The 1) That the applicants are the citizens of India.
The applicants No. 1,2,3, 9 & 11 are the Group C employ-
ees under respondent No.4 in the CRPF Base Hospital-111
at Guwahati and Commandant, 14 BN., CRPF, Noonmati,
Guwahati. The applicants No. 4, 5, 6, 7, 8, 10 & 12
are the Group D employees under the respondent No. 4 in
the CRPF Base Hospital-111 at Guwahati and respondent No
6.

The applicants humbly pray that this Hon'ble Tribunal
may be pleased to permit the applicants to move this applica
application jointly as the issues involved and relief

Rupak Bhattacharya

sought for in this application jointly are common in respect of all the applicants.

11) That the applicants beg to state their designation and the year since when they are working in the C.R.P.F. Base Hospital-111, Guwahati and G C Hospital, Khatkhati Karbi Anglong respectively are as follows:

Rupak Bhattacharjee

<u>Name</u>	<u>Designation</u>	<u>Year of Appointment:</u>
i) Sri Rupak Bhattacharjee..	Lab./ Tech.	-----1975 -C-
ii) " M.P.Keshary	.. Pharmacist	-- --1975--C
iii) S ^B rimati Banti Priya Hazarika	.. C T / Asst.	--1977-C
iv) Sri Kashal Kaushal Singh	.. N/Asst.	--1969-D
v) " Nirmal Kumar Sani	.. Chowkidar	--1988-D
vi) " Vimla Devi	.. Masalchi	- -1983-D
vii) Sri Sohanlal	-- S.K.	-- 1971-D
viii) Mithuram	-- S.K.	-- 1966-D
ix) Md. Idris Quazi	--Pharmacist	-- 1978-C
x) Sri Sunil Kumar-	-Cook	-- 1986-D
xi) " Shiv Dayal	--Electrician	--1988 -C
xii) " Ratan Lal	--Carpeter	-- 1976-D

iii) That, the Government of India introduced Scheme for grant of hospital care allowance to Group- C & D(non-ministerial) employees with effect from 1-12-87. The Under Secretary to the Government of India, Health and Family Welfare by Letter No. D. 28015/60/87-11 dated 25-1-88 addressed to (i) Director General of Health Services and (ii) Secretary (Medical), Delhi Administration conveyed the sanction of the President to the grant of hospital patient care allowance

to Group- C & D (non-ministerial) employees including drivers of Ambulance cars, but excluding staff nurses at the rate of Rs 80/- and Rs75/- per month respectively with effect from 1-12-87. It is worthwhile to mention that the Ministry of Finance, Government of India vide their Dy No. 1167/FP/ 87 dated 15-10-87 sanctioned the said allowance scheme.

Prof. B. B. Bhatnagar

A copy of the aforesaid letter dated 25-1-88 is annexed hereto and marked as Annexure ~~XXX~~-----A.

iv) That, the Government of India, Ministry of Health and Family Welfare by Letter No. D. 11011/1/90-CGHS (P) dated 11-7-90 addressed to the Director General of Health Services, New Delhi conveyed the sanction of the President to the grant of patient care allowance to Group-C & D (Non-ministerial) employees excluding nursing personnel of Central Government Health Scheme in CRPF Organisation with effect from 1-4-87 @ Rs 70/- per month.

A copy of the aforesaid letter dated 11-7-90 is annexed and marked as Annexure-----B.

v) That , following the denial of aforesaid hospital patient care allowance, some Group-C & D employees of Base Hospital, New Delhi and Guwahati approached the Hon'ble Central Administrative Tribunal, Principal Bench, New Delhi with an application registered as O.A. 931 of 1993. The Hon'ble Central Administrative Tribunal, Principal Bench, New Delhi by the judgment and order dated 3-2-94 passed in the aforesaid O.A. 931 of 1993 directed that all those applicants who are para medical staff should be granted hospital Patient Care allowance at the appropriate rate from the relevant date as per Government of India Instructions dated 25.1.88 and 220-8-90 and to implement the/ said order within a period of 3 months.

A copy of the aforesaid judgment and order dated 3-2-94 is annexed hereto and marked as Annexure--C.

vi) That the applicants beg to state that in the aforesaid O.SA. 932 of 1993 amongst other the following employees of the Base Hospital-111, CRPF, Guwahati-23 were also the applicants :

1. Sri P.B. Sharma---- Pharmacist
2. " P.J. Chacha --- Laboratory Technician
3. " Binod Singh---Pharmacist
4. " Anuj Kumar Sinha --Pharmacist
5. " Apurba Kumar Roy-- Pharmacist
6. " S. Devagayam --- Laboratory Technician
7. " Jagannath Das --- Laboratory Technician

The applicants further beg to state that in view of the aforesaid judgment and order dated -3-2-84 passed by the Hon'ble Central Administrative Tribunal, Principal Bench, New Delhi in O.A.No. 931 of 1993, those applicants of Base Hospital -111, Guwahati will be getting the hospital patient care allowance.

vii) That, the applicants beg to state that similarly some employees of the Base Hospital-11, CRPF, Hyderabad moved the Hon'ble Central Administrative Tribunal, Hyderabad Bench registered as O. A. No. 151 of 1994. In view of the judgment dated 24-2-94 passed by Hon'ble Central Administrative Tribunal, Hyderabad Bench in O.A.No. 151 of 1994, the Chief Medical Officer, Base Hospital-11, CRPF, Hyderabad vide order No. J.11-6/93-2/BH-@C-11 dated 25-11-94 sanctioned hospital patient care allowance to the employees of Base Hospital-11 at Hyderabad.

Handwritten signature: Bhatia Chandra

A copy of the aforesaid order dated 25-11-94 is annexed and marked as Annexure-----D.

viii) That, the applicants approached the respondents on many occasions including their representation dated 16-5-94 addressed to the respondents with copy to all demanding payment of medical patient care allowance but they had not paid to them the same.

The copy of the aforesaid representation is annexed and marked as Annexure-----E.

ix) That the applicants beg to state that they are entitled to get the hospital patient care allowance under the law and the denial of the respondents to such allowance is arbitrary, unjust and illegal.

Annexure - F

x) That, the applicants beg to state that the similarly appointed persons are getting the hospital patient care allowance and as such, denial of the respondents of such allowance are arbitrary, discriminatory and mala fide.

xi) That the applicants beg to state that as the similarly situated employees are getting the hospital patient care allowance, the respondents are liable to be directed by this Hon'ble Tribunal to pay the aforesaid allowance including the arrear allowances.

7. Relief Sought :

In view of the facts mentioned above in para 6 above, the applicants pray for the following relief (s) :

i) For the direction directing the respondents and such each of them to pay the hospital

Pink Pak Bhattacharya

care allowance as per the Government Instructions dated 25-1-88 (Annexure--A) with effect from 1-12-87 to the applicants.

11) Costs of the application.

iiii) Any other appropriate relief or reliefs that the Hon'ble Tribunal may deem fit and proper,

-And-

The applicants, as in duty bound, shall ever pray.

8. Interim : If prayed for pending final necessary decision on the application, the applicants seek issuance of the following interim order :

For a direction directing the respondents and such each of them to pay the interim pending final decision of this application the applicants' hospital patient care allowance.

9. Details of the remedies exhausted :

The applicants state that there is no specific provisions to avail remedies by way of filing appeal etc. under any provision of service rule against the non-payment of hospital care allowance to the Group - C & D employees even then the applicants filed representations including the representation dated 16-5-94 to the respondents with copies to all of them.

10. The applicants further declare that the matter regarding which the application has been made is not pending before any court of law or another authority or any other Bench of the Hon'ble Tribunal.

11. Particulars of Bank Draft/ Postal Order in respect of the application fee :

- i) Name of the Bank of which drawn.
- ii) Demand Draft No.

or

- i) Number of Indian Postal Order(s)

8 09346467

- ii) Name of the issuing Post Office : *Mubari*

- iii) Date of issue of postal order(s) : *21-8-96*

- iv) Post Office at which payable : *Gundahali*

Rupank Bhatnagar

12. Details of Index :

An index in duplicate containing details of the documents to be relied upon is enclosed.

13. List of Enclosers A to D.

Verification *of*
Affidavit

A F F I D A V I T.

I, Sri Rupak ^Bhattacharjee, Son of Late Raj Kumar ^Bhattacharjee, aged about 43 years, by caste-Hindu, by profession-service, a resident of Base Hospital-111, C R P F , 9-Mile, P.s.- Jorabat, Guwahati-781 003 in the district of Kamrup do hereby solemnly affirm and declare as follows;

1. That I am the applicant No. 1 of this application and I have been entrusted by other applicants to take steps in the instant application for which I am competent and I understand the fact and circumstances of the case from the very beginning.
2. That the statements made in sub-para (i), (ii), (viii), (ix), (x) and (xi) of para 6 and paras 8 & 10 of the application are true to my knowledge and those made in sub-paras (iii), (iv), (v), (vi) and (vii) of paras 6, 9, 11 and 12 of the application are being matters of record are true to my information derived therefrom which I believe to be true.

And I sign this affidavit on this 20th day of August, 1996 at Guwahati.

Identified by,

A.K.G. Thakuria
 (A.K.G. Thakuria),
 Advocate.
 20-8-96.

Rupak Bhattacharjee
 Deponent.
 20-8-96.

Solemnly affirmed by the deponent today, on 20th August, 1996 at Guwahati.

HS 20/8/96
 [Signature]



Annexure-----B

No. G. 11011/3/90 CGHS (PD)

Date: July, 1990.

Rupak Bhatnagar

To The Director General of Health Services, New Delhi.

Subject : Grant of Patient Care Allowance to Group- C & D (Non-ministerial) employees.

Sir,

I am directed to convey the sanction of the President of patient care allowance to Group-C & D (Non-ministerial) employees excluding staff nurses of the Central Government Health Scheme in the organisation with effect from 1-4-87 @ Rs 70/- subject to the condition that no Night Weightage Allowance and Risk Allowance, if sanctioned by the Central Government will be admissible to those employees.

2. Sanction is accorded for the upgradation of 35 posts of Staff Nurses in the scale of Rs 1400-2600 as Nursing Sisters to the scale of Rs 1640 - 2900 with immediate effect as indicated below:

<u>Name of the city</u>	<u>Number of posts up.graded</u>
Allahabad	5
Bombay	7
Calcutta	2
Hyderabad---	3
Meerat	1
Delhi	17
Total :	35

Approved by the Director General of Health Services 29.8.90

3. The expenditure involved will be met out of the budget grant of CGHS organisation for the year 1990 -91.

4. This issues with the concurrence of Ministry of Finance, Department of Expenditure vide their I.O. No. 7(12)-H/90.

7(12)-H-111/90

Annexure-----C

Central Administrative Tribunal; Principal Bench : New Delhi

Date: 9-2-1994.

From
The Registrar, Central Administrative Tribunal,
Principal Bench, New Delhi

To

1. Shri T.M. Jose & others
 2. Sri M.L. Verma, Counsel for the Respondents, New Delhi.
- Sri T.M. Jose & others- Applicants O.A.No. 931/93
Union of India & others- Respondents (s).

Sir,

I am directed to forward herewith a copy of order/
judgment dated 3-2-94 passed by this Tribunal in the
above-mentioned case for information and necessary action,
if any.

Please acknowledge receipt.

Yours faithfully,

Sd/-

(Section Officer)

for Registrar.

Central Administrative Tribunal : Principal Bench:

O. A. No. 931 of 1993. ✓

New Delhi, this 3rd day of February, 1994.

Honble Shri P.L. Thiruvengadam, Member (A),

Sri T.M. Jose and others (35 in all)

-Petitioners

-VERSUS-

1. Union of India represented by the Secretary to the
Government of India, Ministry of Home Affairs, Delhi
2. The Director General, CRPF, New Delhi.

-Respondents

ORDER

The applicants are working in
various capacities like pharmacist, Lab. Technician,
steward, radiographer, X-Ray Assistant, Dresser,

Handwritten notes:
Shri T.M. Jose
28-2-94

Handwritten notes:
R. K. Bhatnagar

Ward Aya, Nursing Assistant and Laboratory Assistant in Base Hospital, Delhi and Base Hospital-111, Guwahati and other places of the C.R.P.F. They belong to Group-C & D of the hospital staff (non-ministerial).

Run for the altar

2. Government of India, Ministry of Health & Family Welfare have issued order No. Z. 28015/60/87-H dated 25-1-88 and order No. ZD-28015 /60/ 87-H dated 28-2-90 conveying the sanction to the grant of Hospital Patient Care Allowance to Group-C & D(Non-ministerial) employees other than staff nurses on specific rates effective from 1-4-87 and subject to certain conditions. This sanction is applicable to the relevant staff working in government hospitals in Delhi and outside Delhi and hospitals under Union Territory Administrations having 30 beds or more. This O.A. has been filed with a prayer for a direction to grant the applicants the benefit of Hospital Patient care Allowance with effect from due date.

3. It is the case of the applicants that they should not be discriminated in the sanction of the allowance considering that the working atmosphere in CRPF hospitals is the same as in hospitals where such allowance has been sanctioned. In support of their case, directions of this Tribunal (Cuttack Bench) in O.A.No. 299 of 87 (orders passed on 6-5-90) have been referred. In this O.A., the applicants 1 & 2 who are para.- medical staff in the Group Canton Hospital, C R P F, at Bhubaneswar have been held to be entitled to the grant of the Hospital Patient Care Allowance at the appropriate rate and relevant date.

*Shree
for the
21-5-91*

4. The respondents opposed the O.A. mainly on the ground of jurisdiction. However, this objection cannot be entertained as Section 7(a) of the Administrative Tribunals Act, 1985 only have the jurisdiction of the Tribunal in regard to members of the armed forces of the Union in the cases cited by the applicants. The concerned litigants in the cases cited by the respondents happen to be members of the relevant forces of the Union or are specifically governed by the provisions of the related Acts. In O.A. No. 1511/87 dated on 23-11-90 by this Bench of the Tribunal. It has been observed as under :

" Further, section 2(a) of the Administrative Tribunal Act, 1985 referred to a member of the armed forces for the Union. A Civilian appointed in the defence service on a post connected with the defence by such appointment does not become a member of the armed forces of the Union and that has been clearly observed in Clause (a) and (b) (ii) of Sub -Section 1 of Section 14 of the Administrative Tribunals Act, 1985. Thus, it is in view of the above, the matter which is sought to be agitated being a service matter concerning the appointment of civilian, though appointment to a post cannot but with the defence and in respect of of a post which is claimed as the likely, to be filled by a civilian, though it be one connected with the armed forces on the defence service, is well within the jurisdiction of this Tribunal in view of the clear provision in sub-section 1 of Section 14 of the Act."

The applicants in this case are employees working in hospitals attached to C R P F, and the Cuttack Bench of

this Tribunal has entertained a similar application by similar employees of such hospitals in view of this, the plea regarding lack of jurisdiction cannot be entertained.

5. In the order passed by Union of this Tribunal on 8-5-90 in O.A. No. 299 of 1987, hospital patient care allowance has been sanctioned to those applicants who are paid medical staff and not to..... of para-medical staff. In the reply the respondents state as under:

" O.A.No. 299/87 was filed by 12 hospital staff before C.A.T., Cuttack Bench for payment of patient care allowance etc. but the Hon'ble Tribunal granted patient care allowance to respondents 1 and 2 only (A pharmacist and Lab. Technician) vide judgment dated 8-5-90, holding that they come under the category of para- medical staff and hence were eligible for the allowance. Accordingly, the allowance was granted to them only."

6. It would be discriminatory if para-medical staff working in Bhubaneswar hospital, CRPF receive the benefit of this allowance and the other similar para-medical staff working in other hospitals and who have filed this application are not extended the same benefit. Accordingly, it would be fit and proper to direct that all those applicants in this O.A. who are para-medical staff should be granted hospital patient care allowance at the appropriate rate from the relevant date as per Government of India Instructions dated 25-1-88 and 28-2-90 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 costs.

Sd/- P.T. T.

Member (A).

Handwritten note: In fact Bk after this

Rupak Bhatnagar

Office of the Chief Medical Officer, BH-2, CRPF, Hyderabad-5
No. J.11-6/93-2BH-PC-11 May, 1994.

Sanction Order

Under the authority of GOI Ministry of Health and Family Welfare letter No. B. 11011/1/90-CGHS(P) dated 10-7-90, as per the Judgment of Central Administrative Tribunal, Hyderabad dated 24-2-94 in O.A.No. 151/94 read with An (YgAY) (Legal), Dte. General, CRPF Signal No. J-11-227/93-L-gal-WF dated 11-11-94, the following personnel of this Base Hospital are hereby sanctioned patient care allowance @ Rs 70/ per month with effect from 1-4-87 as per the existing terms and conditions by the Government from time to time :

(1)Plumber Jagat Jiwan Das

and 34 others.

2. The payment will be made subject to the condition that they will give an undertaking that they will refund the amount in full in case the Hon'ble Court issues orders that they will not be eligible for the patient care allowance in special leave petition which is pending in the Supreme Court.

Sd/-

Chief Medical Officer

23-11-94.

Copy for further necessary action to:-

1. Addl. Director, CC, CRPF. Hyderabad
2. Commandant, 90 BN., CRPF
3. Commandant, 113 BN., CRPF
4. Addl. DIGP, CC, CRPF
5. CMO, BN. 1,11 , New Delhi, Guwahati
6. Commandant, OJ/97 BN., CRPF
7. Team Commander, (Accts), Central Record Office

*Alleged
HAF
Adm
21-8-96*

Sd/-

To

The Chief Medical Officer, Base Hospital-111, CRPF,
Guwahati-23.

Subject : Payment of Hospital Patient Care Allowance.

Respected Sir,

We, the undersigned being the Group-C & D employees of Base Hospital-111 are entitled to get the hospital care allowance with effect from 1-12-87 respectively. It may be mentioned here that in view of the judgment dated 3-2-94 passed by the Hon'ble Central Administrative Tribunal, Principal Bench, New Delhi in O.A. 931/93, same Group-C & D employees of the Base Hospital-111 are getting the hospital care allowance, but the undersigned are not yet been paid their due hospital care allowance.

The undersigned request your goodself to pay their due hospital care allowance including the arrear regularly., and oblige.

Yours faithfully

Sd/-
Rupak Bhattacharjee and others

Copy to:

The director General, CGO, CRPF, New Delhi

....

To

The Director General, CRPF, New Delhi-3.

Through Proper Chennel

Subject : Extending benefit of patient care allowance.

R/Sir,

With reference to DIGP,CRPF, Calcutta Lettr No. A-1-1-1/91-92-Accts. dated 28-8-91 addressed to Commandant 10th Bn. and copy served to us by ADIGP,GC, CRPF vide No. MV-3/91-Esstt-3 dated 3-10-91(copy Enclosed).

I am submitting a self- contained representation on the following lines with full justification as desired by DIGP, CRPF, Calcutta vide his letter quoted under reference:

*Alleged
that...
...*

Rupak Bhattacharjee

i) Under the purview of Government of India, Ministry of Health and Family Welfare letter No. YZ-28015/60/ 87-11 dated 25-1-88 issued to the Director General of Health Services, New Delhi (Copy attached for ready reference), Hospital Patient Care Allowance to Group³- C & D (Non-ministerial) employees is entitled at the rate of Rs 80/- and Rs 75/- per month respectively w.e.f. 1-12-87 subject to the condition that no night weightage allowance if sanctioned by the Central Government will be admissible. In this context, it is submitted that we have not been allowed hospital care allowance till date. Consequent on impending release of allowance by our department, Pharmacist S.P. Sinha and Lab. Tech. S.C.Saha filed a petition with the Hon'ble CAT, Cuttack Bench and Government have sanctioned patient care allowance on the compliance of judgment passed by the CAT, Cuttack Bench dated 8-5-90 (copy of the judgment enclosed) in the case of Pharmacist S.P. Sinha and Lab. Tech. S.C.Sahu w.e.f. 1-12-87 (copy of DD (medical) Dte. General, CRPF Signal No. a.ix-1/89-91-Med(MHAO dated 14-5-91 addressed to GCO, Bhubaneswar with info. to IGP E/S and DIGP, CRPF, Calcutta is enclosed for ready reference basing on consideration of Government of India, Ministry of Health and Family Welfare letter quoted ibid). It would be proper to mention here that patient care allowance has been allowed to all Group - C & D (Non-ministerial) employees and no time and gain judgment of court is warranted against each petitioner.

ii) Since we are working under the same service conditions and performing the same duties under which Sri S.P. Sinha, Pharmacist is performing for the same post in the same department and it is also to inform that our pay scale and other working conditions are to fully equal.

Rin pak Bhattacharya

iii) Therefore, we request your honour to extend the benefit of patient care allowance @ Rs 80/- P.M. to us from the date from which Sri S.P.Sinha, Pharmacist and others are benefitted i.e. 1-12-87.

For this act of kindness we shall remain ever grateful to you.

Yours faithfully,

....

Directorate General, CRPF, Lodhi Road, New Delhi.

No. J-11-4/95-Med

Date: 24-2-95

To

The Inspector General of Police,
North Eastern Sector, CRPF, Shillong.

Subject : Patient's Care Allowance.

Please refer to your letter No. A.VI-5/94-Adm-3 dated 8-2-95.

2. It has already been intimated vide our letter No. A. IX-1/89-94-Med-MHA dated 5-8-94 that case regarding sanction of patient care allowance to Hospital Staff of this organisation was referred to MHA again but the same has not been agreed to. The para-medical staff of your Sector/ Office may be informed accordingly.

Sd/- Dr. K.K.Saini,
Deputy Director (Medical).

Rupak Bhattacharya

Annexure----- F

O. A. No. 9 of 1995.

In the Central Administrative Tribunal, Principal Bench, New Delhi & Additional Bench at Guwahati.

Rupam Bhattacharya

BETWEEN

1. Sri Ajit Kumar Jain

and

22 others.

Applicants No. 1 to 3 and 5 to 23 are all residents of CRPF Complex, Base Hospital-111, Guwahati-23.

Applicant No. 4 is resident of 62 Bn. Unit Hospital, CRPF, Bangaigaon .

... Applicants

~~VERSUS~~

1. The Union of India

and

4 others.

... Respondents.

Central Administrative Tribunal : Guwahati Bench.

Original Application No. 9 of 1995.

Date of decision : This the 10th day of June, 1996. ✓

Hon'ble Justice Sri G.L. Sanglyine, Member (A).

Hon'ble Sri D.C.Verma, Member (J).

Sri Ajit Kumar Jain and 22 others

Residents of CRPF Complex, Base Hospital-3, Guwahati

... Applicants

By Advocate Mr. S. Dutta.

-versus-

1. The Union of India and 4 others.

..Respondents.

By Advocate:

Mr. A.K.Choudhury, Addl. CGSC.

*Original
for
21-8-96*

O R D E R.

SANGLYINE G.L. (MEMBER (A)).

23 Group C civilian employees working under the hospitals of the CRPF hospitals at Guwahati and Bangaigaon has filed this instant original application. They have been allowed to ~~join~~ join in one single application vide our order dated 16-1-95. They are aggrieved against non-payment of hospital care allowance to them by the respondents. They claim that according to the scheme of the Government of India dated 25-1-1988 (Annexure-1) in this regard they are entitled to the allowance with effect from 1-12-87. Further, they have pointed out that similarly placed employees have been granted the allowance pursuant to the Order dated 24-2-94 in O.A. No. 151/94 of the Central Administrative Tribunal, Hyderabad Bench. Some of the employees working in the Base Hospital-111, CRPF,, Guwahati were also applicants in the aforesaid O.A. 931/93. The learned counsel for the applicants further pointed out that ~~as~~ some employees of the same organisation based in Imphal had approached the Hon'ble High Court with a prayer for granting them the hospital care allowance by the Hon'ble Gauhati High Court in terms of the order dated 12-3-96 in Civil Rule No.1417/95.

2. Mr. A.K.Choudhury, the learned Addl. C G S C pointed out that the respondents had filed SLP before the Hon'ble Supreme Court against the order of the Hyderabad bench mentioned above and payment of the allowance to the applicants in that case was conditional in terms of para 2 of the sanction order No. J-11-6/93-2BH-EC-11 dated 23-11-94 (Annexure-4), that is, the applicants were to give an undertaking that the amount paid to them will be refunded in full by them in case

Pratap Borthacharya

the final result before the Hon'ble Supreme Court is against them. He also pointed out that in Civil Rule No. 1417/95 also order was issued in favour of the petitioners would give undertaking that the order will be subject to the result of the appeal before the Hon'ble Supreme Court. He submits an instruction that the respondents are agreeable to pay the allowance under similar terms and conditions.

3. 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. 2. 28015/60/87-H dated 25-1-88 (Annexure -1 to this O.A.) 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.

4. Considering that the period for which payment is to be made may date back to as early as 1987, we allow the respondents reasonable time for implementation of this order. In no case, however, the respondents shall delay the payment beyond 31-10-96.

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

Sd/- D. C. Verma,
Member (J).

Sd/- G.L. Sanglyine,
Member (A).

Certified to be true copy.

Sd/-

Court Officer, CAT, Guwahati.

P. P. Bhatnagar