

# **Central Administrative Tribunal Principal Bench, New Delhi**

O.A. No.2013/2016  
M.A. No.1965/2016

Order reserved on 5<sup>th</sup> February 2018

Order pronounced on 13<sup>th</sup> February 2018

## **Hon'ble Mr. K.N. Shrivastava, Member (A)**

1. Sh. Narayan Ghosh (aged about 37 years)  
s/o lae Pratul Chander Ghosh  
r/o Nutun Bazar, PO Basistha, Guwahati-781029
2. Sh. Prafulla Kumar Sharma (aged about 54 years)  
s/o Sh. Madunath Sharma  
r/o Basistha Nagar, Guwahati-781029
3. Sh. Samin Chander Deka (aged about 50 years)  
s/o Haren Chander Deka  
r/o Vill Bardanga, Batakuchi, PO Dhuhibala  
Kamrup, Guwahati, Assam
4. Sh. Balen Chander Das (aged about 52 years)  
s/o late Bipen Das  
r/o 151, Base Hospital Complex, PO Basistha,  
Guwahati, Assam 781029
5. Sh. Bhavesh Chander Boro (Aged about 50 years)  
s/o Sh. Abala Cdhander Boro  
r/o PO Amingoan, PS Jalukbari, Kamrup  
Guwahati, Assam -781029
6. Sh. Jogen Das (aged about 53 years)  
s/o Sh. Raju Das  
r/o Vill Pandu, PS Jalukbari, Kamrup  
Guwahati, Assam -781029
7. Sh. Jivan Chander Deka (Aged about 54 years)  
s/o Sh. Bhabendra Deka  
r/o Vill Bengali Basi,  
PO Basistha, Guwahati-781029
8. Sh. Barendra Chander Das (Aged about 51 years)  
s/o Bama Chander Das  
r/o Vill. Arunduti, Basistha, Guwahati-781029
9. Sh. Nirmal Saikia (Aged about 49 years)

s/o late Dimbeswar Saikia  
r/o Dakin Ganesh Nagar, PO Basistha  
Guwahati-781029

10. Sh. Chanakya Das (Aged about 46 years)  
s/o late Gargo Ram Das  
r/o 151, Base Hospital Complex, PO Basistha  
Guwahati-781029
11. Smt Anita Raj Thapa (aged about 46 years)  
d/o late Lal Bahdur Thapa  
r/o South Basistha Nagar, Guwahati-781029
12. Sh. Paresh Chander Deka (Aged about 41 years)  
s/o late Falik Chander Deka  
r/o VPO Sariket, Kamrup, Assam 781031
13. Sh. Ranjan Thapa (aged about 32 years)  
s/o Sh. Dhan Bahadur Thapa  
r/o 151, Base Hospital Complex, PO  
Basistha, Guwahati – 29
14. SH. Soneswar Basumatary (Aged about 39 years)  
s/o Sh. Penu Ram Boro  
r/o 151, Base Hospital Complex, PO Basistha  
Guwahati – 29
15. Sh. Chabin Das (Aged about 51 years)  
s/o late Maya ram Das  
r/o 151, Base Hospital Complex, PO Basistha  
Guwahati – 29
16. Sh. Laxman Prasad (aged about 57 years)  
s/o late Nand Kishore Ram  
  
r/o 151 Base Hospital Complex  
PO Basistha, Guwahati – 29

(All the applicants are Mazdoors)

..Applicants

(Mr. Ranjit Singh, Advocate)

Versus

Ministry of Defence through

1. Dte Gen of Medical Services (Army)  
Adjutant General's Branch  
Army Headquarters  
L Block, New Delhi – 110 001

2. Dte Gen of Armed Forces Medical Services  
Min of Defence, AHQ  
M Block, New Delhi 110 001

3. Commandant  
151, Base Hospital  
C/o 99 APO

..Respondents

(Mrs. Harvinder Oberoi, Advocate)

## O R D E R

### **M.A. No.1956/2016**

M.A. seeking joining together in a single petition is allowed.

### **O.A. No.2013/2016**

The applicants were enrolled as Mazdoor Group 'D' Cadre (Non-Ministerial) and deployed to work at various Hospitals of Indian Army. They were getting Hospital Patient Care Allowance (HPCA) / Patient Care Allowance (PCA). The Ministry of Defence, vide Annexure A-3 letter dated 17.11.2005 addressed to the Chiefs of three Services and DGAFMS, laid down criteria for the payment of HPCA/PCA to various staff deployed at Armed Forces hospitals. Besides prescribing the criteria, this letter also enhanced the rates of these two allowances as also prescribed the categories of employees, who would be entitled for receiving HPCA/PCA. In the context of Hospitals/Medical Establishments of the Army, this letter states that only following categories of the employees would be entitled for receiving HPCA/PCA working at the Armed Forces Hospitals / Medical Establishments:

“1. Hospitals/Medical Establishment in Army

S.No.	Categories
-------	------------

- |     |                     |
|-----|---------------------|
| 1.. | Ward Sahayika       |
| 2.  | Safaiwala/Safaiwali |
| 3.  | Washerman           |
| 4.  | Barber              |
| 5.  | Female Attendent    |
| 6.  | Cook                |
| 7.  | Ward Boy.”          |

2. The grievance of the applicants is that in terms of Annexure A-3 letter dated 17.11.2005, the respondents have discontinued payment of HPCA/PCA to them. The Ministry of Defence, vide its Annexure A-4 letter dated 18.11.2005 addressed to the Chairman, Ordnance Factory Board, Kolkata, has informed that HPCA/PCA, *inter alia*, shall be payable only to the following Group ‘D’ staff of Ordnance Equipment Factory Hospitals:-

- |         |                                    |
|---------|------------------------------------|
| “Sl.No. | Group ‘D’                          |
| 1..     | Medical Assistant                  |
| 2.      | Ward Sahayak                       |
| 3.      | Dhobi                              |
| 4.      | Sweeper                            |
| 5.      | Barber                             |
| 6.      | Labourer (including/Hygiene Cell)” |

Aggrieved by the said action of the respondents, the applicants have filed the instant O.A. praying for the following main relief:-

“(i) Issue an appropriate order or directions to the respondent to immediately continue/release the HPCA/PCA to the Applicants w.e.f November 2005.”

3. The applicants have pleaded the following grounds in support of the relief claimed:

3.1 The underlined philosophy in granting HPCA/PCA is to motivate Groups ‘C’ & ‘D’ employees to handle various patients infected with

communicable disease. Both Groups 'C' & 'D' employees face equal degree of risk of infection while performing the duties, and hence both are entitled for grant of HPCA/PCA.

3.2 The Ministry of Defence, in the context of staff working in Ordnance and Ordnance Equipment Factory Hospitals, has granted HPCA/PCA to the Labourers of Hygiene Cell, and hence there is no justification in denying the same to the applicants. Such a denial would be against the equality principles enshrined under Article 14 of the Constitution.

3.3 HPCA/PCA is being paid to Boy Hospital and Laskar/Laskar Tindal in the Hospitals/Medical Establishment in Navy and Air Force, and hence the applicants are also entitled for grant of such allowances.

3.4 Even the Ministry of Health & Family Welfare has permitted payment of such allowances to identically placed Group 'D' staff of Jawahar Lal Institute of Post Graduate Medical Education & Research, Pondicherry.

4. It is seen from the records that the applicants had approached this Tribunal earlier in O.A. No.3787/2015 on the issue of grant of HPCA/PCA to them, which was disposed of vide order dated 13.10.2015 at the admission stage itself directing the respondents to consider their representation on the issue. The operative part of the said order reads as under:-

“5. In the circumstances, the O.A. is disposed of at the admission stage, without going into the merits of the case, by directing the respondents to consider the Annexure A-10 representation of the applicants and to pass appropriate speaking and reasoned orders thereon, in accordance with law, within 90 days from the date of receipt of a copy of this order. However, it is made clear that this

order shall not be construed as condoning the period of delay or exempting the applicants from any requirement of law.”

5. In compliance with the order dated 13.10.2015 passed in aforesaid O.A., the respondents, vide their impugned Annexure A-1 order dated 16.12.2015, have rejected the claim of the applicants for grant of HPCA/PCA. The ground for rejection indicated is that the applicants do not fall under the categories of employees, who were eligible for grant of HPCA/PCA in terms of Annexure A-3 letter dated 17.11.2005 of Ministry of Defence. The applicants have also placed reliance on the judgment of this Tribunal in O.A. No.1828/2014 dated 16.03.2016 *titled* **Bal Ram & others v. Ministry of Defence & others**, in which the following direction was issued:-

“(2) The respondents are directed to re-consider the claim of the applicants for grant of HPCA in view of the observation of the Hon’ble High Court made in para 6 of its decision in *Union of India & Ors. Vs. Prabhu Nath Prasad & Ors. etc.* (supra) and if found fit, grant them arrears thereof.”

6. The applicants have also cited decision of this Tribunal in O.A. No.4611/2011 (with connected case) decided on 30.01.2013 *titled* **Smt. N. Jaymma v. Union of India & others**, in the context of employees working in the hospitals of Ministry of Health & Family Welfare as well as the judgment of Hon’ble Delhi High Court in **Union of India v. Prabhu Nath Prasad & others** (W.P. (C) No.4973/2013 (with connected petition) decided on 21.10.2013 in the context of Peon/Daftari of the National Institute of Communicable Diseases.

7. Pursuant to the notices issued, the respondents entered appearance and filed their counter reply, in which they have made the following important averments:-

7.1 Mazdoor Group 'D' Cadre (Non-Ministerial), a cadre to which the applicants belong, has never been granted HPCA/PCA while serving in the hospitals since the day of their appointment. The charter of duties of mazdoors is as under:-

“(a) Collect/carry the dry ration, fresh ration, LPG cylinder, hospital clothing and day to day maintenance of stores of Quartermaster.

(b) Day to day maintenance of medical stores and collect carry medicines Medical equipment, like saving oxygen gas cylinder.

(c) Collect/Carry MES Furniture for unit.”

7.2 In terms of the parameters laid down in letter dated 17.11.2005 of Ministry of Defence (Annexure A-3), mazdoor category does not qualify for grant of HPCA/PCA. This letter makes it clear that only Ward Sahayika, Safaiwala/Safaiwali, Washerman, Barber, Female Attendant, Cook and Ward Boy are entitled for HPCA/PCA.

8. Arguments of learned counsel for the parties were heard on 05.02.2018.

9. The impugned Annexure A-3 letter dated 17.11.2005 of Ministry of Defence, in the context of Hospitals/Medical Establishments of the three Services (Army, Navy & Air Force) clearly stipulates the categories of Groups 'C' & 'D' employees, who are entitled for receiving HPCA/PCA. While doing so, the Ministry was well aware of the various denominations

of Group 'D' employees existing in the hospitals of these three Services. The letter makes it clear that the categories of Group 'D' employees to whom the applicants belong, are not entitled for HPCA/PCA. The authorities concerned must have taken into consideration the nature of work that are being done by different categories of the Group 'D' employees of the hospitals. There is no question of any illegality involved in such classification. The attempt made by the applicants to seek parity with the employees of Hospitals/Medical Establishment coming under the administrative control of Ministry of Health & Family Welfare is too farfetched.

10. Under these circumstances, I do not find any merit in this O.A. and accordingly dismiss it. No order as to costs.

**( K. N. Shrivastava )**  
**Member (A)**

/sunil/