

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

OA No. 3756/2015

New Delhi this the 5th April, 2019

Hon'ble Sh. Pradeep Kumar, Member (A)

1. The Central Govt. Hospital Radiographers
Welfare Association, E-34, B, LIG Flat,
GTB Enclave, Delhi- 110093
Represented through Shri Manjit R. Bahi, President
2. Manjit R. Bahi
Radiographer, Safdarjung hospital and also President,
The Central Govt. Hospital Radiographers
Welfare Association, E-34, B. LIG Flat,
GTB Enclave, Delhi- 110093

.....Applicant

(By Advocate:- Sh. Sudarshan Rajan)

Versus

1. Union of India
Through the Secretary,
Ministry of Health & Family Welfare
Nirman Bhawan, New Delhi- 11001
2. The Director General Health Services,
Nirman Bhawan, New Delhi- 110001
3. The Medical Superintendent,
Safdarjung Hospital,
New Delhi.

.....Respondents

(By Advocate : Ms. Aishwarya Dobhal for Sh. Hilal Haider)

ORDER (ORAL)

1.0 The applicants herein are working as radiographers in Safdarjung Hospital, Delhi. While their posts were covered under Group C & D, they were paid "Hospital Patient Care Allowance" (HPCA), keeping in view the risk that they interact with patients having communicable diseases. In due course of time, some of those posts were upgraded from Group C to Group B. With this,

the respondents have stopped the payment of HPCA to these radiographers. Feeling aggrieved, O.A. has been filed.

2.0 The applicants relied upon a judgement passed by the Tribunal in OA. No. 3517 of 2018 decided on 27.02.2019, where exactly the same question was decided and it was held that the mere change in status from the Group C to Group B does not lead to any change as regards to the exposure to the risk to communicable disease etc and accordingly payment of HPCA was directed.

3.0 The respondents opposed the O.A. on the plea that the original policy directive of 04.02.2004 has laid down that it is only in case, when status of such employees changes from Group C to Group B by way of ACP, HPCA was to be continued to be paid. As against this, the instant case is one where post of Group C has been upgraded to Group B and it is not as a result of ACP. In view of this, as per extent policy directive HPCA is not admissible. Accordingly, O.A. is to be dismissed.

4.0 Matter has been heard at length. Learned counsel Sh. Sudarshan Rajan appeared on behalf of applicant and Ms. Aishwarya Dobhal, learned proxy counsel appeared on behalf of learned counsel for the respondents Sh. Hilal Haider.

5.0 Exactly the question: whether HPCA shall be payable to certain medical technologists when their posts were upgraded from Group C to Group B, was adjudicated in O.A. No. 3517 of 2018 which was decided on 27.02.2019. The operative part of this judgement reads as under:-

“16 In view of the foregoing, the OM dated 17.05.2018 is quashed in so far as it restricts the payment of HPCA/PCA to only those who were in receipt of HPCA/PCA as on 30.06.2017. This payment, including arrears, if any, shall be governed as per R1H3 Cell of risk and hardship matrix as was directed in Resolution dated 06.07.2017 for allowances in the 7th CPC, irrespective of status of employees, e.g., Group 'B' etc., if underlying conditions of their exposure as per MoH&FW OM dated 04.02.2004 are satisfied. The respondents are also directed to stop any further recovery on this account and to pay back the amount already

recovered within eight weeks of receipt of a certified copy of these orders. The OA is allowed in the aforesaid terms.

16.1 The respondents are also directed to consider to issue necessary directions so that the other employees, who are similarly placed, are not required to approach the Tribunal/Courts seeking similar reliefs in respect of HPCA/PCA.

16.2 The respondents have liberty to consider the matter afresh, taking all factors into account, and issue a new Policy and/or Resolution on 7th CPC and follow up OM. However, such instructions, if and when issued, shall take effect prospectively only.

16.3 There shall be no order as to costs."

6.0 It was thus held that mere upgradation of a post of said para medical staff, does not lead to any change of their duties and they continue to be exposed to the risk as was defined in policy directive dated 04.02.2004. Accordingly, the payment of HPCA cannot be denied simply because the status of has changed from Group C to Group B. Accordingly the O.A. No. 3517/2018 was allowed.

7.0 The question in the instant O.A. No. 3756/2015 is exactly the same and accordingly instant O.A is also decided as per order dated 27.02.2019 in O.A. No. 3517 of 2018. This order dated 27.02.2019 shall be read as part of instant order. Respondents are granted a period of three months from receipt of certified copy of this order for compliance.

8.0 No order as to cost.

(Pradeep Kumar)
Member (A)

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