

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

O.A. NO.3062 of 2017

Orders reserved on : 22.07.2019

Orders pronounced on : 31.07.2019

Hon'ble Ms. Nita Chowdhury, Member (A)

Dr. Bhim Sen Behera
S/o Sh. Bharamarbar Behera,
Aged 52 years,
Sr. Scientific Officer (Medicine)
66-A, Munirka,
Canara Bank Street,
New Delhi-67.

....Applicant

(By Advocate : Shri Rajesh Srivastava)

VERSUS

1. Union of India
through Secretary,
Ministry of HRD,
Department of Higher Education,
Shastri Bhawan,
New Delhi-110001.
2. Union of India
through Secretary,
Ministry of Finance,
Department of Expenditure,
North Block, New Delhi-110001.
3. Chairman,
Commission for Scientific & Technical Terminology,
West Block 7, R.K. Puram,
New Delhi-110066.
4. A.N. Selwatkar,
S/o N.R. Selwatkar,
Working as Assistant Director,
Commission for Scientific & Technical Terminology,
West Block 7, R.K. Puram,
New Delhi-110066.

5. Deepak Kumar
S/o Chandeshwar Prasad,
Working as Assistant Director,
Commission for Scientific & Technical Terminology,
West Block 7, R.K. Puram,
New Delhi-110066.
6. S.K. Choudhary
S/o Mahendra Prasad,
Working as Assistant Director,
Commission for Scientific & Technical Terminology,
West Block 7, R.K. Puram,
New Delhi-110066.

.....Respondent

(By Advocate : Dr. Ch. Shamsuddin Khan No.1 to 3)

ORDER

The grievance of the applicant as alleged in this case is against the order passed by the respondent No.2 dated 7.7.2017 vide which the Non Practicing Allowance (NPA), which was being paid to the applicant since 18.1.1999, has been stopped w.e.f. 1.7.2017 by the respondent no.3 vide order dated 26.7.2017 passed in compliance of respondent no.2's aforesaid order dated 7.7.2017. Being aggrieved by the order dated 26.6.2017, applicant preferred his representation dated 27.7.2017 to respondent no.3, which was replied by the respondent no.3 vide order dated 21.8.2017. However, his another representation dated 4.8.2017 preferred to respondent no.1 has not been decided till date. Being aggrieved by the aforesaid orders dated 7.7.2017, 26.7.2017 and 21.8.2017, the applicant has filed this OA under Section 19 of the Administrative Tribunals Act, 1985, seeking the following reliefs:-

- (a) “Quash and set-aside the orders dated 07.07.2017 bearing no.O.M. F.No.12-2/2016-E111.A, 26.07.2017 bearing No.F.No.1-1/1999-Estt. And office order dated 21.08.2017.

And also

- (b) pass such other and further orders as this Hon’ble Tribunal may deem fit and proper in the facts and circumstances of the case.”

2. First of all, it is observed that the decision delivered by this Tribunal in OA No.1762/2010 as referred by the applicant is not relevant to the issue involved in this case, as in that case, the applicants were seeking parity with regard to same pay scale and better one as has been granted to the applicant herein, which this Tribunal rejected by Order dated 1.6.2010, as also the Review Application No.203/2010 seeking review of Order dated 1.6.2010 was rejected by this Tribunal, which was upheld by the Hon’ble Delhi High Court vide Order dated 15.7.2011 in WP(C) No.3791/2011 and thereafter the applicants in the said OA also preferred SLP (C) No.1650/2012 before the Hon’ble Supreme Court and the said SLP is pending adjudication.

3. In this case issue is confined to whether Office Memorandum dated 7.7.2017 issued by the Ministry of Finance, based on which the respondent no.3 vide Order dated 26.7.2017 stopped the NPA, which was being granted to the applicant, w.e.f. 1.7.2017 and the applicant’s representation was also rejected on the basis of aforesaid OM

dated 7.7.2017, is legally sustainable in law in the facts and circumstances of this case.

4. Before referring and adverting to the contentions of the learned counsel for the parties, this Tribunal deems it fit to refer the said OM dated 7.7.2017, the contents of which reads as under:-

“Office Memorandum

Subject: Revision of rates of Non-Practicing Allowance (NPA) in respect of medical posts other than the posts included in the Central Health Services-recommendations of the 7th Central Pay Commission.

The undersigned is directed to refer to this Ministry's OM No.7(19)/2008-E-III A dated 30.8.2008 regarding the existing rates of Non-Practising Allowance (NPA) admissible to medical posts other than the posts included in the Central Health Services and to say that as provided for in para 7 of this Ministry's Resolution No.1-2/2016-IC dated 25th July, 2016, the question of revision of rates of allowances (except Dearness Allowance_ based on the recommendations of the 7th Central Pay Commission was referred to a Committee under the Chairmanship of Finance Secretary and until a final decision thereon, all allowances were required to be paid at the existing rates in the existing pay structure (the pay structure based on 6th Pay Commission) as if the pay has not been revised w.e.f. 1st January, 2016. Accordingly, NPA was also required to be paid at the existing rates specified in the aforesaid OM dated 30.8.2008.

2. The decision of the Government on the revised rates of various allowances based on the recommendation of the 7th Central Pay Commission and in the light of the recommendations of the Committee under the Chairmanship of the Finance Secretary have since been notified as per the Resolution No.11-1/2016-IC dated 6th July, 2017.

3. Accordingly, the President is pleased to decide that in modification of the existing rates of NPA as contained in the aforesaid OM dated 30.8.2008, the NPA shall now be paid at the rate of 20% of the basic pay in the revised pay structure in vogue based on the recommendations of the

7th Central Pay Commission, as contained in the CCS(RP) Rules, 2016, subject to the condition that the sum of basic pay and NPA does not exceed Rs.2,37,500 (Rupees two lakh thirty seven thousand and five hundred only). The following conditions shall regulate the grant of NPA under these orders:

- (i) The term “basic pay” in the revised pay structure shall mean “basic pay” as defined in Rule 3(x) of CCS (RP) Rules, 2016, i.e., “basic pay” in revised pay structure means the pay drawn in the prescribed Level in the Pay Matrix.
- (ii) The NPA shall continue to be treated as pay for the purpose of computation of Dearness Allowance and other allowances, except those allowances in respect of which the applicable orders provide otherwise, including calculation of retirement benefits. Dearness Allowance under these orders shall mean dearness allowance as sanctioned by the Central Government from time to time in the 7th Pay Commission related pay structure.
- (iii) NPA shall continue to be restricted to those medical posts for which medical qualifications recognized under the Indian Medical Council Act, 1956 or under the Dentist Act, 1948 have been prescribed as an essential qualification. The following conditions shall also be fulfilled as hitherto:-
 - (a) The post is a clinical one.
 - (b) The post is a whole time post.
 - (c) There is ample scope for private practice, and
 - (d) It is necessary to prohibit private practice in public interest.

4. The revised rate of NPA in terms of these orders shall take effect from 1st July, 2017.

5. In respect of medical posts under the Ministries of Railways, Defence and Department of Atomic Energy, separate orders will be issued by the concerned administrative authorities in these Ministires.

6. Hindi version of these orders is attached.

Sd/-
(Amar Nath Singh)
Director”

5. During the course of hearing, counsel for the applicant submitted that applicant, is holding a degree of Indian System of Medicine and Homoeopath (ISM&H) and possesses Medical Qualification Bachelor of Ayurvedic Medicine and Surgery (B.A.M.S.), M.D. (Ayurveda) and Ph. D (Ayurveda) and at present is holding the post of Sr. Scientific Officer (Medicine), pursuant to change of his designation from that of post of Assistant Scientific Officer (Medicine) in terms of the recommendations of 6th CPC, and had been granted NPA from 18.1.1999, i.e., from the date of joining in Commission for Scientific & Technical Terminology (CSTT), Ministry of Human Resource Development (Higher Education Section). He further submitted that the impugned order dated 26.7.2017 has been issued by incompetent authority, as the orders dated 26.8.2013 and 26.2.2015 granting the pay scale + NPA to the post held by the applicant was issued by the Ministry of HRD.

5.1 Counsel further submitted that the respondents have accepted the recommendations of the 5th, 6th and 7th CPC issued from time to time insofar as NPA is concerned. Therefore, the order dated 26.7.2017 withdrawing NPA issued by the respondent no.3 in the garb of Order dated 7.7.2017 is bad in law and issued without jurisdiction.

5.2 Counsel also submitted that the order dated 7.7.2017 issued by respondent no.2 does not state that the NPA given to the applicant should be withdrawn. The order only

reiterates its earlier order on the subject but has erroneously added a condition that NPA shall be paid only if the post held is a clinical one. The same is contrary to the recommendations made by the Pay Commissions from time to time and also the resolution dated 6.7.2017 on the basis of which the Office Memorandum dated 7.7.2017 was issued, as the same is violation of settled position of law with regard to NPA.

5.3 Counsel further submitted that the order issued by respondent no.3 dated 26.7.2017 withdrawing NPA has been issued without given any notice or opportunity of hearing to the applicant.

5.4 Counsel also contended that respondent no.2 in its order dated 7.7.2017 added the condition for grant of NPA by introducing a new condition in Para 3 sub-para (iii) (a), which is contrary to the earlier conditions for grant of NPA. The same has been done without any authority or basis, as the resolution dated 6.7.2017 referred in the order does not provide for the same and, therefore, the said condition could not have been added for grant of NPA.

5.5 Counsel further submitted that the impugned order dated 26.7.2017 has been issued and signed by one of the private respondents, i.e., respondent no.4, as they have filed a case against the applicant and the issue is now subjudice

before the Hon'ble Supreme Court and thus they acted in a biased manner.

5.6 Counsel also contended that the official respondents have failed to consider that there has been no change in the Recruitment Rules for the post of Sr. Scientific Officer (Medicine), wherein it is specifically provided that the pay scale for the post will be Rs.15600-39100 + Grade Pay Rs.5400 + PB-3+NPA, as such the impugned order dated 26.7.2017 deserves to be set aside.

5.7 Counsel further contended that the impugned order is also contrary to Rule 9 (25) of Fundamental Rules, which specifically provides for NPA. The same has to be read with order dated 20.5.2007 and recommendations made by Pay Commissions from time to time in this regard. On combined reading of the same, it will be clear that the persons issuing the said impugned order have not authority under law to issue the same.

5.8 Counsel also contended that similarly placed persons as the applicant, who were getting NPA including the Doctors of Central Health Services (CHS) and the Doctors of Central Government Health Scheme (CGHS) working in the headquarters at Nirman Bhawan, New Delhi and Ministry of AYUSH, INA, New Delhi, continue to get NPA at the rate of

20% in terms of Ministry of Finance Notification dated 6.7.2017 and OM dated 7.7.2017.

5.9 Lastly, counsel contended that the Office Memorandum dated 7.7.2017 is not applicable to the applicant in the present case and, therefore, the order dated 26.7.2017 issued by the respondent no.3 is non-est in the eyes of law, as the concerned Ministry of Ayush has not issued any order with regard to NPA.

6. On the other hand, counsel appearing for the official respondents by referring to the contents of the counter affidavit filed by them submitted that the applicant is working in CSTT, which is a subordinate office under Language Division, Department of Higher Education, Ministry of HRD, Govt. of India. The duties and functions of CSTT is to evolve and define scientific and technical terms in Hindi and in other modern Indian languages and publish technical dictionaries/glossaries, definitional dictionaries and encyclopedias. He further submitted that Ph.D. (Ayu.) is subsequently acquired educational qualification of applicant, i.e., after joining the service in CSTT.

6.1 Counsel further submitted that the post of Research Assistant in different subjects was advertised in employment news 26 Nov – 2 Dec. 1994, including Research Assistant (Medicine). All the selected candidates were appointed on the

recommendations of UPSC including Research Assistant (Medicine) through a single Recruitment Rules, which were notified on 19th Nov. 1993. The Department had issued an appointment letter to the applicant for the post of Research Assistant (Medicine) in the pay scale of Rs.6500-10500 without NPA. Department (Central Hindi Directorate) had issued an Office Order dated 2.2.1999 for temporary appointment of the applicant in CSTT for the post of Research Assistant (Medicine) in the pay scale of Rs.6500-10500 without NPA from dated 18.1.1999. Thereafter Director, Central Hindi Directorate had issued order dated 8.7.2000 for upgradation of scales and re-designation of the cadres of Research Assistant and Assistant Education Officer of Central Hindi Directorate and CSTT as per the recommendations of Vth CPC. After this order, Research Assistant (subject) was re-designated as Assistant Scientific Officer (subject) including Research Assistant (Medicine) as Assistant Scientific Officer (Medicine).

6.2 Counsel also submitted that leave granted in SLP (Civil) No.1650/2012 by the Hon'ble Supreme Court in the matter related to upgradation of pay scale of Assistant Scientific Officer (Medicine) + NPA. The said SLP is subjudice before the Apex Court.

6.3 Counsel also contended that notified Recruitment Rules for the post of Sr. Scientific Officer (Medicine) vide Gazette

Notification No.GSR-8 dated 17.2.2014 in the pay scale of Rs.15600-39100, Grade Pay Rs.5400 in PB-3 +NPA is not applicable to the applicant. It is for new recruitment in future. During pendency of above SLP, Ministry has revised the RRs of Assistant Scientific Officer (Medicine) ex-cadre. He further submitted that as per the recommendations of 7th CPC and Ministry of Finance (Department of Expenditure) Notification GSR (E) dated 25.7.2016 under Central Civil Service (Revised Pay) Rules, 2016, only basic pay has been revised w.e.f. 1.1.2016 and allowances related matter including NPA was pending under Review Committee formed by Govt. of India. Counsel also submitted that the impugned order has been issued by the respondent no.3 (CSTT) in compliance of the OM dated 7.7.2017 passed by the respondent no.2 (Ministry of Finance, Department of Expenditure).

6.4 Counsel also submitted that applicant submitted his representation dated 27.7.2017 to respondent no.3 and without waiting for reply within 8 days, he has also given his representation dated 4.8.2017 to respondent no.1 without routing it through proper channel, which act on the part of the applicant amounts to violation of the instructions mentioned in DOP&T OM dated 31.8.2015.

6.5 Counsel also contended that in the case of monetary expenditure of the Govt. of India, Department of Expenditure, Ministry of Finance is the final authority to make any decision

for the fund utilization of the Govt. money (tax payers' money). Therefore, it does not hold ground that since HRD Ministry issued orders granting NPA, the same cannot be reviewed and decided by the Govt. of India, Department of Expenditure, Ministry of Finance. Hence, the Govt. has decided that certain category of Medical Officer (MO) may be allowed to practice their profession and therefore NPA in such cases should be stopped, which is clearly in keeping with the rules of natural justice since the said allowance was being given to those who were not given permission to practice his medical profession during his period of public employment. The authorities thought it fit to grant freedom to do medical practice to certain categories of doctors, thereby allowing them to earn extra money and serve some needy patients. After the grant of freedom to practice his profession in private/house, the prayer of the applicant for claiming the NPA deserves to be dismissed altogether.

6.6 Counsel also submitted that OM dated 7.7.2017 issued by the Ministry of Finance is a general Govt. OM regarding Non Practicing Allowance, therefore, it was mandatory to implement the same by HOD, CSTT, as it was not an individual case of withdrawing the allowance of the applicant but the same applies to other similar types of cases and all such cases are also required to be dealt with accordingly. Govt. decisions of such nature are published in Gazette of

India and they take effect accordingly and no individual notices to individuals are required. Aggrieved individuals are always free to challenge Govt. notifications at appropriate forums without any personal notice. Applicant's case is covered under the category of doctors on whom the order of withdrawal of NPA is applicable and for implementing the same order, the HOD of CSTT has communicated the applicant on 26.7.2017 and the order dated 26.7.2017 has been issued by fully competent authority as in this matter power of Head of Office (HOO) who has been given authority vide powers delegated by Head of Department(HOD). It is normal practice that Head of Office (HOO) usually communicates all the decisions in finance matter to the Govt. servants.

6.7 Counsel also averred that applicant's post is Senior Scientific Officer (Medicine) in CSTT, Ministry of HRD and for this post the duties assigned to the applicant are evolution of Technical Terminology and related work only and no clinical duties are assigned. Other persons placed on the post of Doctors in Ministry of Health and Ministry of AYUSH, are specifically discharging the duties which are related to clinical work and are given NPA as they are barred from private practice in public interest.

7. Although nobody appeared on behalf of private respondents no.4 to 6, however, for proper adjudication of the

issue involved in this case, this Tribunal deems it appropriate to consider the counter affidavit filed by them.

7.1 Private respondents in their counter affidavit averred that applicant joined CSTT as Research Assistant (Medicine) in the pay scale of Rs.6500-10500 in temporary capacity. The CSTT is under the control of Ministry of Human Resource Development. The task of the CSTT is the evaluation of scientific and technical terminology in Hindi and other Indian Languages so as to enrich the vocabulary of the Indian languages and keep them updated. They further stated that appointment letter of the applicant does not mention about the payment of NPA and the condition of the appointment letter has been accepted by the applicant without any protest or demur.

7.2 These private respondents further averred that the appointment of the applicant to the post of Assistant Scientific Officer (Medicine) to the pay scale of Rs.8000/- to Rs.13500/- plus NPA has been challenged by respondent no.4 to 6 in their personal capacity and the same is pending adjudication before the Hon'ble Apex Court in SLP (C) No.1650/2012.

7.3 It is further stated that notified recruitment rules for the post of Senior Scientific Officer (Medicine) notified vide GSR-8 dated 17.2.2014 is prospective in nature and shall govern the

future recruitment and is not applicable on the applicant. As per the recommendations of 7th CPC and Ministry of Finance (Department of Expenditure) notification GSR (E) dated 25.7.2016 under CCS (Revised Pay) Rules, 2016 only basic pay has been revised w.e.f. 1.1.2016 and allowances related matter including NPA was pending before Review Committee formed by the Govt. of India which has finally culminated in the issuance of the OM dated 7.7.2017 wherein it has been decided that hence forth NPA shall only be granted in cases where the post is a clinical one. Merriam-Webster defines clinical as something involving direct observation of the patients or something related to or connected in or as if in a clinic. Admittedly, the applicant is not holding a clinical post and his job profile pertains to evaluation of technical terminology in the field of respective subject which is purely academic in nature. Therefore, the query was put in by concerned dealing assistant of the Budget and Accounts Section on 17.7.2017 requesting respondent no.3 to clarify whether NPA is payable to the applicant in the light of the OM dated 7.7.017. The matter was placed before the respondent no.3, i.e., the Chairman, CSTT, who after going through the OM decided that the payment of NPA to the applicant should be stopped w.e.f. 1.7.2017.

7.4 They further averred that Ministry of Finance (Department of Expenditure) has in its wisdom and being an

expert body has come up with a policy decision to stop the payment of NPA to those persons who do not satisfy the following criteria:-

- (a) The post is a clinical one.
- (b) The post is a whole time post.
- (c) There is ample scope for private practice, and
- (d) It is necessary to prohibit private practice in public interest.

A perusal of these conditions makes it apparently clear that an informed decision has been taken by the Government to henceforth pay NPA only to those doctors who are engaged in diagnosis and treatment of actual patients. In the instant case, admittedly the applicant is merely involved in the work of evolution of technical terminology in Hindi and other scheduled languages and is in no way concerned with the actual treatment of the patients. Therefore, the order passed by the Department of Expenditure is based on valid classification and has nexus with the rationale of the policy decision. The policy decision taken by the Department of Expenditure is binding on all the Ministries and the answering respondents are merely following the orders passed by the Chairman, CSTT, who has ordered that in view of the above OM, the NPA which was being paid to the applicant be stopped w.e.f. 1.7.2017. It is also stated that recommendations made by the Pay Commission is only a

recommendations and ultimately, it is for the competent authority to pass an order. As such after considering the matter at great length, competent authority was pleased to issued the impugned OM dated 7.7.2017, as the competent authority is well within its right to either approve or disapprove a recommendation. They further averred that applicant has nowhere in the OA even averred that he is performing clinical duty.

7.5 They specifically denied that the impugned order dated 26.7.2017 has been issued and signed by private respondents with malafide intention as the NPA has been stopped by the Chairman, CSTT and the answering respondents being subordinate officers are duty bound to follow the orders of the Chairman, CSTT, New Delhi.

8. After hearing the contentions of the learned counsel for the respondents, counsel for the applicant reiterated his contentions as noted above.

9. Counsel for the official respondents by referring to sur-rejoinder filed by them besides reiterating the above noted contentions has submitted that a similarly placed person one Dr. Dhingra had worked about 30 years in CSTT with medical qualifications as Research Assistant (Medicine)/Assistant Education Officer (Gztd.) but he never got NPA.

10. After having regard to the averments of learned counsel for the parties and after carefully perusing the pleadings on record, it is observed that admittedly prior to issuance of Order dated 26.7.2017, the applicant was being granted NPA till 30.6.2017. Before the recommendations of the 7th CPC, the RRs for the post of Senior Scientific Officer (Medicine), which is being held by the applicant, were notified vide Gazette Notification No.G.S.R.48 dated 17.2.2014 in which Pay Band and Grade Pay or Pay Scale is prescribed as PB-3, Rs.15600-39100 (Grade Pay Rs.5400) Plus Non-practicing allowance at such rates as admissible as per the orders issued by the Central Government. Subsequently, the Central Govt. took decisions on the revised rates of various allowances based on the recommendations of the 7th CPC and in the light of the recommendations of the Committee under the Chairmanship of the Finance Secretary notified as per the Resolution dated 6.7.2017, Ministry of Finance (Department of Expenditure) vide OM dated 7.7.2017 passed the order on the issue of revision of rates of Non-Practicing Allowance in respect of medical posts other than the posts included in the Central Health Services observed that “the President is pleased to decide that in modification of the existing rates of NPA as contained in the aforesaid OM dated 30.8.2008, the NPA shall now be paid at the rate of 20% of the basic pay in the revised pay structure in vogue based on the

recommendations of the 7th Central Pay Commission, as contained in the CCS(RP) Rules, 2016, subject to the condition that the sum of basic pay and NPA does not exceed Rs.2,37,500 (Rupees two lakh thirty seven thousand and five hundred only). The following conditions shall regulate the grant of NPA under these orders:

- (i) The term “basic pay” in the revised pay structure shall mean “basic pay” as defined in Rule 3(x) of CCS (RP) Rules, 2016, i.e., “basic pay” in revised pay structure means the pay drawn in the prescribed Level in the Pay Matrix.
- (ii) The NPA shall continue to be treated as pay for the purpose of computation of Dearness Allowance and other allowances, except those allowances in respect of which the applicable orders provide otherwise, including calculation of retirement benefits. Dearness Allowance under these orders shall mean dearness allowance as sanctioned by the Central Government from time to time in the 7th Pay Commission related pay structure.
- (iii) NPA shall continue to be restricted to those medical posts for which medical qualifications recognized under the Indian Medical Council Act, 1956 or under the Dentist Act, 1948 have been prescribed as an essential qualification. The following conditions shall also be fulfilled as hitherto:-
 - (a) The post is a clinical one.
 - (b) The post is a whole time post.
 - (c) There is ample scope for private practice, and
 - (d) It is necessary to prohibit private practice in public interest.

However, vide para (iii) above, the grant of NPA is restricted to those medical posts for which medical qualifications recognized under the Indian Medical Council Act, 1956 or under the Dentist Act, 1948 have been prescribed as an

essential qualification and apart from fulfilling the following conditions:-

- (a) The post is a clinical one.
- (b) The post is a whole time post.
- (c) There is ample scope for private practice, and
- (d) It is necessary to prohibit private practice in public interest.”

11. It is not the case of the applicant that duties attached with the post held by him in any manner relate to clinical one, as such in view of one of the conditions of para (iii) above, this Tribunal is of the view that impugned order dated 26.7.2017 passed by the respondent no.3 cannot be said to be illegal and not sustainable in law, as the said OM dated 7.7.2017 has been issued by the Govt. of India having regard to the recommendations of the 7th CPC and the recommendations of the Committee on allowances vide Resolution dated 6.7.2017, in which it is specifically mentioned that the aforesaid conditions shall also be fulfilled. As such, consequent upon issuance of OM dated 7.7.2017, it had become necessary for all the concerned Ministries to consider the cases of all the posts which have an element of NPA to adjudge the admissibility of NPA to the said posts in view of the aforesaid conditions as laid down in the OM dated 7.7.2017.

12. The said OM dated 7.7.2017 is a general Govt. OM regarding Non-Practicing Allowance, which has been issued

by the Govt. body after having regard to the recommendations of the 7th CPC as well as Resolution dated 6.7.2017 passed by the Ministry of Finance. It has universal application to all such posts, which have an element of NPA and which fulfill all the conditions as contained in the said OM dated 7.7.2017 and, as such, only those posts which fall within the ambit of the aforesaid conditions are eligible for NPA. It is further relevant to mention that in the RRs for the post of Senior Scientific Officer (Medicine) notified vide GSR 48 dated 17.2.2014, it has specifically stated that Non-practicing allowance at such rates as admissible as per the orders issued by the Central Government. The Central Government vide OM dated 7.7.2017 restricted the grant of NPA to only those who fulfill all the conditions as envisaged in the said OM. As such we find merit in the arguments of the respondents that there be no need to give applicant any notice before withdrawal of the NPA previously given to him. Reason being obvious that after the decision on allowances by the Ministry of Finance vide Resolution dated 6.7.2017, Govt. issued orders specifically on grant of NPA vide OM dated 7.7.2017, it was the duty of all the departments including the employer of the applicant of this OA to see whether NPA given to all persons in their departments satisfy the conditions as laid down by the Ministry of Finance vide OM dated 7.7.2016. Further the respondents have been able to show that the

matter was placed before the respondent no.3, i.e., the Chairman, CSTT, who after going through the OM decided that the payment of NPA to the applicant should be stopped w.e.f. 1.7.2017. The order dated 26.7.2017 passed by the official respondents is only the communication of the decision which has been made by the HOO as per the delegated powers given to the HOO by the HOD.

13. Hence, this Tribunal does not find any illegality and infirmity in the orders dated 26.7.2017 and 21.8.2017, which were passed by the official respondents in compliance of the aforesaid OM of the Ministry of Finance dated 7.7.2017.

14. In the result, for the foregoing reasons, the present OA is dismissed as being devoid of merit. There shall be no order as to costs.

(Nita Chowdhury)
Member (A)

/ravi/