
(2014) 07 MEG CK 0015

In the Meghalaya High Court

Case No : W.A. No. 14 of 2014 in W.P.(C) No. 162 of 2013, W.A. No. 15 of 2014 In W.P.(C) No. 257 of 2013, W.A. No. 16 of 2014 in W.P.(C) No. 123 of 2013, W.A. No. 17 of 2014 in W.P.(C) No. 193 of 2013, W.A. No. 18 of 2014 In W.P.(C) No. 124 of 2013, W.A. No. 19 of

Union of India

APPELLANT

Vs

Babuchandran Nair P.

RESPONDENT

Date of Decision : 11-07-2014

Acts Referred:

Citation : (2014) 4 GLT 313

Hon'ble Judges : Prafulla C. Pant, C.J.;Sudip Ranjan Sen, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

Prafulla C. Pant, C.J.—In all these writ appeals, a common question is involved as to the admissibility of the nursing allowance to Nursing Staff who were working as Nursing Assistants with Assam Rifles in the light of order No. A/Pers/NA/2008, dated 22-9-2009 issued by Government of India, Ministry of Home Affairs, Directorate General of Assam Rifles.

2. We have heard the learned counsel for the parties and perused the papers on record.

3. Admittedly, the writ petitioners are/were the Nursing Assistants of Assam Rifles. The order No. A/Pers/NA/2008, dated 22-9-2009 issued by the Government of India, Ministry of Home Affairs, Directorate General of Assam Rifles, Shillong, reads as under:

Government of India

Ministry of Home Affairs

Directorate General of Assam Rifles

Shillong-793011.

A/Pers/NA/2008

22 Sep 2009

List-A, B, C, E & F

Payment Of Nursing Allowance To The
Nursing Personnel Of Cpf At The Rate
Applicable To The Nursing Personnel
Of Central Government Hospital.

It Is Intimated That Ministry Of Home Affairs Vide Their Letter No. II. 27011/44/2008-P Ii Dated 28 July 2009 (Copy Attached) Conveyed The Decision Of Extending Payment Of Nursing Allowance To The Nursing Staff Employed In The Central Government Hospital Of Cpfs. The Date Of Effect And The Rate Of Allowance Applicable To Nursing Staff (Asstt. Matron, Sister, Staff Nurse And Anm) Of Assam Rifles As Under:-

(A) Payment Of Nursing Allowance @ Rs. 300/- W.E.F. 01.08.1987 To 14.07.88.

(B) Payment Of Nursing Allowance @ Rs. 1600/- W.E.F. 15.07.1998 To 30.08.2009.

(C) Payment Of Nursing Allowance @ Rs. 3200/- W.E.F. 01.09.2008.

2. It Is Also Brought Out That, The Rate Of Nursing Allowance Shall Automatically Increase By 25% Every Time The Dearness Allowance Payable On The Revised Pay Structure Goes By 50%.

3. In View Of The Above, Sect Hqs And Bns Are Requested To Publish Pt-Ii Order In Respect Of The Effected Nursing Staff (Serving/Retired Or Died) For The Period W.E.F. 01 Sep 2008 To 30 Sep 2009 And Forward The Arrear Bills To Cpbo (Assam Rifles) For Checking And Necessary Payment.

4. Action taken in this regard be intimated to this Branch on priority.

(Babu Frances)

Col

Col(A)

For DG Assam Rifles.

4. Learned Single Judge in all the writ petitions from which these appeals have arisen, following the judgment and order dated 25-5-2012 passed by Division Bench of Gauhati High Court in WA No. 1 (SH) of 2011 directed that since the writ petitioners (present respondents) being Nursing Assistants are covered within the expression "Nursing Staff", as such, they are also entitled to the nursing allowance in terms of order dated 22-9-2009 quoted above.

5. Learned counsel for the appellants submitted before us that the appellants are confining the challenge to the impugned orders only to the extent that in view of law laid down by Apex Court in State of Madhya Pradesh and Others Vs. Yogendra Shrivastava, , the arrears and allowance cannot be directed to be paid beyond a period of three years prior to filing of the writ petitions.

6. We have carefully gone through the above mentioned case law. In said case, the rules which allowed Non Practicing Allowance were of the year 1981 i.e. Madhya Pradesh Employees" State Insurance Service (Gazetted) Recruitment Rules, 1981. The writ petitioners entered into service in 1982. They slept over their rights for a long period and filed the writ petitions only in the year 1998 (after more than fifteen years) and approached the Tribunal claiming Non Practicing Allowance. In that background, in view of the laches on their part, the Apex Court directed that the difference on Non Practicing Allowance claimed by the applicants before the Tribunal shall be paid not beyond the period of three years before the date of original applications filed by them before the Tribunal.

7. In the present case, facts are different as the order dated 22-9-2009 was issued making the employees entitled to nursing allowance w.e.f. 1-1-1997 as is apparent from the order quoted above. As such, the entitlement of nursing allowance prior the period of three years from the date of filing of the writ petitions cannot be restricted in the present appeals. That being so, there appears no infirmity in the impugned orders passed by learned Single Judge in the writ petitions No. W.P.(C) No. 256 of 2013, decided on 19-9-2013, W.P.(C) No. 162 of 2013, decided on 5-9-2013, W.P.(C) No. 257 of 2013, decided on 5-9-2013, W.P.(C) No. 123 of 2013, decided on 19-8-2013, W.P.(C) No. 193 of 2013, decided on 19-8-2013, W.P.(C) No. 124 of 2013, decided on 19-8-2013, W.P.(C) No. 216 of 2013, decided on 5-9-2013, W.P.(C) No. 122 of 2013, decided on 19-8-2013 and W.P.(C) No. 192 of 2013, decided on 19-8-2013, and on the Review applications in these matters.

8. No other point is pressed in these appeals. For the reasons as discussed above, we are of the view that there is no force in these writ appeals which are liable to be dismissed.

9. Accordingly, the writ appeals are dismissed. The appellants are allowed to comply the impugned orders passed by learned Single Judge within a period of 6(six) months from today.

10. No orders as to costs.