

HIGH COURT OF MEGHALAYA
AT SHILLONG

WP(C) No. 324 of 2021

Date of Decision: 05.05.2023

Shri Joginder Singh Vs. The Union of India & Ors.

Coram:

Hon'ble Mr. Justice H. S. Thangkhiew, Judge

Appearance:

For the Petitioner(s) : Ms. A.P. Kharsahnoh, Adv.

For the Respondent(s) : Dr. N. Mozika, DSG with
Ms. S. Rumthao, Adv.

i)	Whether approved for reporting in Law journals etc:	Yes/No
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ii)	Whether approved for publication in press:	Yes/No
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JUDGMENT AND ORDER (ORAL)

1. The writ petitioner who is presently serving as Rifleman (Nursing Assistant) is before this Court with a prayer for release of the Nursing Allowance as admissible from the date of his remustration, from the post of Rifleman (General Duty) to the post of Rifleman (Nursing Assistant) w.e.f. 16.01.2002.

2. Ms. A.P. Kharsahnoh, learned counsel for the writ petitioner submits that the entitlement of the petitioner cannot be denied, inasmuch as, though remustration was effected on 23.01.2020, the same was with retrospective effect from 16.01.2002 when the Scheme of payment of Nursing Allowance to the Nursing Assistants of Assam Rifles was still in operation, which however came to the discontinued from 01.09.2019, as per the directions of the Ministry of Home Affairs. She further submits that the denial of this allowance to the petitioner, which is his just entitlement, is arbitrary and has caused financial loss.

3. Dr. N. Mozika, learned DSG assisted by Ms. S. Rumthao, learned counsel for the respondents submits that the Nursing Allowance to the Nursing Assistants of the Force had been introduced w.e.f. 01.08.1997, but however, as these Nursing Assistants were found to be not registered with the Indian Nursing Council or State Nursing Council, the said allowance to such Nursing Assistants was discontinued by the respondents from 01.09.2019. He however, concedes to the fact that whatever retrospective entitlements, the petitioner shall be entitled to the same for the period when the said Scheme was still in operation.

4. The learned Senior counsel has drawn the attention of this Court to the affidavit filed, wherein these facts have been narrated.

Para 3, which is relevant for the purpose of this case, for easy reference is reproduced hereinbelow:-

“3. That the deponent states that the Nursing Assistants of Assam Rifles were not being paid any additional allowance till 30.07.1997 and their pay and allowances were similar to General Duty category. Payment of Nursing Allowance to Nursing Assistants of the Force was introduced with effect from 01.08.1997. However, payment of Nursing Allowance to Nursing Assistants of Assam Rifles was discontinued with effect from 01.09.2019 as per the directions of the Ministry of Home Affairs, Government of India vide their U.O. Nos. 27013/7/2012.PF.IV dated 17.12.2012 and II-27011/44/2008-PF.IV dated 29.01.2013 as they were not found registered with the Indian Nursing Council or State Nursing Council. Nursing Assistants of the Force have been advised to produce Registration Certificate issued by Indian Nursing Council or State Nursing Council for payment of Nursing Allowance. The petitioner has been remustered as Rifleman (Nursing Assistant) retrospectively with effect from 16.01.2002 vide order dated 23.01.2020 i.e. on the date when payment of Nursing Allowance was already discontinued.

Hence, the petitioner has not been paid any Nursing Allowance for the period from 01.08.1997 to 30.06.2019. He will be granted Nursing Allowance on producing Registration Certificate issued by Indian Nursing Council or State Nursing Council.”

5. Having heard the learned counsels for the parties, the short point for adjudication in the present case is only to the entitlement of the petitioner for the period from which he had been remustered as Rifleman (Nursing Assistant) till the date when the said allowance was discontinued. It is not disputed that the petitioner had been remustered as Rifleman (Nursing Assistant) retrospectively

w.e.f. 16.01.2002, vide order dated 23.01.2020, the date on which payment of Nursing Allowance had already been discontinued. However, for the dates on which the petitioner has been retrospectively remustered, and when the payment of Nursing Allowance was allowed, it is undeniable that he is entitled to the same.

6. In view of the facts and circumstances of the case, the respondents are directed to pay the Nursing Allowance to the petitioner from the date of retrospective remustration i.e. 16.01.2002 till 30.06.2019, when the said allowance was discontinued. It is further directed that the respondents shall also pay interest on the entire amount @ 6% per annum for the period commencing 3(three) years i.e. 2018, prior to the date of filing of the writ petition, till the date of payment.

7. It is expected that the entire exercise shall be completed within a period of 3(three) months from the date a copy of this order is presented before the respondents.

8. With the above noted directions, this writ petition stands closed and is accordingly disposed of.

JUDGE

Meghalaya

