



HIGH COURT OF UTTARAKHAND AT NAINITAL

Writ Petition Service Bench No.537 of 2017

Dr. Shyam Sunder And Others --Petitioners

Versus

Union Of India And Others --Respondents

With

Writ Petition Service Bench No.536 of 2017

Dr. Rajat Agrawal And Others --Petitioners

Versus

Union Of India And Others --Respondents

With

Writ Petition Service Bench No.538 of 2017

Dr. Nitin Chawla And Others --Petitioners

Versus

Union Of India And Others --Respondents

Presence:

Mr. M.C. Pant, learned counsel for petitioners in WPSB No.537 of 2017.

Mr. Pankaj Bhatt, learned counsel holding brief of Mr. Vishwa Prakash Bahuguna, learned counsel for petitioners in WPSB No.536 of 2017 and WPSB No.538 of 2017.

Mr. Saurabh Adhikari and Mr. V.K. Kaparuwan (through V.C.), learned C.G.S.C. for the Union of India/respondent No.1.

Mr. Piyush Garg, learned counsel for respondent Nos.2 & 3/ O.N.G.C.

Coram: Hon'ble Manoj Kumar Tiwari, J. (Oral) **Hon'ble Pankaj Purohit, J.**

Since common questions of law and fact are involved in these cases, therefore, they are being heard and decided together by this common judgment and order. However, for the sake of brevity, facts of Writ Petition(S/B) No.537 of 2017 alone are being considered.

2. Petitioners are medical practitioners, who were appointed in O.N.G.C. as Medical Officer on different dates. By means of these writ petitions, they have sought following reliefs:-

- i. Issue a writ, order or direction in the nature of Certiorari, calling for the records and quashing the order dt. 7.9.2011 (Annexure No.3 to this writ petition), passed by Deputy

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General Manager(HR)-Corp.Policy, Oil and Natural Gas Corporation, Tel Bhawan, Dehradun-respondent no.3 and the office memorandums dt. 1.6.2011 and 7.9.2017 (Annexure Nos.2 and 4 to this writ petition), issued by Secretary, Department of Public Enterprises, Ministry of Heavy Industries and Public Enterprises, Government of India, New Delhi-respondent No.1.

- ii. Issue a writ, order or direction in the nature of Mandamus, commanding the respondents to consider the NPA as pay for the purpose of calculating the other service benefits of petitioners in the corporation w.e.f. 1.9.2011.
- iii. Issue a writ, order or direction in the nature of Mandamus, commanding the respondents to make the payment of amount, which was recovered by the respondent no.3 from the salary of petitioners, after the office memorandum dt.1.6.2011 and order dt.7.9.2011, along with the interest at the rate of 12% per annum.

3. According to petitioners, Non-Practicing Allowance paid to them has to be treated as part of salary for the purpose of other benefits including Dearness Allowance. Petitioners are aggrieved by order dated 07.09.2011 passed by Deputy General Manager (HR), Corporate Policy, ONGC. In the said order, it is provided that Non-Practicing Allowance shall not be considered as pay for the purpose of calculating any benefits like Dearness Allowance, HRA, Leave Encashment, Gratuity, CPF, N.E. Allowance etc. w.e.f. 01.09.2011.

4. The impugned order is based on Office Memorandum issued by Under Secretary, Ministry of Heavy Industries and Public Enterprises, Government of India, on 01.06.2011. By the said order, it was provided that in case of Executives and Non Unionized Supervisors of Central Public Enterprises; (i) NPA will not be considered as pay for the purpose of calculating other benefits (ii) No other allowance or perks will be kept outside the 50% ceiling except the 4 that have been provided in above referred DPE O.Ms.

5. Learned counsel for petitioners relies upon another Office Memorandum issued by Ministry of Heavy Industries and Public Enterprises, Government of India, dated 17.08.2017. He submits that Office Memorandum dated 01.06.2011 stands superseded by this Office Memo issued on 17.08.2011.



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6. He also refers to another Office Memo issued by Central Government on 07.07.2017.

7. Learned counsel appearing for O.N.G.C. however disputes this contention and submits that subsequent Office Memo deals with only such Central Public Enterprises which are following CDA pattern, while ONGC is not following CDA pattern.

8. He also places reliance upon Office Memo dated 07.09.2017 issued by the same Ministry.

9. Leaned counsel for petitioners submits that petitioners be permitted to approach the Competent Authority in Ministry of Heavy Industries and Public Enterprises, Government of India, by making representation.

10. Learned counsel appearing for ONGC submits that he has no objection if the writ petitions are disposed of, in terms of prayer made by petitioners' counsel.

11. We accordingly dispose of these writ petitions, with liberty to petitioners to make representation before the Secretary, Ministry of Heavy Industries and Public Enterprises, Government of India. If petitioners make separate representation before the Secretary concerned within three weeks' from today, the Secretary concerned shall look into the matter and pass appropriate order, as per law, within six months thereafter.

12. Pending applications, in all writ petitions, stand disposed of.

(Pankaj Purohit, J.)

(Manoj Kumar Tiwari, J.)

03.07.2026

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