

# THE HIGH COURT OF MEGHALAYA

## WA. No. 31 of 2014 In WP(C) No. 256 of 2013

1. Union of India, represented by the Secretary to the Government of India, Ministry of Home Affairs, New Delhi – 110001.
2. The Director General Assam Rifles, HQ DGAR Assam Rifles, Shillong, Meghalaya PIN 793011.
3. The Deputy Inspector General, Medical Branch, HQ DGAR, Assam Rifles, Shillong, Meghalaya PIN 793011.

**....Appellants.**

**-VERSUS-**

1. Ex-HAV/NA.M.370622X Babuchandran Nair P, son of Pankajakshan Pillai, date of retirement 01-05-2006 last served at 35 Assam Rifles, present address – V.S. Bhavan Kariode, Kuttichal, Thiruvananthapuram, Kerela PIN 695574.
2. Ex-HAV/NA.M/370798 V.P. Thampi, son of Shri N. Pithambaram, superannuated on 01-06-2006 from 42 AR, resident of Thampi Bihar, Ponakara Via PO Mavelikara, District Allepey Kerela, PIN-690101.
3. Ex-HAV/NA.M/370357 Vijayan Nair, superannuated on 31-10-2003 from ARTC and School, resident of Shibu Sadanam, Vazhamuttam (east) Pathanamthitta, Kerela-689646.

**...Respondents.**

**A N D**

## WA. No. 14 of 2014 In WP(C) No. 162 of 2013

1. Union of India, represented by the Secretary to the Government of India, Ministry of Home Affairs, New Delhi – 110001.
2. The Director General Assam Rifles, HQ DGAR Assam Rifles, Shillong, Meghalaya PIN 793011.
3. The Deputy Inspector General, Medical Branch, HQ DGAR, Assam Rifles, Shillong, Meghalaya PIN 793011.

**....Appellants.**

-VERSUS-

1. M/370385 Naib Sub/NA Ram Prasad Dutta, S/o (L) P.C.Dutta, 20 Assam Rifles, C/o Directorate General Assam Rifles, Shillong, Meghalaya, PIN – 793011 and others.

....Respondents

**A N D**

**WA. No. 15 of 2014**  
**In WP(C) No. 257 of 2013**

1. Union of India, represented by the Secretary to the Government of India, Ministry of Home Affairs, New Delhi – 110001.
2. The Director General Assam Rifles, HQ DGAR Assam Rifles, Shillong, Meghalaya PIN 793011.
3. The Deputy Inspector General, Medical Branch, HQ DGAR, Assam Rifles, Shillong, Meghalaya PIN 793011.

....Appellants.

-VERSUS -

1. JC-370468 Nb/Sub C.R. Saikia, S/o Late Bapuram Saikia, C/o Directorate General Assam Rifles, Shillong, Meghalaya PIN 793011 and others.

....Respondents

**A N D**

**WA. No. 16 of 2014**  
**In WP(C) No. 123 of 2013**

1. Union of India, represented by the Secretary to the Government of India, Ministry of Home Affairs, New Delhi – 110001.
2. The Director General Assam Rifles, HQ DGAR Assam Rifles, Shillong, Meghalaya PIN 793011.
3. The Deputy Inspector General, Medical Branch, HQ DGAR, Assam Rifles, Shillong, Meghalaya PIN 793011.

....Appellants.

-VERSUS-

1. M/370736 Hav/NA Prasanna Kumar, S/o Krishna Pillai P, 13 Assam Rifles, C/o Directorate General Assam Rifles, Shillong, Meghalaya 793011 and others.

....Respondents

**A N D**

**WA. No. 17 of 2014**  
**In WP(C) No. 193 of 2013**

1. Union of India, represented by the Secretary to the Government of India, Ministry of Home Affairs, New Delhi – 110001.
2. The Director General Assam Rifles, HQ DGAR Assam Rifles, Shillong, Meghalaya PIN 793011.
3. The Deputy Inspector General, Medical Branch, HQ DGAR, Assam Rifles, Shillong, Meghalaya PIN 793011.

....Appellants.

-VERSUS-

1. M/37 1339W Rifleman Nursing Assistant Suman Choudhury, son of Babul Kanti Choudhury, 25 Assam Rifles, C/o Directorate General Assam Rifles, Shillong, Meghalaya, PIN 793011 and others.

....Respondents

**A N D**

**WA. No. 18 of 2014**  
**In WP(C) No. 124 of 2013**

1. Union of India, represented by the Secretary to the Government of India, Ministry of Home Affairs, New Delhi – 110001.
2. The Director General Assam Rifles, HQ DGAR Assam Rifles, Shillong, Meghalaya PIN 793011.

3. The Deputy Inspector General, Medical Branch, HQ DGAR, Assam Rifles, Shillong, Meghalaya PIN 793011.

**....Appellants.**

**-VERSUS-**

1. Ex-M/371065 Hav/NA Sultan Singh, S/o Mansharam, (Superannuated from 16 Assam Rifles on 31-05-2012), presently residing at village and PO Resham Mazari, District Dehradun, Uttarakhand and others.

**....Respondents**

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**A N D**

**WA. No. 19 of 2014**  
**In WP(C) No. 216 of 2013**

1. Union of India, represented by the Secretary to the Government of India, Ministry of Home Affairs, New Delhi – 110001.
2. The Director General Assam Rifles, HQ DGAR Assam Rifles, Shillong, Meghalaya PIN 793011.
3. The Deputy Inspector General, Medical Branch, HQ DGAR, Assam Rifles, Shillong, Meghalaya PIN 793011.

**....Appellants.**

**-VERSUS-**

1. M/370700 Hav/NA Paritosh Bardhan, S/o Late Hiran Bardhan, 27 Assam Rifles, C/o Directorate General Assam Rifles, Shillong, Meghalaya, PIN 793011 and others.

**....Respondents**

**A N D**

**WA. No. 20 of 2014**  
**In WP(C) No. 122 of 2013**

1. Union of India, represented by the Secretary to the Government of India, Ministry of Home Affairs, New Delhi – 110001.

2. The Director General Assam Rifles, HQ DGAR Assam Rifles, Shillong, Meghalaya PIN 793011.
3. The Deputy Inspector General, Medical Branch, HQ DGAR, Assam Rifles, Shillong, Meghalaya PIN 793011.

**....Appellants.**

**-VERSUS-**

1. JC-M/370458A Naib Subedar Nursing Assistant Gyan Singh Chauhan, S/o Biju Singh Chauhan, Assam Rifles Admn. Sports Unit, C/o Directorate General Assam Rifles, Shillong, Meghalaya PIN 793011 and others.

**....Respondents**

**A N D**

**WA. No. 21 of 2014**  
**In WP(C) No. 192 of 2013**

1. Union of India, represented by the Secretary to the Government of India, Ministry of Home Affairs, New Delhi – 110001.
2. The Director General Assam Rifles, HQ DGAR Assam Rifles, Shillong, Meghalaya PIN 793011.
3. The Deputy Inspector General, Medical Branch, HQ DGAR, Assam Rifles, Shillong, Meghalaya PIN 793011.

**....Appellants.**

**-VERSUS-**

1. M/370956 Hav/NA Shree Ram Chauhan, S/o Sita Ram Chauhan, 21 Assam Rifles, C/o Directorate General Assam Rifles, Shillong, Meghalaya PIN 793011 and others.

**....Respondents**

Mr. A. Khan, Advocate, Mr. SA Sheikh, Advocate, Mr. D.Thaimai, Advocate, present for the appellants.

Mr. R. Mazumdar, Advocate, Mr. H. Bezbarua, Advocate, present respondents.

Date of Hearing 11<sup>th</sup> July, 2014.  
Date of Judgment & Order 11<sup>th</sup> July, 2014.

HON'BLE THE CHIEF JUSTICE,  
and HON'BLE MR. JUSTICE S.R.Sen.

## **JUDGMENT AND ORDER**

(ORAL: Hon'ble Prafulla. C. Pant, Chief Justice)

1. 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. 01.08.1997 to 14.07.1998.*
- (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 vrs. Yogendra Shrivastava (2010) 12 SCC page 538***, 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. 1-8-1997 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. WP(C) No. 256 of 2013, decided on 19-9-2013, WP(C) No. 162 of 2013, decided on 5-9-2013, WP(C) No. 257 of 2013, decided on 5-9-2013, WP(C) No. 123 of 2013, decided on 19-8-2013, WP(C) No. 193 of 2013, decided on 19-8-2013, WP(C) No. 124 of 2013, decided on 19-8-2013, WP(C) No. 216 of 2013, decided on 5-9-2013, WP(C) No. 122 of 2013, decided on 19-8-2013 and WP(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.

(Hon'ble Mr Justice S.R.Sen)  
JUDGE  
11<sup>th</sup> July, 2014

(Prafulla C. Pant)  
CHIEF JUSTICE  
11<sup>th</sup> July, 2014.