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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

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Date of decision: 31.05.2022

+ W.P.(C) 11746/2021 & CM APPL.36307/2021

KH. RABI SINGH

..... Petitioner

Through: Mr. Joby P. Varghese, Advocate

versus

SASHASTRA SEEMA BAL AND ANR

.... Respondents

Through: Mr. Virender Pratap Singh Charak,
Ms. Shubhra Parashar, Mr.
Pushpender Singh Charak, Mr.
Rampal Singh Tomar, Mr. Kapil Garg,
Mr. Varshaw K. Singh and Mr.
Shubham Ahuja, Advocates

+ W.P.(C) 4458/2020 & CM APPL.6890/2022

HARBANSH LAL & ORS.

.... Petitioners

Through: Mr. Joby P. Varghese, Advocate

versus

UNION OF INDIA, THROUGH MINISTRY OF HOME AFFAIRS
& ANR.

....

Respondents

Through: Mr. Bhagvan Swarup Shukla, CGSC
with Mr. Gokul Sharma and Mr.
Kamaldeep, Advocates for UOI

+ W.P.(C) 7886/2020 & CM APPL.25858/2020



GANPATI BISWAS & ORS.

..... Petitioner

Through: Mr. Joby P. Varghese, Advocate

versus

SASHASTRA SEEMA BAL & ANR.

.... Respondents

Through: Mr. Rajesh Kumar, Ms. Mishika
Pandita and Mr. Yash Narian,
Advocates

CORAM:

HON'BLE MR. JUSTICE SURESH KUMAR KAIT

HON'BLE MR. JUSTICE SAURABH BANERJEE

JUDGMENT (oral)

1. Vide W.P.(C) 11746/2021, the petitioner seeks calling for records of the case; quashing of the Circular dated 14.08.2020 being Reference No.1/28/2010/SSB/Pers-V/Org (77)-3610-35 issued by respondent No.1 to the extent it is held that Patient Care Allowance is a Risk Allowance and those in receipt of Risk Allowances like Border Outposts, Counter Insurgency, Anti-Naxalite Operations, Counter Insurgency and Internal Security will not be eligible for payment of PCA and has directed recovery of excess payment paid. In addition, direction is sought to the respondents to restore the payment of Patient Care Allowance to petitioner and return the amount recovered along with interest.

2. Vide W.P.(C) 4458/2020, the petitioners therein seek directions to



respondents to restore the payment of Patient Care Allowance (PCA) to petitioners except petitioner No.1 and release of arrears of PCA along with interest to all the petitioners for the period of the payment of such PCA has not been paid to the petitioners while serving in high altitude and filed arrears.

3. Vide W.P.(C) 7886/2020, the petitioners therein seek calling for records of the case; quashing of the Circular dated 14.08.2020 being Reference No.1/28/2010/SSB/Pers-V/Org (77)-3610-35 issued by respondent No.1 to the extent whereby it is held that Patient Care Allowance is a Risk Allowance and those in receipt of Risk Allowances like Border Outposts, Counter Insurgency, Anti-Naxalite Operations, Counter Insurgency and Internal Security; will not be eligible for payment of PCA and has directed recovery of excess payment and directions to respondents to restore the payment of Patient Care Allowance to petitioners.

4. Since the relief sought in these petitions are similar, therefore, with the consent of learned counsel for the parties, these petitions have been heard together and are being disposed off by this common order.

5. It is brought to the notice of this Court that counter-affidavit has not been filed in W.P.(C) 11746/2021 & W.P.(C) 7886/2020. Learned counsel



for respondents in these petitions, submit on instructions that the short written arguments filed in W.P.(C) 4458/2020 be treated as counter-affidavit filed in W.P.(C) 11746/2021 and W.P.(C) 7886/2020. Hence, W.P.(C) 4458/2020 shall be treated as the lead case.

W.P.(C) 4458/2020

6. Learned counsel appearing on behalf of respondents submits that the respondents shall pay and release the Patient Care Allowance (PCA) in favour of the petitioners in terms of Circular No.Z.28015/24/2001-H dated 04.02.2004 issued by the Ministry of Health & Family Welfare, Government of India. In view thereof nothing remains in the present writ petition.

7. The petitioners are granted liberty to make representation/s before the concerned respondent qua the aforesaid giving the complete break-up of the time period and the amounts due. Upon receipt of such representation/s by any of the petitioners, the respondent shall decide the same within four weeks thereafter. In case petitioners still feel aggrieved by the decision of the concerned respondent on the representations so made by the petitioners, they may approach the appropriate forum.

8. In view of above, we hereby dispose of the present petition.



9. Pending application also stands disposed of.

W.P.(C) 11746/2021

W.P.(C) 7886/2020

10. Since the issue raised in present petitions is same as raised in W.P.(C) 4458/2020, therefore, petitioners herein are also entitled to benefit in terms of Circular No.Z.28015/24/2001-H dated 04.02.2004. In view thereof nothing remains in the present writ petitions.

11. The petitioners are granted liberty to make representation/s before the concerned respondent qua the aforesaid giving the complete break-up of the time period and the amounts due. Upon receipt of such representation/s by any of the petitioners, the respondent shall decide the same within four weeks thereafter. In case petitioners still feel aggrieved by the decision of the concerned respondent on the representations so made by the petitioners, they may approach the appropriate forum.

12. Accordingly, the present petitions and pending applications stand disposed of.

(SURESH KUMAR KAIT)
JUDGE

(SAURABH BANERJEE)
JUDGE

MAY 31, 2022/rk