



**UNION TERRITORY OF JAMMU & KASHMIR
DIRECTORATE OF HEALTH SERVICES, JAMMU**

(Near MLA Hostel, Indira Chowk Jammu, J&K, Pin: 180001
E.Mail: dhsjammu@rediffmail.com, dhsjammu@gmail.com
Tel. No: 0191- 2546338, 0191-2549632 Fax No: 0191- 2549632

Subject:-O.A./1483/2023 titled Dr. Ajay Kumar Gupta Vs U.T. of
& K & Ors.

ORDER

Whereas, the above titled Original Application has been disposed of by the Hon'ble Tribunal, Jammu Bench, on 20-11-2023, with the judgment/order whose operative portion reads as under:-

“Accordingly, the Original Application is disposed of with a direction to respondents to treat this O.A. as representation of the applicant and decide the same by passing a reasoned and speaking order and communicate the order so passed to the applicant. While taking a decision in the matter, letter dated 17-10-2018 Annexure A-2 shall also be taken into consideration. The whole exercise shall be undertaken within a period of four weeks from the date of receipt of a certified copy of this order.”

And whereas, the applicant, Dr. Ajay Kumar Gupta, retired as Dy. Director (HQ) Health Services, Jammu, by filing the above titled Original Application has sought the following directions;-

- a. *Direct the respondents to make clarification issued by Finance Department bearing U.O. No. A/105(2K)-A-1092, dated 12-10-2018 followed by communication No. HME/Accts/168/2018, dated 17-10-2018 applicable in case of the applicant and accordingly direct the respondents to count the Non Practicing Allowance (NPA) as pay for the purpose of service (Salary) and retirement benefits as well as for the purpose of computation of dearness allowance.*
- b. *Direct the respondents to re-fix the pension of applicant w.e.f. November, 2017 by taking into account/computing the Non Practicing Allowance (NPA) for the purpose of pension.*

- c. *Direct the respondents to pay arrears on account of revision of pension by taking into account the NPA for the purpose of pension alongwith interest @ 9% per annum with effect from the date it became due till its realization.*
- d. *Any other relief which the Hon'ble Tribunal may deem fit and appropriate in the facts and circumstances of the case.*

And whereas, the applicant has contended in the Original Application that after rendering long unblemished service he retired on superannuation, on 31-10-2017. The department processed his pension case and forwarded to the O/O Principal Accountant General (A&E) for sanction of Pension Payment Order on the basis of his last pay certificate. Accordingly, the respondents No.3 sanctioned Pension Payment Order in his favour. The applicant was getting Non Practicing Allowance but the same has not been treated as pay for the purpose of post-retirement benefits viz Pension and his pension was fixed without taking into account the Non Practicing Allowance. The applicant, Dr. Ajay Kumar Gupta has relied upon communication bearing No. HME/Accts/168/2018, dated 17-10-2018 of the Administrative Department stating that matter regarding revision of Non Practicing Allowance was taken with the Finance Department who vide U.O. No. A/105(2K)-A-1092, dated 12-10-2018 clarified that Medical Officers/Faculty Members of Health and Medical Education Department in whose favour NPA is sanctioned or admissible under proper orders of competent authority, the amounts (NPA) shall w.e.f. 01-04-2018 be paid @ 20% of revised basic pay subject to certain conditions which are reproduced hereunder:-

- II. *For the period 01-01-2016 to 31-03-2018, the NPA shall continue to be paid at the pre-revised rates in pre-revised pay structure.*
- III. *NPA shall count as pay for the purpose of computation of dearness allowance only but not for the purpose of calculation of other allowances viz HRA, TA etc.*
- IV. *The NPA shall count as pay for the service (salary) and retirement benefits.*

And whereas, the Original Application, which has been treated as representation of the applicant, has been examined in light of Government Orders and notifications on the subject issued from time to time and observed that the Non Practicing Allowance