

**IN THE HIGH COURT AT CALCUTTA
ORIGINAL JURISDICTION
ORIGINAL SIDE**

Present:

The Hon'ble Justice Krishna Rao

C. A. No. 93 of 2025

In

C. P. No. 4 of 1956

FIRE & GENERAL INSURANCE COMPANY OF INDIA LTD. (IN LIQN.)

-AND-

CHANDAN KUMAR GANGULY AND ORS.

-VS-

THE OFFICIAL LIQUIDATOR, HIGH COURT, CALCUTTA

Mr. Ranjan Bachawat, Sr. Adv.

Mr. Sarosij Dasgupta, Adv

Mr. Nilay Sengupta, Adv.

Mr. Sujit Banerjee, Adv.

... for the applicants.

Ms. Manju Bhuteria, Sr. Adv.

Ms. Arundhati Barman Roy,

Ms. Shreya Choudhary, Adv.

... for the Official Liquidator.

Hearing Concluded On : 11.06.2025

Judgment On : 25.06.2025

Krishna Rao, J.:

1. The present application has been filed under Rules 308 and 309 of the Companies (Court) Rules, 1959, by the Company Paid Staff working in the Office of the Official Liquidator, High Court at Calcutta (hereinafter referred to as the “Applicants”), seeking the grant of terminal medical benefits along with exemption from Income Tax under Section 10(10) of the Income Tax Act.
2. The Office of the Official Liquidator has two types of employees – (a) Central Government employees, and (b) Company Paid Staff. As per the provisions of the Companies Act, 1956, read with Rules 308 and 309 of the Companies (Court) Rules, 1959, the Official Liquidator is empowered to appoint Company Paid Staff, with the sanction of the Hon’ble Judge, to manage the workload of his office.
3. Till 1991, Company Paid Staff received only a nominal amount as an ad hoc basic salary, despite performing duties equivalent to those of Central Government employees. Upon retirement, they were given only a nominal Ex-gratia amount. No appointments have been made under the Company Paid Staff category since 2002.
4. In the year 1992, this Court considered the apathy of the Company paid staff and tried to frame scheme for their service. In the year 1996 this Court modified the said scheme to the effect that the service benefits of the Company Paid Staff shall be modified at par with the

service benefits of the Central Government Employees. In the year 1998, the Central Government took steps to regularise the services of the Company Paid Staff, in the Office the Official Liquidator, in terms of 1978 Scheme. The Scheme was not at all beneficial for all the Company Paid Staff, as because, only 23 nos. Company Paid Staff absorbed in the service with the Central Government upto the year 2006, more so, with the bottom of pay scale.

5. Challenging the said action of the Central Government, the petitioners filed writ petitioners have filed writ petition. The said writ petition was disposed of on 4th November, 2008 but no order for regularization was passed but the Hon'ble Supreme Court directed all the concern Official Liquidators attached with the respective High Court to place proper report for Regular Company Paid Staff in the hike of market price.
6. Considering the order passed by the Hon'ble Supreme Court and this Court from time to time, provided some sort of benefits, by making a provision for One Time Ex-gratia, whereby, along with existing gratuity, some ad hoc amount was also arranged, at the time of retirement from the service. At present 57 Company Paid Staff exist in the Office of the Official Liquidator of this Court. Out of the total regular Company Paid Staff 38 numbers belongs to Group "C" and remaining 19 are in Group-"D" category.
7. Mr. Ranjan Bachawat, Learned Senior Advocate representing the applicants submits that the present retirement benefits for the regular

Company Paid Staff are not enough to maintain the rest life and since it is not adequate to educate their children and to settle them. He submits that in the way of high living cost including education, medical and maintenance of the families of the applicants, the emoluments, as received upon retirements, are actually hardship to maintain the rest of their life.

- 8.** Mr. Bachawat submits that there is no provision for pension or any medical benefits for the Company Paid Staffs after superannuation. Any treatment, if runs for 10 to 15 days in any hospital, the hospital bills would be not less than 15 lacs due to which the Company Paid Staff after retirement will be in trouble and social security may be jeopardised. He submits that the regular Company Paid Staff does not have any entitlement of Contributory Provident Fund (CPF) or Central Government Health Scheme (CGHS) facilities. He submits that to maintain the social security of the Company Paid Staff, an additional amount is needed to mitigate their medical exigencies after retirement. He submits that at present the regular Company Paid Staffs are getting only 2000/- per month as medical allowances.
- 9.** Mr. Bachawat submits that currently, the Official Liquidator's Establishment Charges Account holds a corpus of approximately Rs. 50,98,62,300.80 crores. He submits that an amount of Rs. 11,02,00,000/- shall be required to pay as Terminal Medical Benefit to 57 numbers of regular Company Paid Staffs by bifurcating Rs. 7,60,00,000/- for 38 nos. of Group "C" i.e. Rs. 20,00,000/- each and

Rs. 3,42,00,000/- for 19 nos. Group “D” i.e. Rs. 18,00,000/- staff respectively.

10. It is submitted that the applicants are not claiming medical benefits as a matter of right, but only request, the Hon’ble Court to consider their plight empathetically. They contended that in case of a medical emergency affecting either the retired employee or a family member, a significant portion of the Ex-gratia amount would be consumed. Once the Ex-gratia is exhausted on medical expenses, the employee would be left without sufficient means to support themselves.
11. Mr. Bachawat relied upon the judgment in the case of **Rajkaran Singh & Others vs. Union of India & Ors.** reported in **(2024) SCC OnLine SC 2138** and submitted that creating of a class of employees who, despite serving the government for decades in a manner indistinguishable from regular employees, are deprived of the benefits and protections typically accorded to government servants.
12. Mr. Bachawat further relied upon the judgment in the case of **Vinod Kumar & Ors. v. Union of India & Ors.** reported in **(2024) SCC OnLine SC 1533** and submitted that in the specific circumstances under which the petitioners were employed and have continued their service, the procedural formalities at the outset cannot be used to perpetually deny substantive rights that have accrued over the considerable period through continuous service. Mr. Bachawat relying upon the judgment in the case of **State of Punjab and Others Vs.**

Jagjit Singh and Others reported in **(2017) 1 SCC 148** and submitted that the Hon'ble Court has the temporary workers have every right to get equal pay for equal work.

13. Mrs. Manju Bhuteria, Learned Senior Advocate representing the Official Liquidator submits that the Company Paid Staffs are receiving salary and other benefits not only at par with the Central Government employee but in fact, more than the salary and other benefits received by the Central Government Employees (Group – “C” (UDC) and MTS) having more than 30 years of service. She submits that the Company Paid Staffs also receive medical allowances and public provident fund of Rs. 2000/- per month and Rs. 1000/- per month respectively, whereas in the case of Central Government Employees, sums are deducted from their salaries towards Government Provident Fund, Central Government Employees Group Insurance Scheme and Central Government Health Scheme.
14. Mrs. Bhuteria submits that the employees working as Company Paid Staffs receive salary and allowances and other benefits like Leave Travel Concession (LTC), Travelling Allowances (TA), Modified Assured Career Progression Scheme (MACPs) and others akin to the Central Government Employees. She submits that a sum of Rs. 250/- is deducted from the salaries of Group “C” employees, a sum of Rs. 450/- and Rs. 650/- is deducted from the salaries of Group “B” employees of the Central Government for taking benefit of Central Government Health Scheme during the service period and after retirement, Central

Government employee are required to deposit a sum of Rs. 78,000/- i.e. (10 years contribution at a time as per their entitlement) to the Government for taking benefit of Central Government Health Scheme for a period of 10 years.

- 15.** Mrs. Bhuteria Submits that three Company Paid Staffs (Group) staffs had retired in the month of December, 2024 and January, 2025 and they have received the retirement benefits of Rs. 46,90,581/-, Rs. 46,39,353/- and Rs.47,52, 638/- respectively.
- 16.** Pursuant to an order passed by this Court in Company Application No. 246 of 2011, a Committee comprising the Registrar, Original Side, and the Official Liquidator made certain recommendations to this Court regarding benefits for Company Paid Staff. One such recommendation reads as follows:

“III. Restructuring of the Company Paid Staff strength may be adopted with enhancement of Grade Pay, Medical Allowance from ₹500/- to ₹2,000/-, and grant Provident Fund allowance of ₹1,000/- each (only for those who have Public Provident Fund accounts), with effect from January 1, 2011.”

This Court has accepted the recommendation and the Official Liquidator started paying the Medical Allowance of Rs. 2000/- per month.

- 17.** As per claim of the applicants presently there is an accumulated fund as fixed deposit of Rs. 50,98,62,300.80/- which is lying in the credit of the Official Liquidator's Establishment Charges Account, wherefrom a

sum of Rs. 11,02,00,000/- shall be required to pay the Terminal Medical Benefit to the applicants being 57 numbers of regular Company Paid Staff bifurcating Rs. 7,60,00,000/- for 38 numbers of Group- "C" i.e. Rs. 20,00,000/- each and Rs. 3,42,00,000/-for 19 numbers of Group-"D" i.e. Rs.18,00,000/- each to the employees respectively. It is also the case of the applicants that the amount of Rs. 11,02,00,000/- shall be further generated from the 30% interest of the deposit sales proceeds, in the hand of the Official Liquidator, within 6 to 7 years.

- 18.** The applicants being the Company Paid Staffs are getting basic pay, Dearness Allowance @ 53%, House Rent Allowance @ 30%, Travelling Allowance of Rs. 5508/- per month, Medical Allowance of Rs. 2000/- and PPF of Rs. 1000/- per month. The applicants are also getting the benefits of Modified Assured Career Progression Scheme (MACPs) as per their eligibility.
- 19.** In terms of order passed by this Court in C.A. No. 926 of 2010 dated 21st December, 2010, the Committee has made recommendation with regard to Medical Allowance which reads as follows:

"Committee has also noticed that the Company Paid Staff are not eligible for coverage neither Central Government Health Scheme nor any other Group Health Scheme to cover their medical needs. As such they are getting monthly allowance of just ₹ 500/- as medical allowance. In view of escalation of prices the Committee recommends enhancement of medical allowance to ₹ 2,000/- with a view to encourage them to avail mediclaim policy in accordance with IRDA regulations and guidelines. Further in order to encourage savings

Committee suggests grant of Provident Fund allowance of ₹ 1000/- to each staff who have or will open a Public Provident Fund Account and that sum will be directly deposited by the Office with the designated Bank as per particulars furnished by such staff. At the same time in order to maintain regularity in attendance and duty the gross emoluments need to be restricted to number of hours put by each staff according to the electric attendance register.

It is further recommended that proposed revision in Grade Pay and medical allowance may be made applicable with effect from 1st January, 2011.”

The recommendation of Committee was duly accepted by this Court and the same has been implemented and the applicants are getting the said benefits since January, 2011.

20. In the case of **Official Liquidator Vs. Dayanand and Others** reported in **(2008) 10 SCC 1**, the Hon’ble Supreme Court held that:

“100. As mentioned earlier, the respondents were employed/engaged by the Official Liquidators pursuant to the sanction accorded by the Court under Rule 308 of the 1959 Rules and they are paid salaries and allowances from the company fund. They were neither appointed against sanctioned posts nor were they paid out from the Consolidated Fund of India. Therefore, the mere fact that they were doing work similar to the regular employees of the Offices of the Official Liquidators cannot be treated as sufficient for applying the principle of equal pay for equal work. Any such direction will compel the Government to sanction additional posts in the Offices of the Official Liquidators so as to facilitate payment of salaries and allowances to the company-paid staff in the regular pay scale from the Consolidated Fund of India and in view of our finding that the policy decision taken by the Government of India to reduce the number of posts meant for direct recruitment does not suffer from any legal or constitutional infirmity, it is not possible to

entertain the plea of the respondents for payment of salaries and allowances in the regular pay scales and other monetary benefits on a par with regular employees by applying the principle of equal pay for equal work.

121. *We also feel that the salaries and allowances payable to the company-paid staff should be suitably increased in the wake of huge escalation of living cost. In *Jawaharlal Nehru Technological University v. T. Sumalatha* a two-Judge Bench, after taking note of the fact that emoluments payable to the investigators appointed in the Nodal Centre at Hyderabad had not been revised for six years, directed the Union of India to take expeditious steps in that direction. Keeping that judgment in mind, we direct the Official Liquidators attached to various High Courts to move the Courts concerned for increasing the emoluments of the company-paid staff. Such a request should be sympathetically considered by the Courts concerned and the emoluments of the company-paid staff be suitably enhanced and paid subject to availability of funds.*

- 21.** It is not denied that at present there is an accumulated fund of fixed deposit of Rs. 50,98,62,300.80/- which is lying in the Credit of Official Liquidator's Establishment Charges Account. Funds available in the Credit of Official Liquidator Establishment Charges Account refers to the money held by the Official Liquidator specifically for covering the expenses of their office, including staff's salaries, operational cost and other related charges. This account is distinct from other accounts related to the liquidation of specific companies and is used to ensure the smooth functioning of the Official Liquidator's Office.
- 22.** Using public exchequer funds for medical or terminal benefits from an Official Liquidator's establishment charges account is generally not

permissible. These funds are typically allocated for specific administrative and operational expenses related to the liquidation process, not for employee benefits. This account is used to cover expenses incurred by the Official Liquidator's Office in carrying out the liquidation process, such as legal fees, publication costs and administrative overhead.

- 23.** The applicants pray for Terminal Medical Benefits only on the grounds that the applicants are getting only 24,000/- per year as Medical Allowance which is inadequate in this present medical perspective. The applicants are getting the Medical Allowance in terms of the report of the Committee which was duly affirmed by this Court. The said benefit is getting from 1st January, 2011. The Hon'ble Supreme Court in the case ***Official Liquidator vs. Dayanand & Ors.*** held that the salaries and allowances payable to the Company Paid Staffs should be suitably increased in the wake of huge escalation of living of cost. The Hon'ble Court further directed the Official for increasing the emoluments of the company paid staffs.
- 24.** This Court did not find any reasons for allowing the terminal benefit as prayed for by the petitioner but it cannot be ignored that medical cost in India are rising. This increase is driven by factors such as increased demand for quality health, rising prevalence of chronic illness and the high cost of medical technology. Growing population and a rise in chorionic diseases are driving up demand for health care services which leading to increase cost. The applicants are getting medical allowance of

Rs. 2000/- per month since January, 2011 and fourteen years have been passed the medical allowance is not increased though the medical expenses has been sufficiently increased. In view of the above, the Official Liquidator is directed to pay Rs. 3000/- per month as Medical Allowance to the Company Paid Staffs instead of Rs. 3000/- per month from the 1st July, 2025 .

25. C.A. No. 93 of 2025 is disposed of.

(Krishna Rao, J.)