

COMMITTEE ON PETITIONS
(TENTH LOK SABHA)

Twenty Second REPORT



LOK SABHA SECRETARIAT
NEW DELHI

TWENTY SECOND REPORT OF THE COMMITTEE ON PETITIONS

(TENTH LOK SABHA)

INTRODUCTION

I, the Chairman of the Committee on Petitions, having been authorised by the Committee to present the Report on their behalf, present this Twenty Second report of the Committee to the House on the following matters:—

- (1) Representation regarding discrimination in the payment of incentive money to private doctors participating in the Family Welfare Programme.
 - (2) Representation from Shri Jageshwar Jha of village Balha Uttar, District Madhubani, Bihar, regarding grant of Swatantrata Sainik Samman Pension.
2. The Committee considered the draft Report at their sitting held on 21 August, 1995 and adopted it.
3. The observations/recommendations of the Committee on the above matters have been included in this Report.

NEW DELHI;
August 21, 1995

30, Sravana, 1917 (Saka)

P.G. NARAYANAN,
*Chairman,
Committee on Petitions.*

REPRESENTATION REGARDING DISCRIMINATION IN THE PAYMENT OF INCENTIVE MONEY TO PRIVATE DOCTORS PARTICIPATING IN THE FAMILY WELFARE PROGRAMME

Dr. H. S. Deshpande from Hubli, Karnataka, submitted a representation dated 19 April, 1994, addressed to the Speaker, Lok Sabha, on the above subject. The representation was countersigned by Shri V. Dhananjaya Kumar, MP.

1.2. The main points put forward by Dr. Deshpande in his representation are as follows:

- (i) The Ministry of Health & Family Welfare, Government of India, *vide* their order dated 19.8.1982 decided that Rs. 50/- per case be paid as incentive money to private doctors for performing *Tubectomy/Vasectomy operations in their own Nursing homes/Clinics* under the Family Welfare Programme. Subsequently, the Ministry *vide* their order dated 22.2.83 decided that Rs. 50/- per case would also be paid as incentive money to private doctors for performing *tubectomy operations in camps in Government hospitals* under the Programme.
- (ii) While most of the State Governments were paying Rs. 50/- per case to private doctors, the State Government of Kerala in violation of the aforesaid orders of the Government of India, had fixed the incentive money payable to private doctors participating in Government camps at Rs. 20/- per case. When this discrimination was represented to the Ministry of Health & Family Welfare, the Ministry instead of removing the anomaly revised their earlier order dated 22.2.83 and issued another order dated 2.6.86.

The order dated 2.6.86 created discrimination between private doctors performing operations in their own *Nursing Homes/Clinics* and private doctors participating in *Government Camps* under the Programme on the ground that post operative care, Operation Theatre, beds, etc. are to be provided by private doctors in their Nursing Homes while in camps, in Government Hospitals, these facilities are provided by the State Government and accordingly authorised the State/Union Territory Governments to decide the amount of incentive money, subject to a ceiling of Rs. 50/- per case, payable to private doctors performing operations in

Government camps under the Programme. The order also authorised the State/Union Territory Governments to decide all previous/pending cases/disputes accordingly *with retrospective effect*.

1.3. Dr. Deshpande has stated that private doctors participating in Government Camps incur more cost in terms of transport, lodging, loss of practice and are not allowed to charge anything extra *while private doctors performing similar operations in their own clinics are allowed to charge extra for all their pre or post operations services/facilities rendered*. Therefore, private doctors participating in Camps should be paid more but not less. He has, therefore, requested that the discrimination be ended and he be paid the unpaid arrears of Rs. 30/- per case for all the 27,908 operations conducted by him during the period 1984 to 1992 with interest.

1.4. The representation was referred to the Ministry of Health & Family Welfare for furnishing their comments on various points raised therein. In their reply dated 6.6.94, the Ministry have stated *inter alia* as under:

"The points raised by Dr. Deshpande had previously been received in this Department. These have been examined and a reply was sent by the Ministry of Health & Family Welfare. The case is as under:

Dr. Deshpande claims to have conducted 27,908 laproscopic tubectomy operations in camps organised in Government Hospitals in Kerala. The State Government of Kerala has paid him Rs. 20/- per case as per their decision, whereas Dr. Deshpande claims that he should be paid Rs. 50/- per case.

The Government of India Orders in this regard dated 19.8.82 and 22.2.83 state that private doctors will be entitled to Rs. 50/- per case. According to the latest orders of 2/17.6.86 of Government of India, it has been left to the State/Union Territory Government concerned to decide the amount to be paid to the private medical practitioners for performing Tubectomy/Vasectomy operations in camps. However, the ceiling of Rs. 50/- per case has been laid down by the Government of India.

The matter was also taken up with the State Government of Kerala, who have clarified that all private doctors operating in camps have been paid Rs. 20/- per case.

It is the contention of Dr. Deshpande that it is wrong to equate the private doctors operating in their own clinics (they are paid Rs. 50/- per case) and the private doctors operating in Government camps.

In this regard it may be stated that the private doctors operating in their own clinics are paid Rs. 50/- per case and drugs, dressings, and post operative care, operation theatre, beds, anaesthesia, etc.

are to be provided by the private medical practitioner. In case of private doctors performing sterilisation in camps in Government hospitals, all these facilities are provided by the State Government.

Keeping in view these factors, it was left to the State Government to fix the quantum of incentive money per case within the ceiling of Rs. 50/- per case.

It may also be mentioned that the Government policy in this regard is open and same for everyone and the participation of private doctors in the Government camps is voluntary. Hence, there is no case of discrimination against Dr. Deshpande and he has been paid the amount by the State Government as per their norms. The petition of Dr. H. S. Deshpande is not well founded."

1.5. The Committee at their sitting held on 5 July, 1994 considered the comments furnished by the Ministry of Health & Family Welfare (Department of Family Welfare) on the points raised in the representation and felt that the orders dated 2.6.86 of the Ministry authorising the State/ Union Territory Governments to decide the amount of incentive money payable to private doctors, performing operations in Government Camps, with retrospective effect was not appropriate and, therefore, decided to hear oral evidence of the representatives of the Ministry of Health & Family Welfare in the matter.

1.6. Subsequently, the Committee conducted an on the spot study visit to Trivandrum and Bangalore from 27 September to 1 October, 1994 and held informal discussions with the representatives of (i) the Indian Medical Association, (ii) Departments of Health & Family Welfare of both the State Governments of Kerala and Karnataka, and (iii) the private doctors who had participated and performed operations under the Family Welfare Programme in these States.

1.7. At Trivandrum, the representatives of the Indian Medical Association including the petitioner Shri Deshpande explained to the Committee how the State Government of Kerala had discriminated by paying reduced amount of incentive money in violation of the Ministry of Health & Family Welfare, Government of India orders. They were of the view that since Family Planning Programme is a National Programme, a uniform policy with regard to incentive money should have been adopted and desired that orders of the Government of India in this regard should be communicated to the Association and all concerned in future.

1.8. During discussions with the Committee at Bangalore, the private doctors informed the Committee that they were not happy on reduction by the Government of Karnataka of the rate of incentive money from Rs. 50/- to Rs. 25/- w.e.f. 1986. They had stated that their prime youth was spent in the Family Welfare Programme and the Government was not doing justice to them by reducing the rates instead of increasing it, taking shelter under order dated 2.6.86 of the Government of India.

1.9. Subsequently, the Committee heard oral evidence of the representatives of the Ministry of Health & Family Welfare (Department of Family Welfare) on 9 January, 1995.

1.10. During evidence, the Committee asked the witnesses to explain in how many States/Union Territories the Family Planning Programme was implemented during the period 1982—86 and whether any monitoring of the implementation of the programme and mode of payment of incentive money was conducted. The Secretary of the Department stated that the programme was implemented in almost all States/Union Territories and the same was monitored on a quarterly to half yearly basis on the basis of information received from the States regarding the number of sterilization operations performed.

1.11. Asked to explain the reasons as to why the Ministry revised their order dated 22.2.83 and issued in its place another order dated 2.6.86 authorising the State Governments to decide about the payment of incentive money payable to private doctors performing operations in Government Camps, the representative of the Ministry stated that the Ministry did not authorise payment but provided for ceiling on expenditure of Rs. 170/- admissible per case of sterilization out of which Rs. 50/- was the limit admissible for payment of private doctors and thus the reimbursement to the State Government would be limited to Rs. 50/-. He further stated that on the basis of accounts of the State Governments/Union Territories audited by the Auditor General, the admissible expenditure incurred by the State Government subject to the ceiling prescribed for each component was reimbursed. These were the ceilings within which the States were supposed to meet the expenditure and reimbursements were made. If they spent more they would spend it from their own account and if they spent less than Rs. 170/- per operation they would be reimbursed the amount accordingly.

1.12. When asked why a uniform rate of payment was not adopted since it was a National Programme, the witness explained that because of diversity of the circumstances prevailing in various States, the Ministry had laid down the ceilings for various components of the reimbursible expenditure and it was for the States to pay less or more to suit their requirements.

1.13. On being asked to state whether any query had been made from Kerala Government as to why they were paying less than prescribed while most State Governments were paying Rs. 50/- to private doctors, the representative of the Ministry explained that the action of the Kerala Government was in accordance with the orders issued by the Central Government and there was therefore no need to interfere.

1.14. Asked to state why a minimum ceiling had not been prescribed, the representative stated that if the Committee were to

make such a recommendation, it would be considered. But for the past years 1982 to 1986, the Government prescribed maximum ceilings only.

1.15. Asked to state whether payment of less incentive money per case to private doctors would not have affected the programme, the Secretary explained that the performance of the Kerala Government under the programme was the best in the country and the programme was in no way jeopardised by less payment to private doctors. The private doctors were quite free not to perform these operations if they felt that they were not adequately remunerated. Asked to state whether there was any State other than Karala which was paying less than Rs. 50/- per case to private doctors, the representative stated that he was not aware of it but would collect the information and furnish it to the Committee.

1.16. Asked to state whether they were aware that Kerala Government had been diverting Rs. 30/- to other schemes, the Secretary replied that they had no such information.

1.17. Asked about the possible solution to the demand of the petitioner, Shri Deshpande, for payment of arrears @ Rs. 30/- for all the cases performed by him and similar demands from other doctors in view of the fact that Kerala Government had already claimed the admissible amount at the rate of Rs. 170/- upto 2.6.86 and Rs. 200/- thereafter for each female sterilisation and diverted the unpaid amount to other schemes, the representative of the Ministry stated, in that case Kerala Government had to provide the money in their own Budget and make the payment of arrears to private doctors.

The Committee then desired that detailed information on the number of operations performed by private doctors in public hospitals under the programme since 1982 in Kerala and the rate of incentive money paid to private doctors for performing operations in public hospitals in the States of Kerala, Tamil Nadu, Andhra Pradesh and Karnataka may be furnished to the Committee.

1.18. The Ministry in their post evidence replies dated 7 February, 25 May and 9 June, 1995 have furnished the requisite information which is briefly as follows:

1. Rate of incentive money to private medical practitioners:

(In Camps organised by Government)

(a) Andhra Pradesh	Rs. 25/-
(b) Karnataka	Rs. 50/-
(c) Kerala from 27.10.83	Rs. 10/-
from 1.1.85	Rs. 20/-
from 9.9.93	Rs. 25/-
(d) Tamil Nadu	Rs. 50/-

2. Government of India is releasing funds for compensation under a single head 'compensation' at the rate of Rs. 170/- upto 2.6.86 and Rs. 200/- thereafter for each female sterilisation. No separate release is done for sterilisation done by private practitioners. The amount released by Government of India under the above head to the State Government of Kerala during the period 1982-83 to 1993-94 is Rs. 3901.77 lakhs.

3. (a) Total number of operations performed in Kerala by private doctors in their own Nursing Homes/Clinics between the period 1982-83 to 1993-94	2,04,314
(b) Total number of operations performed in Kerala by private doctors in Govt. hospitals/camps during the period 1982-83 to 1993-94	5,02,119
Total	7,06,433

OBSERVATIONS AND RECOMMENDATIONS OF THE COMMITTEE

1.19 The Committee note that the main grievances of the petitioner are regarding (i) underpayment of incentive money by State Government of Kerala to private doctors for performing tubectomy/vasectomy operations in Government camps in violation of the Government of India orders dated 19.8.82 and 22.2.83, (ii) issue of discriminatory order dated 2.6.86 by the Ministry of Health & Family Welfare, creating a distinction between private doctors performing operations in Government camps/hospitals and those performing similar operations in their own Nursing Homes/Clinics in regard to quantum of incentive money payable to them, and (iii) retrospective effect given to the order dated 2.6.86 to enable State Governments like Kerala to cover up their earlier underpayment of incentive money to private doctors performing operations in Government camps/hospitals during the period 1982-86.

1.20 The Committee also note that the Government of India's orders dated 19 August, 1982 and 22 February, 1983 are clear and categorical that Rs. 50/- per case be paid as admissible amount to private doctors out of the compensation amount of Rs. 170/- per case reimbursible by the Central Government and the State Governments were not given any authority to make reduced payment until issue of the order dated 2 June, 1986 by the Government of India. But in clear violation of these orders, the State Government of Kerala had paid the incentive money to private doctors performing operations in Government hospitals/camps at the rate of Rs. 10/- per case until 31.12.84, at Rs. 20/- per case from 1.1.85 and at Rs. 25/- per case from 9.9.93 onwards even though Government of India

had been releasing funds for compensation at the rate of Rs. 170/- upto 2.8.86 and Rs. 200/- thereafter for each female sterilisation operation.

1.21. The Committee further note that while issuing the revised order dated 2.6.86, the Ministry of Health & Family Welfare created a distinction in regard to amount of incentive money payable to private doctors performing operations in their own Nursing Homes/Clinics and those private doctors performing similar operations in Government camps on the ground that pre/post operation care and facilities, operation theatre, beds, etc. are provided by private doctors in their own Nursing Homes while these facilities are provided by the State Governments for operations performed by private doctors participating in Government camps. But the Committee find from the earlier order dated 19.8.82 of the Ministry that the private doctors performing operations in their own Nursing Homes/Clinics are entitled to the admissible amount of Rs. 50/- out of the compensation amount of Rs. 170/- per case *regardless of whether or not the private doctor charges his/her own fee from the acceptor*. Therefore, the distinction created on the assumption that these private doctors provide these facilities in their Nursing Homes/Clinics freely to the acceptor appear unconvincing. On the contrary, the private doctors performing operations in Government camps are not allowed to charge any fee etc. from the acceptor or the Government other than what they are entitled to as incentive money subject to a ceiling of Rs. 50/- per case to be decided by the concerned State Government. Further, the Committee find ample justification in the contention of the petitioner that the private doctors participating in the Government camps incur more cost in terms of transport, lodging and loss of their private practice as compared to those private doctors performing operations in their own clinics without loss of their private practice and who are allowed to charge fees from the acceptors.

1.22. The Committee do not find any justification in the discrimination created between the private doctors in the matter of payment of incentive money. In fact, in the overall interest of the Family Planning Programme and also principles of equity and justice, there is need for uniformity in the rate of incentive money payable to all private doctors participating in the Family Welfare Programme without any discrimination. The Committee, therefore, recommend that the fine distinction maintained between the private doctors performing operations in their own clinics/nursing homes and those performing operations in Government Camps/Hospitals, in regard to payment of incentive money, be removed henceforth by issuing a fresh order.

1.23. The Committee note that the Ministry gave retrospective effect to the order dated 2.6.86 enabling the State Governments to decide the rate of incentive money payable to private doctors performing operations in Government Camps/Hospitals subject to a maximum ceiling of Rs. 50/ per case and decide the pending cases regarding payment of incentive money to such doctors accordingly. While the Committee do not like to go into the

wisdom of leaving it to the State Governments to decide the rate of incentive money, they strongly feel that the order should have been given only prospective effect in all fairness and justice to private doctors participating in the programme. The retrospective effect given to this order was unjustified as it had adversely affected the rightful claims of the private doctors for payment of the admissible incentive money as per order dated 22.2.83 for the operations conducted by them. The Committee, therefore, recommend that the Central Government order dated 2.6.86 may be amended so as to give it only prospective and not retrospective effect.

1.24. Considering all the facts of the case, the Committee feel that there is justification in the contention of the petitioner that he has been underpaid the incentive money by the Government of Kerala at least for the period from 22.2.83 to 2.6.86. The Committee feel that Shri Deshpande is entitled to receive the unpaid arrears for all the operations conducted by him under the programme in Kerala between the period 22.2.83 to 2.6.86, *i.e.*, the date of issue of the revised order. Any such similar demand arising from private doctors in Kerala and other States in regard to underpayment of incentive money for the said period need to be looked into accordingly. Since the Government of India have admitted that they had already released full amounts to various States, it is incumbent upon the Ministry of Health & Family Welfare, Government of India, to impress upon the concerned State Governments like Kerala to make necessary allocations in their budgets for paying such unpaid arrears to private doctors for the period 22.2.83 to 2.6.86.

1.25. The Committee suggest that in order to avoid misgivings in the minds of doctors, the orders of the Government of India in regard to the details of the Family Planning Scheme and the rates of incentive money etc. payable under it should be communicated to the representatives of Indian Medical Association and its various branches and also to doctors and others concerned in all the States, in future.

1.26. The Committee further suggest that the Government may consider the feasibility of giving special incentive instituting National Award to doctors who perform greatest number of operations in a year and also increasing the rate of incentive money uniformly with a minimum ceiling prescribed for encouraging and securing the active and wholehearted participation of all private doctors in the Family Planning Programme, particularly in Government Camps, in order to make the programme really successful.

II

REPRESENTATION FROM SHRI JAGESHWAR JHA OF VILLAGE BALHA UTTAR, DISTT. MADHUBANI, BIHAR, REGARDING GRANT OF SWATANTRATA SAINIK SAMMAN PENSION

In regard to the representation of Shri Jageshwar Jha for grant of Swatantrata Sanink Samman Pension, the Ministry of Home Affairs (Freedom Fighters' Division) with whom the matter was taken up have *vide* their O.M. dated 19 June, 1995, informed the Committee that the pension to Shri Jageshwar Jha has been sanctioned *vide* that Ministry's order dated 31.5.95 *w.e.f.* 1.4.95 @ Rs. 1500/- per month.

2.2 The Committee note with satisfaction that through their intervention the grievance of the petitioner has been redressed.

NEW DELHI;
August 21, 1995
30, Sravana, 1917 (Saka)

P. G. NARAYANAN,
Chairman,
Committee on Petitions.