

(9)

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH

New Delhi this the 31<sup>st</sup> day of January, 2003.

HON'BLE SHRI JUSTICE V.S. AGGARWAL, CHAIRMAN  
HON'BLE SHRI SHANKAR PRASAD, MEMBER (A)

OA No. 2543/2002

1. Paras Nath  
S/o Shri Ram Ganesh  
R/o K-624, Mangolpuri  
Delhi-83.
2. Manindra  
D/o Mr. Surjeet Singh Panchhi  
G-27/218, Sector-3  
Rohini  
Delhi-85.
3. Chandra Kala  
D/o Shri R.S. Rawat  
R/o Flat No. 1401, Gulabi Bagh  
Delhi-110007.
4. Miss. Sujamol K.S.  
D/o Mr. G. Samsul  
R/o Kombikunnathu House  
Valathode, P.O. Edapuzha  
Via-Payam, Dist. Kunnur (DL)  
Pin-670704  
Kerala.
5. Ms. Neelupa Sharon Dawson  
D/o Late Anjony  
R/o Manthra Pathinanchil (H)  
P.O. Thayuamkary  
Villa-Edathua  
Dist.-Alleppey  
Kerala.
6. Ms. Daisy T. Philip  
D/o Late Mr. T.P. Philip  
R/o-405, Aruna Apartment  
Railway New Colony  
Visakhapatnam  
Andhra Pradesh.
7. Ms. Monsamma Anjony  
D/o Mr. Anjony  
R/o Manthra Pathinanchil (H)  
P.O. Thayamkary, Edathua (Villa)  
Dist. Alleppey, Kerala.

8. Miss. Sheena Cyriac  
D/o Mr. Cyriac  
R/o Kodikulam (H)  
P.O. Puduna  
Dist. Mattakkada Kottayam  
Kerala.
9. Miss Ancy M.M.  
D/o Late M.T. Mathew  
R/o Moozhatil (H)  
C/o Elite Bakery  
P.O. Karimkunnam  
Dist. Thodupuzha  
Loukki, Kerala.
10. Miss. Jaya Kumari Nair  
D/o Mr. K.K. Nair  
Police Radio Station  
Wireless Colony  
Pension Bada, Raipur  
Chatnias.
11. Deepthi K.B.  
D/o Mr. Bakakrishan Nair  
R/o Kakkanttu (H)  
P.O. Puthupadriya Ram  
Dist. Idukki, Kerala.
12. Ms. Jinu M. Jose  
D/o Mr. M.V. Josekutty  
R/o Maniyamkeriyil (H)  
P.O. Killidoor North  
Dist. Kottalam  
Kerala.
13. Ms. Sinimol E.K.  
D/o Mr. E.T. Kunjunju  
R/o Edampanayil House  
P.O. Kalampoor, Via- Piramvom  
Dist. Ernakulam  
Kerala-686664.
14. Miss. Sinimol Mathew  
D/o Mr. Methew  
R.o-Puthusseril House  
P.O. Athirampuzha  
Dist. Manackapadam Kottayam  
Kerala-686562.
15. Ms. Yasmeen  
D/o Mr. Mohd. Yameen  
R/o 841, IIInd floor, Kamra Bangash  
Chandni Mahal, Darya Ganj  
New Delhi-110002.
16. Antria Rani  
Staff Nurse  
Dr. B.S. Ambedkar Hospital  
Rohini, New Delhi.

17. Miss Sholly Thomas  
D/o Thomas Varghese  
R/o Flat No: 462, Pocket-5  
Sector -2, Rohini-110085.
18. Miss. Sijjmol Philip N.  
D/o Philip  
R/o 900/A, Avantika  
Sector-2, Rohini  
New Delhi-110085.
19. Nisha Catherine Jacob  
R/o Saroj Hospital  
Sector-14,  
Madhuban Chowk  
Rohini-110085.
20. Miss Suma Sebastian  
D/o Devasia  
R/o Vayalil House  
P.O. Amayannor  
Dist. Kottayam, Kerala.
21. Saly Gervasis  
R/o Brahm Shakti Hospital  
U-1/78, Budh Vihar  
Delhi-41.
22. Deepthi Philip  
R/o Sunder Lal Jain Hospital  
Ashok Vihar, Phase-II  
New Delhi-52.
23. Tessy Joseph  
D/o Mr. K. P. Joseph  
R/o Kunnappillil (H)  
P.O. Karimannoor  
Dist. Thodupuzha Joukki  
Kerala.
24. Saly Joseph  
C/o Mr. N. N. Chudhary  
R/o FF-25-A, Near Trikona Park  
Laxmi Nagar, Delhi-92.
25. Swastika  
D/o Mr. Nirmal Bhakat  
R/o C-9, Khetri  
Dist. Jhunjhunu  
Rajasthan-333503.
26. Bincy George  
Dpo Mr. Varkey George  
R/o Valozhukkathu House  
P.O. Peroor, Dist. Kottayam  
Pin-686637, Kerala.
27. Indumol K.M.  
D/o Mr. K. T. Mathew  
R/o Koichupalambil (H)  
P.O. Vazhithala  
Via-Thoclupuzha, Kerala.

28. Beena M.I.  
D/o Mr.M.O.Inasu  
R/o Muttanthottu (H)  
P.O. Kuttikar  
Via Chalakudy  
Dist.Trichor, Kerala.
29. Bincy Jacob  
D/o Mr.Jacob  
R/o Kurianthanathu (House)  
P.O.Arangu, Via-Naduvil  
Dist.Kannur-670582. Kerala.
30. Nishi Joseph  
D/o Mr.Thankaches Joseph  
R/o Pulikkattil (H)  
P.O.Kuninji, Via-Vazhithala  
Dist. Idukki, Kerala.
31. Joicy Thomas  
D/o Mr.P.J.Thomas  
R/o Joicy Thomas, Vayalil Pacheril (H)  
P.O.Kiottayam, Kerala.
32. Kabita Upreti  
D/o Mr.K.K.Upreti  
R/o G-76, Ansari Nagar  
New Delhi.
33. Ginu Vaarghese  
D/o Mr.KV.K.Vasghere  
R/o Kakichisayil (H)  
Deloorkavar  
C.P.O. Peruventhalanam  
Dist.Idukla-685532,  
Kerala.
34. Anila M. ~~Abraham~~  
D/o Mr.M.M.Abraham  
R/o Mazhukunnel (H)  
P.O. Thunnallor, Mevelloor,  
Dist.Kuttayam, Kerala.
35. Ms.Bincy Kuriakose  
D/o Mr.Kuriashose Joseph  
R/o Kunnappillil Huse  
P.O.Chennikuzhi, Dist.Idukki  
Kerala.
36. Bindu Joseph  
D/o Mr.T.K.Joseph  
R/o Thozuthukara (House)  
P.O. Malakkalu  
Via Rajapuram  
Kasaragod, Kerala.
37. Manjula Mathew  
D/o Mr.K.U.Mathew  
R/o Kunnatbu Maleyile (H)  
P.O.Karrackanalo, Via-Manasthavady  
Dist.Wayanad  
Kerala-670645.

38. Mathew Joseph  
S/o Mr. K. A. Joseph  
R/o Kandathil (HQ)  
P.O. Kanchiyar  
Dist. Kakkontukada, Idukki  
Kerala-685511.

39. Anju Prakash  
D/o Mr. Jai Prakash  
R/o House No. WZ-220  
Naraina Village, New Delhi-28.

40. Sunita Kumari  
D/o Mr. J. S. Tanwar  
R/o 41A/5A, Sadhu Nagar  
Palam Colony  
New Delhi-45.

41. Nisha Antony  
D/o Mr. N. M. Antony  
R/o Nambelil House  
P.O. Ko9odikulam  
Dist. Thodupuzha, Idukki  
Kerala-685582.

42. Mrs. Jaiby Susan John  
W/o Mr. P. J. John  
R/o Plavilavk Puthen Veeru Karavaloor  
P.O. Punalur, Distt. Koollam  
Kerala.

43. Suma Varghese  
R/o A-870, Sector 02  
Rohini, Delhi-85.

44. Blessy E. I.T.  
D/o Mr. E. U. Thankachew  
R/o Edauoor Hoouse  
P.O. Puliyoor, Chewuannur  
Dist. Aleppy, Kerala.

45. Bincy Jacob  
D/o Mr. K. J. Jacob  
R/o B-9, House No. 350  
Sector-III, Rohini  
Delhi-85.

46. Celine K.S.  
D/o Mr. K. V. Sebastian  
R/o Kooitiyaniyil House  
P.O. Chemmalamattom  
Dist. Kottayam-686524, Kerala.

47. Suma Jacob  
D/o Mr. M. C. Jocob  
R/o Muthiranthichal (H)  
P.O. Kurichithanam  
Dist. Kottayam, Kerala.

48. Princy Philip  
D/o Mr. Philip  
R/o Princy Philip Vayalil House  
P.O. Bethel  
Dist. Joukki, Kerala.

49. Maya G.  
D/o Mr. Goanathan Nair  
R/o I-19/I, Residential A Complex  
New S.J.H. Staff Quarters  
West Kidwai Nagar  
New Delhi-110023.

50. Mamta Sharma  
D/o Shri S.K. Sharma  
R/o D-179, Prashant Vihar  
Rohini, Delhi-85.

51. Binny Pappachan  
D/o Pappachan  
R/o Chandel Kollamporambil  
P.O. Thblayoolaparambu  
Dist. Kottayam, Kerala.

52. Lovely P.B.  
D/o P.C. Baby  
R/o Panackaparambil (House)  
P.O. Manickamangalam  
Via-Kaladyu, E.K.M., Kerala.

53. Jincy Cheriyam  
D/o Mr. Chereyas Mathai  
R/o Kunampurath (H)  
P.O. Nazareth Hill  
Dist. Kottayam, Kerala.

54. Suma Nair, M.  
D/o Late M.N. Rajagopal  
C/o Sunil Kumar, M.  
276-B, P.O.-J.N.U  
Dist. Munirka, New Delhi.

55. Jisha K.V.  
D/o K. Velayudhan Nair  
R/o Kanjiramattathu  
P.O. Vayala, Dist. Kottayam  
Kerala-686587.

56. Rekha  
D/o H. No. R-B-270  
Sector-6, R.K. Puram  
New Delhi-22.

57. Sheena Mathew  
D/o Mr. K.S. Mathew  
R/o B-9, Hoouse No. 350  
Sector-III, Rohini  
Delhi-85.

(15)

58. Bincy K. Kciriakose  
D/o K. I. Kciriakose  
R/o Kandathil House  
P.O. Alattuchira  
Dist. Ernakulam  
Kerala.
59. Kavita Rani Tyagi  
C-184  
Auchandi Road  
P.O. Bawana, Vallmiki Chaupal  
Wali, New Delhi-39.
60. Manju Sebastian  
D/o Mr. Sebastian  
R/o Olickel (House)  
P.O. Balal, Via-Parappa  
Dist. Kasaraerob, Kerala.
61. Dency Mathew  
D/o Mr. N. K. Mathew  
R/o Kottamurry  
P.O. Jhrickoooihanam  
Changanacherry  
Dist. Kottayam, Kerala.
62. Jisha Jooseph  
D/o Mr. Joseph  
R/o Nelpurackal (H)  
Vazhapally West  
P.O. Changanasherry  
Dist. Kerala.
63. Jaimol Joseph  
D/o Mr. V. A. Joseph  
R/o Anadath House  
P.O. T.U. Puram, Vaikom  
Dist. Kottayam, Kerala.
64. Roshni Punnoose  
D/o Late Mr. P. P. Punnoose,  
R/o Pachikara House  
P.O. Kolani, Dist. Thodupuzha  
Kerala-685584.
65. Giji Paul  
Rajiv Gandhi Cancer Institute  
Sector- V, Rohini  
New Delhi-85.
66. Reena Thomas  
D/o Mr. Thomas Devasia  
R.o Vallamdarampil (H)  
P.O. Pandankary  
Dist. Eoathua  
Alanpuzha, Kerala.

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67. Nisha Jacob  
C/o Liji J. Puthkody  
Room No. 38  
AIIMS, Ansari Nagar  
New Delhi.

68. Nisha Joseph  
D/o Jacob George  
R/o Puthukudyil (H)  
P.O. Thuruthy  
Dist. Changanacherry Kuttayam  
Kerala.

69. Sunita Joel  
D/o Santosh Joel  
R/o J-3/257, Ashok Vihar  
Wazirpur, Delhi.

70. Shiny Kurian  
Nurses Hostel  
Dr. B.S.A. Hospital  
Sector 6, Rohini

... Applicants

(By Dr. Sumant Bharadwaj &  
Ms. Mridula R. Bharadwaj, Advocates)

vs.

1. Directorate of Health Services  
Government of NCT of Delhi  
Through its Director  
Karkardoma, Delhi.
2. Delhi Staff Service Selection Board  
Through its Secretary  
Karkardoma, Delhi.
3. Dr. B.S. Ambedkar Hospital  
Through its Medical Superintendent  
Sector-6  
Rohini  
New Delhi.

... Respondents

(By Shri Vijay Pandita, Advocate)

OA No. 2739/2002

1. Ms. Daisy T. Philip,  
D/o Late Mr. T.P. Philip,  
R/o 405, Aruna Apartment,  
Railway New Colony,  
Visakhapatnam, Andhra Pradesh.
2. Ms. Neerupa Sharon Dawson  
D/o Late Anjony,  
R/o Manathra Pathinanchil (H),  
P.O. Thayuamkary,  
Villa - Edathua, Distt. Alleppey,  
Kerala.

(3)

3. Ms. Monsamma Anjony,  
D/o Late Anjony,  
R/o Manathra Pathinanchil (H),  
P.O. Thayuamkary,  
Villa - Edathua, Distt. Alleppey,  
Kerala.
4. Miss Sheena Cyriac,  
D/o Mr. Cyriac,  
R/o Kodikulam (H),  
P.O. Puduna,  
Distt. Mattakkada Kottiyam,  
Kerala.
5. Miss Ancy M.M.  
D/o Late M.T. Mathew,  
R/o Moozhatil (H),  
C/o Elite Bakery,  
P.O. Karimkunnam,  
Dist. Thodupuzha, Ioukki,  
Kerala.
6. Miss Jaya Kumari Nair,  
D/o Mr. K.K. Nair,  
Police Radio Station,  
Wireless Colony,  
Pension Bada, Raipur,  
Chatnas.
7. Deepthi K.B.  
D/o Mr. Balakrishnan Nair,  
R/o Kakkanttu (H),  
P.O. Puthupadriya Ram,  
Dist. Idukki, Kerala.
8. Ms. Jinu M. Jose,  
D/o Mr. M.V. Josekutty,  
R/o Maniyamkeriyil (H),  
P.O. Kilidoor North,  
Dist. Kottalam,  
Kerala.
9. Ms. Sinimol E.K.,  
D/o Mr. E.T. Kunjunju,  
R/o Edampanayil House,  
P.O. Kalampoor, Via - Piravom,  
Dist. Ernakulam,  
Kerala-686664.
10. Miss Sinimol Mathew,  
D/o Mr. Methew,  
R/o Puthusseril House,  
P/o - Athirampuzha,  
Dist. Manackapadam Kottayam,  
Kerala-686562.

11. Miss Sholly Thomas,  
D/o - Thomas Varghese,  
R/o Flat No. 462, Pocket - 5,  
Sector-2, Rohini,  
Delhi-110085.
12. Miss Sijimol Philip N.  
D/o - Philip,  
R/o 900/A, Avantika, Sector-2,  
Rohini, Delhi-110085.
13. Nisha Catherine Jacob,  
R/o Saroj Hospital,  
Sector-14, Madhuban Chowk,  
Rohini, Delhi-110085.
14. Miss Suma Sebastian,  
D/o - Devasia,  
R/o Vayalil House,  
P.O. Amayannor,  
Dist. Kottayam, Kerala.
15. Saly Gervasis  
R/o Brahm Shakti Hospital,  
U-1/78, Budh Vihar,  
Delhi-41
16. Deepthi Philip,  
R/o Sunder Lal Jain Hospital,  
Ashok Vihar, Phase - IIIrd,  
New Delhi-110052
17. Tessy Joseph,  
D/o - Mr. K.P. Joseph,  
R/o Kunnappillil (H)  
P.O. Karimannoor,  
Dist. Thodupuzha Joukki,  
Kerala.
18. Saly Joseph,  
C/o - Mr. N.N. Chudhary,  
R/o FF - 25-A, Near Trikona Park,  
Laxmi Nagar, Delhi-92.
19. Swastika,  
D/o - Mr. Nirmal Bhakat,  
R/o - C-9, Khetri,  
Dist. - Jhunjhunu,  
Rajasthan-333503.
20. Bincy George,  
D/o Mr. Varkey George,  
R/o Valozhukkathu House,  
P.O. Peroor, Dist. Kottayam,  
Pin - 686637, Kerala
21. Indumol K.M.  
D/o Mr. K.T. Mathew,  
R/o Kochupalambil (H)  
P.O. Vazhithala,  
Via - Thoclupuzha, Kerala.

22. Bincy Jacob,  
D/o Mr. Jacob,  
R/o Kurianthanathu (House),  
P.O. Arangu, Via-Naduvil,  
Dist. Kannur - 670582 Kerala
23. Nishi Joseph,  
D/o Mr. Thankaches Joseph,  
R/o - Pulikkattil (H),  
P.O. Kuninji, Via - Vazhithala,  
Dist. Idukki, Kerala.
24. Joicy Thomas,  
D/o Mr. P. J. Thomas,  
R/o Joicy Thomas, Vayalil Pacheril(H)  
P.O. Kottayam, Kerala
25. Kabita Upreti,  
D/o Mr. K.K. Upreti,  
R/o G-76, Ansari Nagar,  
New Delhi.
26. Ginu Varghese  
D/o Mr. V.K. Vasghere,  
R/o Kakichisayil (H), Deloorkaver,  
C.P.O. Peruventhalanam,  
Dist. Idukla - 685532, Kerala.
27. Anila M. Abraham  
D/o Mr. M.M. Abraham,  
R/o Mazhukunnel (H),  
P.O. Thunnallor, Mevelloor,  
Dist. Kuttayam, Kerala
28. Ms. Bincy Kuriakose,  
D/o Mr. Kuriashose Joseph,  
R/o Kunhappillil House,  
P.O. Chennikuzhi, Dist. Idukki,  
Kerala.
29. Bindu Joseph,  
D/o Mr. T.K. Joseph,  
R/o Thozhuthukara (House)  
P.O. Malakkal,  
Via - Rajapuram,  
Kasaragod, Kerala.
30. Manjula Mathew,  
D/o Mr. K.U. Mathew,  
R/o Kunnatbu Maleyile (H)  
P.O. Karrackanalo, Via - Manasthavady,  
Dist. - Wayanad,  
Kerala - 670 645.
31. Mathew Joseph,  
S/o Mr. K.A. Joseph,  
R/o Kandathil (HO),  
P.O. Kanchiyar,  
Dist. Kakkontukada, Idukki,  
Kerala-685511.

(25)

32. Anju Prakash  
D/o Mr. Jai Prakash,  
R/o House No. WZ-220,  
Naraina Village, New Delhi-28.

33. Sunita Kumari,  
D/o Mr. J.S. Tanwar,  
R/o 41A/5A, Sadhu Nagar,  
Palam Colony,  
New Delhi-45

34. Nisha Antony,  
D/o Mr. N.M. Antony,  
R/o Nambelil House,  
P.O. Kodikulam,  
Dist. Thodupuzha, Idukki,  
Kerala-685582

35. Mrs. Jaiby Susan John,  
W/o Mr. P.J. John,  
R/o Plavilavk Puthen Veeru Karavaloor,  
P.O. Punalur, Distt. Kollam,  
Kerala.

36. Suma Varghese,  
R/o A-870, Sector 0 2,  
Rohini, Delhi-85

37. Blessy E.T.  
D/o Mr. E.U.Thankachew,  
R/o Edauoor House,  
P.O. Puliyoor, Chewuannur,  
Dist. Aleppy, Kerala.

38. Bincy Jacob,  
D/o Mr. K.J. Jacob,  
R/o B-9, House No.350,  
Sector-III, Rohini,  
Delhi-85.

39. Celine K.S.,  
D/o Mr.K.V. Sebastian,  
R/o Kootiyaniyil House,  
P.O. Chemmalamattom,  
Dist. Kottayam-686524, Kerala.

40. Suma Jacob,  
D/o Mr.M.C. Jacob,  
R/o Muthiranthichal (H),  
P.O. Kurichithanam,  
Dist. Kottayam, Kerala.

41. Princy Philip,  
D/o Mr. Philip,  
R/o Princy Philip Vayalil House,  
P.O. Bethel,  
Dist. Joukki, Kerala.

42. Maya G.  
D/o Mr. Goanathan Nair,  
R/o I-19/I, Residential A Complex,  
New S.J.H. Staff Quarters,  
West Kidwai Nagar,  
New Delhi-23

43. Mamta Sharma,  
D/o Shri S.K. Sharma,  
R/o D-179, Prashant Vihar,  
Rohini, Delhi-85.

44. Binny Pappachan,  
D/o Pappachan,  
R/o Chandel Kollamporambil,  
P.O. Thblayolaparambu,  
Dist. Kottayam, Kerala.

45. Lovely P.B.  
D/o P.C. Baby,  
R/o Panackaparambil (House),  
P.O. Manickamangalam,  
Via Kaladyu, E.K.M., Kerala.

46. Jincy Cheriyam,  
D/o Mr. Chereyas Mathai,  
R/o Kunampurath (H)  
P.O. Nazareth Hill,  
Dist. Kottayam, Kerala

47. Suma Nair, M.  
D/o Late M.N. Rajagopal,  
C/o Sunil Kumar, M.  
276 - B.P.O., J.N.U.  
Dist. Munirka, New Delhi

48. Jisha K.V.  
D/o K. Velayudhan Nair,  
R/o Kanjiramattathu,  
P.O. Vayalaa, Dist. Kottayam,  
Kerala-686587.

49. Rekha,  
D/o H. No. R-B-270,  
Sector-6, R.K. Puram,  
New Delhi-22

50. Sheena Mathew,  
D/o Mr. K.S. Mathew,  
R/o B-9, House No. 350,  
Sector - III, Rohini,  
Delhi-85.

51. Bincy K. Kciriakose,  
D/o K.I. Kciriakose,  
R/o Kandathil House,  
P.O. Alattuchira,  
Dist. Ernakulam  
Kerala.

52. Kavita Rani Tyagi,  
C-184,  
Auchandi Road,  
P.O. Bawana, Valmiki Chaupal  
Wali, New Delhi-39.

53. Manju Sebastian,  
D/o Mr. Sebastian,  
R/o Olickel (House)  
P.O. Balal, Via Perappa,  
Dist. Kasaraerob, Kerala.

54. Dency Mathew,  
D/o Mr. N.K. Mathew,  
R/o Kottamurry,  
P.O. Jhrickooi hanam,  
Changanacherry,  
Dist. Kottayam, Kerala.

55. Jisha Joseph,  
D/o Mr. Joseph,  
R/o Nelpurackal (H),  
Vazhapally West,  
P.O. Changanasherry,  
Dist. Kerala.

56. Jaimol Joseph,  
D/o Mr. V.A. Joseph,  
R/o Anadath House,  
P.O. T.U. Puram, Vaikom,  
Dist. Kottayam, Kerala.

57. Roshni Punnoose,  
D/o late Mr. P.P. Punnoose,  
R/o Pachikara House,  
P.O. Kolani, Dist. Thodupuzha,  
Kerala-685584.

58. Giji Paul  
Rajiv Gandhi Cancer Institute,  
Sector-V, Rohini,  
New Delhi-85.

59. Reena Thomas,  
D/o Mr. Thomas Devasia,  
R/o Vallamdarampil (H),  
P.O. Pandankary,  
Dist. Eoathua,  
Alanpuzha, Kerala.

60. Nisha Jacob,  
C/o Liji J. Puthkody,  
Room No. 38,  
AIIMS, Ansari Nagar,  
New Delhi.

61. Nisha Joseph,  
D/o Jacob George,  
R/o Puthukudyil (H),  
P.O. Thuruthy,

Dist. Changanacherry Kuttayam,  
Kerala.

62. Sunita Joel,  
D/o Santosh Joel,  
R/o J-3/257, Ashok Vihar,  
Wazirpur, Delhi.

63. Shiny Kurian,  
Nurses Hostel,  
Dr. B.S.A. Hospital,  
Sector-6, Rohini,  
Delhi-85

.... Applicants

(By Dr. Sumanth Bharadwaj with Ms. Mridula Bharadwaj,  
Advocates)

-versus-

1. Directorate of Health Services,  
Government of NCT of Delhi,  
Through its Director,  
Karkardooma, Delhi
2. Delhi Staff Service Selection Board,  
Through its Secretary,  
Karkardooma, Delhi.
3. Dr. B.S. Ambedkar Hospital,  
Through its Medical Superintendent,  
Sector - 6, Rohini,  
New Delhi.

... Respondents

(By Shri Vijay Pandita, Advocate )

O.A.2732/2002

1. Manindra,  
D/o Mr. Surjeet Singh Panchhi,  
G-27/218, Sector-3,  
Rohini, Delhi-85
2. Miss Sujamol K.S.  
D/o Mr. G. Samsul,  
R/o Kombikunnathu House,  
Valathode, P.O. Edapuzha  
Via - Payam, Dist. Kunnur (DL)  
Pin-670704
3. Beena M.I.  
D/o Mr. M.O. Inasu,  
R/o Muttanthottu (H),  
P.O. Kuttikad,  
Via - Chalakudy,  
Dist. Trichur, Kerala.

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4. Ms. Yasmeen,  
D/o Mr. Mohd. Yameen,  
R/o 841, IIInd Floor, Kamra Bangash,  
Chandni Mahal, Darya Ganj,  
New Delhi

...Applicants

(By Dr. Suman Bharadwaj with Ms. Mridula Bharadwaj,  
Advocates)

-versus-

1. Directorate of Health Services,  
Government of NCT of Delhi,  
Through its Director,  
Karkardooma, Delhi
2. Delhi Staff Service Selection Board,  
Through its Secretary,  
Karkardooma, Delhi.
3. Dr. B. S. Ambedkar Hospital,  
Through its Medical Superintendent,  
Sector - 6, Rohini,  
New Delhi.

...Respondents

(By Shri Vijay Pandita, Advocate )

O.A. 14 5/2003

1. Ravinder Kumar Joshi,  
R/o House No. E-221,  
Choudhry Fateh Singh Marg,  
New Usmanpur, Delhi.
2. Sharad Kaushik,  
R/o 305, Pocket B-5,  
Section-8, Rohini,  
Delhi-85.
3. Vikas Messy (Jr. Radio Grapher)  
C/o Beram Messy,  
L.I.G. Flats, Ground Floors,  
H.No. 76, Pocket-II, Sector 21,  
Rohini, Delhi.
4. Ramdhiraj (O.T. Tech.)  
R/o House No. RZ/C-30,  
Vishnu Garden, Khyala,  
New Delhi.
5. Paras Nath,  
R/o House No. K-624, Mangolpuri,  
New Delhi-83

...Applicants

(By Dr. Suman Bharadwaj with Ms. Mridula Bharadwaj,  
Advocates)

-versus-

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1. Government of N.C.T. of Delhi,  
Through Principal Secretary,  
Directorate of Health Services,  
9th Level, A Wing, Delhi Secretariat,  
New Delhi-2.
2. Delhi Staff Service Selection Board,  
Through its Secretary,  
Karkardooma, Delhi.
3. Dr. B.S. Ambedkar Hospital,  
Through its Medical Superintendent,  
Sector - 6, Rohini,  
New Delhi.

... Respondents

(By Shri George Pracken, Advocate )

O.A.3148/2002

1. Chander Kanta Gautam,  
W/o Shri Ashwani Kumar,  
R/o 1225, Paposian Street,  
Narela, Delhi-40
2. Meena,  
W/o Shri Lokesh Kumar,  
R/o 67-A, Nehru Enclave,  
Alipur, Delhi.
3. Lovely Rani Arora  
D/o Shri Baldev Raj Arora,  
R/o 177-B, South Anar Kali,  
Delhi-91
4. Shashi,  
D/o Shri Jai Singh,  
R/o H.No.567, P.O. Mukhmel Pur,  
Delhi-36

... Applicants

(By Shri S.K. Gupta, Advocate)

-versus-

1. Govt. of NCT of Delhi,  
Through Chief Secretary,  
Delhi Secretariat,  
I.G. Stadium, IP Estate.  
New Delhi.
2. Secretary (Health),  
Govt. of NCT of Delhi,  
9th Level, Delhi Secretariat,  
I.P. Estate, New Delhi-2.
3. Medical Superintendent,  
Maharishi Balmiki Hospital,  
Pooth Khurd, Delhi-39.

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4. Educational Consultant India Ltd.,  
Through its Project Manager,  
Sector-16, Noida (U.P.). ... Respondents

(By Shri George Paracken, Advocate)

O.A.2912/2002

Manoj Kumar  
S/o Shri Mangat Ram,  
R/o H.No.89, 1st Floor,  
Satya Niketan, Moti Bagh-II,  
New Delhi.

... Applicant

(By Shri S.K. Gupta, Advocate)

-versus-

1. Govt. of NCT of Delhi,  
Through Chief Secretary,  
Delhi Secretariat,  
I.G. Stadium, IP Estate.  
New Delhi.
2. Secretary (Health),  
Govt. of NCT of Delhi,  
9th Level, Delhi Secretariat,  
I.P. Estate, New Delhi-2.
3. Medical Superintendent,  
Maharishi Balmiki Hospital,  
Pooth Khurd, Delhi-39.
4. Educational Consultant India Ltd.,  
Through its Project Manager,  
Sector-16, Noida (U.P.). ... Respondents

(By Shri George Paracken, Advocate)

O.A.2754/2002

1. Vijay Kumar Ojha,  
S/o Shri Balikaran Prasad Ojha,  
R/o House No.921  
Pooth Khurd, Delhi-39

2. Krishan Kumar  
S/o Shri Umed Singh,  
R/o House No.318,  
Village & P.O.  
Lalpur, Delhi-81

3. Sanjeev Kumar  
S/o Shri Sunil Kumar,  
R/o H.No.469,  
Durgapur Extension,  
Shahdara, Delhi-32

4. Kamini Kaushal,  
C/o Rajender  
H.No.6, Garhi  
Bakhtawar Pur  
New Delhi-36
5. Anita Rani,  
D/o Ravinder Kumar,  
H-3/95, Sultan Puri,  
Near Shani Bazar Market,  
Nangloi, New Delhi-41.
6. Indu Kalra,  
D/o Shri S.M. Kalra,  
Road No. 64,  
H.No.5, West Punjabi Bagh,  
New Delhi-26
7. Anju Bala  
D/o Shri Mahender Singh  
H.No R-233,  
Mohan Garden,  
Peepal Bala Chowk,  
Near Uttam Nagar,  
New Delhi-59
8. Laxmi  
W/o Mr. Bir Ram  
C-34-A, IIInd Floor  
Hari Nagar,  
New Delhi-64.
9. Bindiya Rani,  
D/o Shri Leela Krishan,  
156, Gajjee Katra,  
Shahdara,,  
Delhi-32
10. Kausar Jahan,  
D/o Shri Noor Hasan,  
H.No.46,  
Nand Nagari, Janta Flats,  
Near G.T.B. Enclave,  
Delhi.
11. Poonam Rani,  
D/o Shri Mahender Prasad,  
H.No.195,  
Vill. & P.O. Ghoga,  
Delhi-39.
12. Sanyogita Vashist,  
D/o Shri Tara Chand,  
Village & Post Office Chhawla,  
New Delhi-71
13. Seevan Das  
S/o Shri Mangal /Das,  
M.B. Hospital,

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Nursing Hostel, Room No. 9,  
Pooth Khurd,  
New Delhi-39.

14. Malisa Susan K. Mathew  
D/o Mr. Mathew K.  
C/o John Joseph,  
28-A, LIG Flat,  
Pocket - E, GTB Enclave,  
New Delhi-93
15. Priney K. Jose,  
D/o Jose,  
Rajeev Gandhi Cancer Institute  
& Research Centre,  
Rohini Sector -5,  
Delhi-85
16. Sindhu K. Vasu,  
D/o M.K. Vasu  
Mata Chandan Devi Hospital,  
C-I Janak Puri,  
New Delhi.
17. Praveen Singhal,  
D/o Rohtas Singhal,  
C-499, Vill. Devli,  
Gupta Wali Gali,  
New Delhi-62.
18. Poonam Sidhu,  
D/o Baldev Singh,  
H. No. 108,  
Gandhi Vihar,  
Near Mukherjee Nagar,  
New Delhi-9
19. Aniza Bharatham,  
C/o Bharatham,  
414-A, DDA Flats,  
Gazi Pur Dairy Farm,  
Delhi-96
20. Shagupta Bano,  
D/o Mohd. Shoyab,  
H. No. 1321, Pahari Imli  
Choori Walan, Jama Masjid,  
New Delhi-6
21. Sushma Devi,  
D/o Ramkishan,  
H. No. 1049,  
Behind Petrol Pump,  
Bawana, Delhi-39
22. Sushma  
D/o Banarsi Dass,  
WZ 95m 80 Sq. Yard,  
Tilak Nagar,  
New Delhi-18

23. Kamla *Raoor*  
D/o Dhan Singh,  
E/246, Nagar  
New Usman Pur,  
Bapu Gali.

24. Reenu  
D/o Brham Singh  
P.O. Village Palla,  
Delhi-36

25. Hemlata,  
W/o Vijay Kumar  
House No.M-104  
Vikas Puri,  
New Delhi-18.

26. Kamla Bora  
D/o Shri Chander Singh Bora  
B-49, Vinova Enclave,  
C.R.P.F. Colony,  
Jharoda Kalan,  
New Delhi-72

27. Munesh  
D/o Shri Vijay Singh  
H-25, Nirankari Colony,  
Dhirpur,  
New Delhi-9

28. Renu  
D/o Shri Tarachand Bhatti,  
181 Police Colony,  
Hauz Khas,  
Near I.I.T. Flyover,  
New Delhi-16

29. Manoj Kumar,  
S/o Shri Het Ram Singh  
308 Bapu Park,  
Kotla Mubarak Pur,  
New Delhi.

30. Sudesh Bhatt  
S/o late Shri Vidya Dutt Bhatt,  
C-10/79,  
Sector-5, Rohini,  
Delhi-85

31. Vivek Singh  
S/o late Shri Rameshwar Singh  
F-7/138, Sector-16,  
Rohini, Delhi-85

32. Rosy Kansal,  
D/o Mr.K.K. Kansal,  
G3/143-144 (1st Floor)  
Sector-11, Rohini,  
Delhi-85

33. Nagesh Mishra  
 S/o Shri Umesh Mishra,  
 WZ-132, Lajwanti Garden,  
 (Nangla Rai), Janak Puri,  
 New Delhi.

34. Sunita,  
 W/o Mr. Prem,  
 Y-P-59-A,  
 Pitam Pura,  
 Delhi-34

35. Ganesh,  
 S/o Karu Pandit,  
 M.B. Hospital,  
 Pooth Khurd,  
 New Delhi-39.

36. Naveen Mishra,  
 S/o Ram Suresh Mishra  
 H.N.O.4, Type - IV,  
 New Residential Complex,  
 Tihar Jail, New Delhi.

37. Gopal Sharma  
 S/o Rajesh Sharma  
 H.No.9, Parda Bagh,  
 Darya Ganj,  
 New Delhi-2

38. Amit,  
 S/o Shri M.L. Gupta,  
 A1/183, Hastsal Road,  
 Uttam Nagar,  
 New Delhi-59.

...Applicants

(By Shri G.D. Bhandari, Advocate)

-versus-

1. Govt. of NCT of Delhi, through  
 The Chief Secretary,  
 9th Level, Delhi Sachivalaya,  
 I.P. Estate,  
 New Delhi-110002.
2. The Secretary (Health),  
 Govt. of NCT,  
 9th Level, Delhi Sachivalaya,  
 I.P. Estate, New Delhi-2.
3. The Medical Superintendent,  
 Maharishi Balmiki Hospital,  
 Pooth Khurd, Delhi-39.

...Respondents

(By Shri George Paracken, Advocate)

O R D E RJustice V.S. Aggarwal:-

By this common order, we propose to dispose of OA. Nos. 2732/2002, 2543/2002, 2739/2002, 2754/2002, 2912/2002, 3148/2002, 145/2003.. Questions involved in all the applications are identical. However, for the sake of convenience, we are taking the facts from OA No. 2732/2002 (Manindra & Ors. vs. Directorate of Health Services and Ors.) and also with little difference, the facts in OA No. 2754/2002 (Vijay Kumar Ojha and Ors. v. Government of NCT, Delhi & Ors.).

2. In the case of Manindra and others, the applicants are working in different hospitals under the control of the respondents. They are working as Staff Nurses etc. In response to their applications, they had been called for interview in March 2001 along with others. They were appointed in the scale of Rs. 5000-8000/- on temporary basis and the terms of the appointment were:-

- "a. The candidate sponsored against the SC/ST/OBC category will have to produce the caste certificate issued by competent authority.
- b. He/She get his/her medical examination done within one week from the Hospital for which appointed and, if found unfit and contract appointment shall stand withdrawn with immediate effect.
- c. He/She should get his/her resigns before the completion of tenure he/she is

*(Signature)*

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required to give advance notice of 07 days, failing which an amount equivalent to 07 days will be recovered from him/her.

- d. In case of continuous absence of more than 3 days the service shall be liable to be dispensed with, without any prior notice.
- e. Delay in completing the formalities may delay the release of salary and this will be his/her individual responsibility.

He/she is hereby directed to report to Medical Superintendent Dr. Baba Saheb Ambedkar Hospital, Rohini within three days of receipt of this appointment letter, failing which the contract appointment offer shall stand withdrawn.

The appointment was made on contract basis for a period of 89 days or till regular incumbent is appointed, whichever is earlier."

When the applicants were under the threat of disengagement from the Paramedical posts like Staff Nurse etc., they preferred OA No. 2157/2002 (Shri Shashi Kala & Ors. v. Directorate of Health Services and Ors.). The same had been disposed of by this Tribunal on 24.9.2002 and a consent order had been passed:-

"In O.A. 3111/2001 entitled Lalit Kumar Vimal vs. Government of NCT Delhi, this Tribunal had disposed of the application with following directions:

- "a Respondents are directed that in the event of appointing candidates on regular basis to the post of OTT, the claims of the applicants herein for the said post should be considered. While considering the same, their experience of service already rendered should be taken into account and proper weightage should be given to the same. Age relaxation and covering of experience may be made as

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per DOPT guide-lines and judicial pronouncements on the subject. Till regular appointments are made, applicants' services should not be terminated.

b) Respondents to make payments of the salary as admissible to regular OTT due to the applicants within a period of two weeks from the date of receipt of a copy of this order, if not already paid. The applicants will be entitled to future pay on the principle of equal work for equal pay at par with regular employees."

c) Recoveries made from the salary of the applicants shall be refunded to them immediately.

2. It is not in controversy that the applicants are identically placed and, therefore, the present O.A. be disposed of on the same lines. Order is made accordingly."

3. The respondents had already issued an employment notice in the Hindustan Times on 21.1.2002. Therein certain posts had been advertised and the employment notice indicated with respect to Senior Radiographer, Radiographer, Technician O.T., Assistant O.T. and Staff Nurse as under:-

"Department of Health & Family Welfare  
9th Level, A-Wing, Delhi  
Secretariat, New Delhi 110 002.

EMPLOYMENT NOTICE

Application on prescribed form are invited by 18th February, 2002 from the eligible candidate for the following posts:

Post/Name of the No. of the posts  
code post.

1/02 Senior Radiographer	Total	UR	SC	ST	OBC
	a	b	c	d	e
	06	05	-	-	01

2/02 Radiographer	40	22	05	03	10
3/02 Technician O.T.	41	22	06	03	10
5/02 Asstt.O.T.	07	05	01	-	01
<u>8/02 Staff Nurse</u>	<u>866</u>	<u>37</u>	<u>200</u>	<u>173</u>	<u>456"</u>

After the decision of this Tribunal as referred to above, the respondents had issued another advertisement giving notice to the candidates for the posts of Paramedical staff that a written test of one hour duration would be held on 29.9.2002. The result had been declared on 12.10.2002 of the written test. The Roll Nos. of the successful candidates in different disciplines had been declared but the following Note had been added therein:-

"NOTE:1. The result is PROVISIONAL and subject to the following conditions:

- (a) The eligibility for each post as per the prescribed qualification/experience from recognized institution will be verified, before issuing the offer in case found ineligible as per Recruitment Rules, they will not be entitled to get the offer of appointment.
- (b) Relaxation claimed by the reserved category candidates will be allowed only after verification of certificates. Overage/underage candidates will be disqualified for appointment.
- (c) Candidates of reserved categories (OBC/SC) will have to produce necessary certificates issued from Delhi to claim the benefit of reservation. However, reservation to ex-servicemen and handicapped categories will be provided as per instructions, if found eligible.

2. The Result does not necessarily indicate the merit. The merit will be decided later on.

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3. The Department does not take any responsibility for any clerical/typing error. If there is any inadvertent error, the same is subject to rectification. The candidates may verify the result from Technical Recruitment Cell, Near Physiotherapy Deptt. Lok Nayak Hospital, 1, J.N.Marg (Delhi Gate) from 18.10.2002 during office hours.
4. There are no posts for male nurse in the nursing cadre at present. In case any of the male candidates have been declared to have passed, they may not get any appointment now.
5. The offer of appointment will be made subject to the availability of vacancies and the result as such, does not guarantee the appointment.
6. All candidates will be separately intimated by post also after verification of the documents. No separate enquiries will be entertained from any candidate."

By virtue of the present applications, the concerned applicants seek quashing of the result declared on 12.10.2002 and to direct the respondents not to issue the appointment letters to the successful candidates and for holding a fresh test for recruitment to the Paramedical posts. Various pleas in this regard have been taken.

4. In the case of Vijay Kumar Ojha and others, in OA No.2754/2002, the basic facts are not any different but suffice to say that the Maharishi Balmiki Hospital, Pooth Khurd, Delhi had been opened to fill up certain posts and an advertisement had been published in this regard.

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The relevant portion of the same reads:-

"Applications are invited for the posts in Maharishi Balmiki Hospital as mentioned below. The application forms are available at the Office of Medical Superintendent of the Hospital on cash payment of Rs.10/- each (Rs.2/- for SC/ST/OBC candidates) during the office hours between 10.00 AM to 3.00 PM from the date of publication till 3rd September, 2001. The appointment to the above posts will be purely on contract basis initially for 89 days extendable upto one year subject to satisfactory work & conduct or till regular appointment, whichever is earlier.....

#### ELIGIBILITY

1. Eligibility condition is annexed with the application form for each category of posts. There is a separate application form for each category of posts. Interview will be held at Maharishi Balmiki Hospital, Pooth Khurd, New Delhi. Inter hospital transfer not admissible. The application complete in all respects should reach Office of the Medical Superintendent, MB Hospital, Pooth Khurd, New Delhi on or before 4th September, 2001 by 4.00 PM. Incomplete application will be summarily rejected and no correspondence will be entertained on the matter. No separate call letter will be issued. List of candidates eligible for interview alongwith date of interview will be displayed on the notice board on 7.9.2001 (1.00PM).

In pursuance of the interviews that were held, certain persons including the applicants in this application had been selected. The selected persons had undergone the medical examination. The offer of appointment in the case of Shri Vijay Kumar Ojha amongst others indicated:-

*MS Ag*  
"Consequent upon his selection, Director, DHS, is pleased to appoint Sh. Vijay

Kumar Ojha on purely contract basis for a period of 89 days or till regular incumbent is appointed which ever is earlier. He is appointed to the post of Radiographer in the pay scale of Rs.5000-8000/- plus admissible allowances on the following terms and conditions."

Subsequently, an order was further passed taking Shri Vijay Kumar Ojha as Radiographer on the strength of the Hospital which reads:-

"In pursuance of approval of Director of Health GNCT of Delhi Vide No.D/2803/DHS dated 18.4.2001 and appointment letter No.F.1(71)/Estt/MBH/2000/137 dated 24.4.2001 issued by M.S., M.B.Hospital, Sh.Vijay Kumar Ojha, Radiographer on purely contract basis for period of 89 days or till regular incumbent is appointed and consequent upon his joining. Sh.Vijay Kumar Ojha, Radiographer is hereby taken on strength of this hospital w.e.f. 26.4.2001 (FN) for 89 days to the post of Radiographer in the pay scale Rs. 5000-8000 plus usual allowances as admissible."

5. Like others, applicants in the case of Manindra & Ors. in OA No.2732/2002 had also taken the test. They were not selected and by virtue of the present application, they also seek quashing of the selection and the process of selection that has been effected by the respondents.

6. The learned counsel for the applicants in the case of Vijay Kumar Ojha & Others, asserted that though the appointment letters indicate that the concerned persons had been appointed only for 89 days but in fact it was a regular appointment. In this regard, he relies upon the subsequent order that had been passed whereby Shri Vijay Kumar Ojha

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and others are mentioned to have been taken on the strength of the hospital on 26.4.2001 as Radiographers. According to the learned counsel, once the words "taken on the strength of this hospital" occurred, it clearly indicates that they are regular appointees.

7. The contention so much thought of is simply stated to be rejected. The Office Order which has already been referred to above, indicates that the said applicants were appointed on contract basis only for 89 days till regular incumbents were appointed. Therefore, the words, "taken on strength of this hospital" necessarily will draw its strength and colour from the earlier words referred to above. The latter part cannot be read in isolation of the first. The order has to be read as a whole and thereafter an appropriate meaning has to be drawn. It clearly indicates that the applicants Shri Vijay Kumar Ojha and others had simply been appointed for 89 days on contract basis. The plea, therefore, necessarily has to be rejected.

8. In that event, it was contended that the selection has to be effected by Delhi Services Selection Board. This is a body that had been created for holding the selection for certain posts

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in the National Capital Territory of Delhi. While herein the test was said to have been conducted by the Educational Development and Consultants India Limited. According to the learned counsel, the power as such should not have been abdicated and once such a power has been abdicated, the whole of the examination conducted by the private body necessarily must be quashed.

9. Before us, the same controversy has been raised as to whether the Educational Development and Consultants India Limited is controlled by the Government or not. We deem it unnecessary to go into the said controversy because the same is not relevant. Admittedly, it was an objective type of written test that was held. With the development of science, the papers could be checked in a computerised manner. The Educational Development and Consultants India Limited had only been engaged to hold the test. It was not that the test was being conducted by it. If for purposes referred to above, a body has been given a chance to hold the test in order to facilitate early declaration of results and manual power is avoided, there appears to us, no illegality therein. The Educational Development and Consultants India Limited was only, therefore, the agency as was explained during the course of arguments. Resultantly, the said plea

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must also be held to be without any merit.

10. Certain mala fides also were imputed in this regard asserting that the applicants who were large in number had taken the test and none of them had qualified. However, our attention has not been drawn to any instance in this regard so as to indicate that in fact the applicants had scored more marks and, therefore, this Tribunal should look into the matter any further.

11. It has further been argued vehemently that when the result had been declared, the merit list that had been so drawn did not decide the eligibility. According to the learned counsel, the eligibility has also to be looked into and once the eligibility has not been seen, the whole result must be quashed. At the outset, we deem it necessary to take note of the fact that once certain persons are allowed to take the test without deciding the question of their eligibility, this necessarily would imply that they had been allowed to sit in the test provisionally. When the result was declared, ordinarily the respondents should have looked into the eligibility of the candidates in accordance with the recruitment rules but all the same this exercise was to be done at the earliest.

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12. Does it mean that the result so declared would become illegal? Necessarily the answer would be in the negative. What we have observed above is a matter of procedure which should be followed but if ineligible persons are weeded out and not allowed to sit in the test, necessarily it would not have any reflection on the merit of the other candidates. We consequently do not propose to quash the result as a whole on this short ground.

13. Great stress was laid on the fact that in the advertisement that appeared for the posts of 866 Staff Nurses, only 37 were reserved for general candidates while 200 posts were reserved for Scheduled Castes and 173 for Scheduled Tribes and 456 for Other Backward Classes. According to the learned counsel, this exceeds the 50% quota prescribed by the Supreme Court in its well-known decision in the case of *Indira Sawhney & Ors. v. Union of India & Ors.*, 1992 (Supp.) 3 S.C.C. 217.

14. Our attention was drawn to the directions of the Supreme Court in this regard wherein the Supreme Court has categorically held that the reservation should not exceed 50% of the total vacancies. Even the Government of India, Department of Personnel and Training vide Office Memorandum No. 36012/5/97-Estt. (Res.), dated

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29.8.1997 had given the following instructions:-

"2. The Supreme Court in the judgement in the case of Indira Sawhney v. Union of India, inter alia, validated the "carry forward" rule under which reservations are carried forward from year to year. However, while doing so, the Court also directed that the application of this rule, in whatever manner it was operated, should not result in the breach of the 50% rule. In other words, the judgement laid down that the number of vacancies to be filled on the basis of reservation in a year, including carried forward reservation, should in no case exceed the 50% limit. It is therefore, not possible now to treat the current and the backlog reservation on separate footings in the manner contemplated in this Department's O.M. dated April 25, 1989 mentioned in Para.1 above.

3. In view of the position stated above, for the purpose of applying the rule of 50%, a year has to be taken as the unit and not the entire strength of the cadre, the service or the unit, as the case may be. Thus, not more than 50% vacancies in a year, including the backlog, can be filled on the basis of reservation for SCs/STs/OBCs. In the light of this, henceforth backlog vacancies for the purpose of application of 50% ceiling on reservation shall not be treated as distinct group, and the instructions contained in the OM, dated April 25, 1989 may be treated as modified to this extent."

15. While some attempt has been made on behalf of the respondents in the first instance as to how the 50% quota has been exceeded but during the course of submissions, the learned counsel for the respondents conceded that they would only fill up 37 vacancies of the general candidates and an equal number of the vacancies of the reserved

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category candidates in accordance with the provisions of the recruitment rules and thereafter may hold a separate test in accordance with law. Keeping in view this concession that was made at the Bar, we have no hesitation in concluding that what is being urged is fair because at least 74 vacancies are being filled up in accordance with the rules keeping in view that the 50% quota ~~does~~ not exceeded. So far as other vacancies are concerned, indeed it becomes unnecessary for this Tribunal to delve into the said controversy.

16. However, the applicants' learned counsel still insisted that this Tribunal while disposing the earlier Original Application No.2157/2002 in the case of **Shashi Kala and Ors. v. Directorate of Health Services and Ors.** (supra) decided on 24.9.2002 had directed that the claim of the applicants, and their experience should be considered and proper weightage should be given to them in addition to age relaxation. We have already reproduced the above order that had been passed by this Tribunal in the aforesaid Original Application, perusal of which clearly show that a direction had simply been given to give preference or relaxation in accordance with the judicial pronouncement and the Department of Personnel and Training guide-lines. Our attention has not been drawn to any such departmental instructions or

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other pronouncements wherein regular appointments can be awarded de hors the rules. In that event, when there are no guide-lines or instructions that special credit has to be given for such contract posts/ad hoc service, the said part of the order referred to above will not come to the rescue of the applicant.

17. Yet another limb of the said argument was that as per the recruitment rules for the post of Staff Nurse/Assistant Home Sister, the age prescribed is below 30 years but in the advertisement, it has been mentioned as 32 years. According to the learned counsel for the applicants, the advertisement, therefore, which is totally contrary to the recruitment rules deserves to be quashed.

18. Our attention has been drawn towards the Notification No.15012/6/98-Estt. (D) of the Government of India, Ministry of Personnel, Public Grievances and Pensions dated 21.12.1998. A perusal of the same reveals that the age of recruitment has been raised by two years. This was circulated for necessary action to the Chairman of the D.S.S.S.B, Delhi even for compliance. Keeping in view the same, it clearly shows that the recruitment age has since been enhanced.

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19. At this stage, a preliminary objection on behalf of the respondents can also be taken note of. It was to the effect that all those persons whose result has been declared have not been arrayed as parties nor the persons who had conducted the test had been arrayed as parties and as such the applications must fail.

20. The same question had come up for consideration before the Supreme Court in the case of **A.Janardhana v. Union of India & Ors.**, (1983) 3 SCC 601. While dealing with somewhat similar argument which was negatived, it was held:-

"Thus the relief is claimed against the Union Government and not against any particular individual. In this background, we consider it unnecessary to have all direct recruits to be impleaded as respondents. We may in this connection refer to **G.M.South Central Railway, Secundrabad v. A.V.R.Siddhanti**. Repelling a contention on behalf of the appellant that the writ petitioners did not implead about 120 employees who were likely to be affected by the decision in the case, this court observed that [SCC para 15, p.341: SCC (L&S) p.296] the respondents (original petitioners) are impeaching the validity of those policy decisions on the ground of their being violative of Articles 14 and 16 of the Constitution. The proceedings are analogous to those in which the constitutionality of a statutory rule regulating seniority of government servants is assailed. In such proceedings, the necessary parties to be impleaded are those against whom the relief is sought and in whose absence no effective decision can be rendered by the court. Approaching the matter from this angle, it may be noticed that relief is sought only against the Union of India and the concerned Ministry and not against any individual nor any seniority is claimed by anyone individual

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against another particular individual and therefore, even if technically the direct recruits were not before the court, the petition is not likely to fail on that ground. The contention of the respondents for this additional reason must also be negatived."

Identical is the position herein. We have no hesitation, therefore, in rejecting the said contention.

21. As regards the plea that the result indicates that the merit will be decided later on, to set this controversy at rest, we had called for the original mark-sheets that had been prepared. It indicates that about 200 persons had scored the same number of marks and similar was the position of some other candidates who had scored less marks and, therefore, it was expedient that the merit had been drawn according to the relevant instructions which has not been done. In face of what was produced before us, we deem it necessary consequently to hold that it does not suffers from a lacuna which may prompt us to quash the results. This exercise should have been carried earlier but will not be fatal, in the absence of any such other factor.

22. During the course of submissions, it was pointed that in the result that has been declared, there is a note which indicates that "there are no posts for male nurse in the nursing cadre at

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present. In case any of the male candidates have been declared to have passed, they may not get any appointment now." It was urged that in the advertisement that had appeared for recruitment of the Staff Nurses, there was no such mention that the Male Nurses will not be recruited.

23. This part of the argument has merit. In the advertisement that appeared with respect to the Staff Nurse, the qualifications prescribed were:-

- 1) Matriculation or its equivalent
- 2) A Grade Certificate in Nursing from recognised Institutions.
- 3) Certificate in Midwifery
- 4) Should be able to speak Hindi fluently."

There is no mention therein that a Male Nurse will not be eligible or that there is no such post that is available for a Male Nurse.

24. During the course of submissions, the learned counsel for the respondents stated that there are separate recruitment rules for the post of Staff Nurse Male. What was produced before us were draft rules for the post of Staff Nurse Male. It was thereupon conceded that the said recruitment rules had not been notified. In other words, these are the recruitment rules for the post of Staff Nurse/Asstt. Home Sister notified by the Delhi

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Administration vide ..... Notification  
No.F.2/15/56-Service (c) dated 3.8.67; Amendment  
Notification No.F.2(15)/66-Service (II) dated  
10.1.69 and Amendment Notification  
No.F.2(1)/70-Services (II) dated 13.8.1970 would  
apply. No distinction has been made between the  
Female Nurses and the Male Nurses. Resultantly, we  
have no hesitation in holding that unless there is  
something to indicate that the recruitment rules  
for the post of Staff Nurses were applicable only  
to the female Nurses, the plea of the respondents  
is necessarily stated to be rejected. The  
necessary consequence would be that recruitment for  
the post of Staff Nurse whether male or female has  
to be made as per their merit irrespective of  
whether they are male or female nurses.

25. Resultantly, we hold as under:-

- (1) We deprecate the practice prevalent that the result is declared without drawing the merit list. Merit list must always be drawn before declaring the result:
- (2) The respondents are directed to pick up the loose threads and draw the merit list notifying the Roll Nos. of the successful candidates as per the merit list subject to the directions given hereunder. The merit list should be drawn as per rules and instructions on the subject.
- (3) Applications regarding the posts other than Staff Nurses must fail and are dismissed subject to the directions given above;

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(4) In case of Staff Nurses, only 37 general candidates and 37 candidates of reserved category shall be given the appointment letters. Of the 37 reserved category candidates, further distribution shall be made between the Scheduled Castes, Scheduled Tribes and Other Backwards Classes candidates as per the instructions on the subject:

(5) The male candidates for Staff Nurses shall also be considered according to their merit and if they are meritorious, subject to the directions given above, they shall be appointed.

(6) The balance of the vacancies for Staff Nurses may be filled up in accordance with the rules and the law on the subject.

(7) The Staff Nurses who had been appointed on contract basis or otherwise on temporary basis subject to the availability of the vacancies should be allowed to continue till the regular appointments are made and till then their services shall not be terminated.

(8) The other directions that had been given in OA No. 2157/2002 need not be repeated.

26. The applications are disposed of in the aforesated terms with no order as to costs.

(Shankar Prasad)  
Member (A)

(V.S. Aggarwal)  
Chairman

/sns/

Attest  
Shankar  
Co. CS