



Central Administrative Tribunal
Principal Bench, New Delhi

CP No.568/2017
In
OA No.2570/2014

Reserved on: 28.02.2020
Pronounced on: 04.03.2020

Hon'ble Mrs. Justice Vijay Lakshmi, Member (J)
Hon'ble Ms. Aradhana Johri, Member (A)

1. Shri Vinod Kumar Sharma,
Aged about 34 years, Staff Nurse,
S/o Shri Keshav Dev Sharma,
H.No.A-523/524, Pandav Nagar,
New Delhi-110008.
2. Shri Mukut Bihari,
Aged about 35 years, Staff Nurse,
S/o Shri Mahadev Parsad,
H.No.B-242, Madipur J.J. Colony,
New Delhi-110063.
3. Ms. Seltun Nobini Anal,
Aged about 34 years, Staff Nurse,
D/o Shri Settin Ranikham Anal,
H.No.100, 4th Floor,
Humayun Park, New Delhi-110029.
4. Ms. Heikham Shantibala Devi,
Aged about 34 years, Staff Nurse,
D/o Shri Heikham Ibohal Anal,
H.No.4-C, C.B. Block, Hari Nagar,
New Delhi.
5. Ms. Seema Kabir, Aged about 37 years,
Staff Nurse, D/o Shri Santosh Singh,
H.No.33-A, Patpadganj, Near Jain
Mandir, Mayur Vihar Part-1, Delhi.
6. Ms. Victoria Showel,
Aged about 36 years, Staff Nurse,
D/o Shri Neeraj Showel,
H.No.CB-353, 3rd Floor, Ring Road,
Naraina, New Delhi-110028.

7. Ms. Ningthoujam Krishnakumari Devi,
Aged about 41 years, Staff Nurse
D/o Shri B. Prem Kumari, H.No.909,
1st Floor, Akshar Dham Apartment,
Dwarka, Sector-19, New Delhi-110075.
8. Shri Lhingnulam Kipgen,
Aged about 36 years, Staff Nurse,
S/o OTjalal Kipgen, H.No.2973/13,
Ranjit Nagar, New Delhi-110008.
9. Shri Yadram Yadav,
Aged about 38 years, Staff Nurse,
S/o Shri Jagmal Yadav,
H.No.WZ-85, Todapur, Near
Indnerpuri, New Delhi-110012.
10. Smt. Taramani Biswas,
Aged about 34 years, Staff Nurse,
W/o Shri Mahboob Alam,
H.No.B-46, First Floor, Budh Nagar,
Inderpuri, New Delhi-110012.
11. Smt. Rekha Saini,
Aged about 36 years, Staff Nurse
W/o Shri Anil Kumar,
H.No.162, Y-Block, New Roshanpura
Najafgarh, New Delhi-110043.
12. Smt. Sunita Rani,
Aged about 29 years, Staff Nurse,
W/o Shri Vinod Kumar,
H.No.Y-42, Budh Vihar, Phase-I,
New Delhi-110056.
13. Shri Nihal Singh,
Aged about 43 years, Staff Nurse,
S/o Shri Kalwa Ram, H.No.207,
1st Floor, Hari Nagar Ashram,
New Delhi-110014.
14. Smt. Mariamma Chacko,
Aged about 43 years, Staff Nurse,
W/o Shri Raju Massey, H.No.B-162,
East of Kailash, New Delhi-110065.

15. Ms. Josy M.J.,
Aged about 31 years, Staff Nurse,
D/o Shri Jose George,
H.No.2390, Pocket-1, Mayur Vihar,
Phase-1, Delhi-110091.
16. Smt. Jaisy Mol Samuel,
Aged about 35 years, Staff Nurse,
W/o Shri Jogy George,
H.No.7-A, DDA Flats,
Shivaji Enclave, Rajouri Garden,
New Delhi.
17. Smt. Roseleen Victor,
Aged about 44 years, Staff Nurse,
W/o Shri Victor, H.No.20, 1st Floor,
Savitri Nagar (Malviya Nagar),
New Delhi.
18. Ms. A.S. Catherine,
Aged about 36 years, Staff Nurse,
D/o Shri A.S. Qrestes,
H.No.70-A/1, 4th Floor, Main Market Garhi,
Nearby HOMC School,
East of Kailash, New Delhi-110065.
19. Ms. Suman,
Aged about 30 years, Staff Nurse,
D/o Shri Naresh Kumar, H.No.F-71,
Krishna Vihar, New Delhi-110086.
20. Smt. Jeba Sheeba J.,
Aged about 34 years, Staff Nurse,
W/o Shri Justin Ravi,
H.No.B-36, Ground Floor, Matiala
Extension, Uttam Nagar,
New Delhi-110059.
21. Ms. Mutum Baleka Devi,
Aged about 38 years, Staff Nurse,
D/o Shri M. Brajamari Singh,
R/o Patsoi, Part One(1), N.C. Road,
P.O. G.C.C.R.P.F.,
Langjing, Imphal-795113 (Manipur).

22. Smt. Sreeja Unni,
Aged about 30 years, Staff Nurse,
W/o Shri Sreekanth Menon,
H.No.315-D, L.I.G. Flats, G.T.B.
Enclave, Pocket-E, Nand Nagari,
Delhi-110093.
23. Ms. Rebeka,
aged about 36 years, Staff Nurse,
D/o Shri Sunday Peter,
H.No.C-22/B, I.I.G. Flats,
Brij Vihar, Post Chander Nagar,
Distt. Ghaziabad (UP).
24. Smt. Suman Bai Kadalya,
Aged about 38 years, Staff Nurse,
W/o Shri Brahma Dutt Yadav,
H.No.42/84, Gali No.61,
Ragarpura, Karol Bagh, New Delhi.
25. Smt. Gurvinder Kaur,
Aged about 38 years, Staff Nurse,
W/o Shri J.M. Singh,
Plot No.2, H.No.434, 2nd Floor,
Sector-11, Dwarka, New Delhi.
26. Ms. Monika,
aged about 30 years, Staff Nurse,
D/o Shri Krishna Jaspal,
H.No.666, Mundka, Delhi-110041.
27. Smt. Elizabeth Abraham,
Aged about 34 years, Staff Nurse,
W/o Mr. Rajeev P., H.No.C-204,
First Floor, DDA Flats, Kalkaji,
New Delhi-110019.
28. Ms. Soram Dhanata Devi,
Aged about 39 years, Staff Nurse,
D/o Shri S. Babu Singh,
H.No.2973/12, Ranjit Nagar,
New Delhi-110008.
29. Ms. Upasana Sharma,
Aged about 29 years, Staff Nurse,
D/o Shri Kuldeep Sharma,
H.No.3/3, East Guru Angad Nagar,
New Delhi-110008.

30. Ms. Garima Pursani,
Aged about 30 years, Staff Nurse,
D/o Shri Pars Ram Parsani,
H.No.3/226, Subhash Nagar,
New Delhi-110027.
31. Smt. Ranju Kumari,
Aged about 44 years, Staff Nurse,
W/o Shri Anant Kumar,
H.No.WZ-314, Narayana Village,
New Delhi-110028.
32. Shri Lal Chand Gurjar,
Aged about 41 years, Staff Nurse,
S/o Shri Parmanand Gujar,
H.No.P-22, Chankay Part-II, Near C-1,
Janak Puri, Uttam Nagar, New Delhi.
33. Smt. Ambika,
Aged about 38 years, Staff Nurse,
W/o Shri Hemant Kumar,
H.No.C-173, Pandav Nagar,
Delhi-110092.
34. Smt. Neera Prabha,
Aged about 38 years, Staff Nurse,
W/o Shri Patrik Kujur,
H.No.45/6, Gali No.110/112,
B-Block, Sant Nagar, Burari, Delhi.
35. Smt. B. Hebzibah,
Aged about 39 years, Staff Nurse,
W/o Shri Victor Sanut,
H.No.82/83, Sector B-7, Rohini, Delhi.
36. Smt. Jobita George,
Aged about 36 years, Staff Nurse,
W/o Shri Shiv Varma,
H.No.107, Gali No.08, East Guruangad
Nagar, Near Gurudwara, Delhi.
37. Ms. Rupinder Kaur,
Aged about 30 years, Staff Nurse,
D/o Shri Tarjeet Singh,
H.No.1/6077, East Rohtas Nagar,
Shahdara, Delhi-32.

38. Ms. Dhanya O.S.,
Aged about 33 years, Staff Nurse,
D/o Shri Murali Sankaran,
Flat No.202, Grace Apartment, RZ-8,
Gali No.5, Rajnagar Part-1,
Palam Colony, New Delhi.
39. Ms. Parminder Kaur,
Aged about 33 years, Staff Nurse,
D/o Shri Tarsem Singh,
H.No.T-510/C, 71, Ground Floor,
Baljeet Nagar, West Patel Nagar,
Delhi-110008
40. Ms. Shamjetshabnam Madhumati,
Aged about 33 years, Staff Nurse,
D/o Shri Shamjetshabam,
H.No.2625, 1st Floor, Gali No.,2,
Shadipur Main Bazar, Patel Nagar,
New Delhi-110008.
41. Ms. Bharati Nayak,
Aged about 40 years, Staff Nurse,
W/o Shri Samarendra Nayak,
H.No.432, F.F. Sunlight Colony-2,
Hari Nagar Ashram, New Delhi-14.
42. Shri Muneer Ahmad Naqvi,
Aged about 42 years, Staff Nurse,
S/o Shri Muzaffer Hussain,
H.No.E/12/20 A, IIIrd Floor,
Hauz Rani, Malviya Nagar,
New Delhi.
- ...Applicants

(By Advocate: Sh. Amit Kumar)

VERSUS

Union of India through:

1. C.K. Mishra,
The Secretary,
Ministry of Health and Family Welfare
(Nursing Section), Nirman Bhawan,
New Delhi-110001.

2. Dr. Jagdish Prasad,
The Director General of Health Services,
Directorate General of Health Services,
Government of India,
Nirman Bhawan, New Delhi-110001.
 3. Dr. (Prof.) A.K. Mukherjee,
The Medical Superintendent,
Dr. Ram Manohar Lohia Hospital,
New Delhi. ...Respondents
- (By Advocate: Sh. Rajender Nischal Dr. Ch. Shamsuddin Khan)

O R D E R

By Hon'ble Ms. Aradhana Johri, Member (A):

The applicants, who are Staff Nurses, along with others filed OA No.2570/2014 seeking following main reliefs:-

- (i) *to grant them "salary, allowances, leave and other monetary benefits in the nature of basic pay in the applicable grade to post of Staff Nurse + Grade Pay + Dearness Allowance + House Rent Allowance + Travel Allowance + Washing Allowance + Nursing Allowance as well as Casual Leave, Earned Leave, Medical Leave entitlements including benefits under the Maternity Benefits Act, 1967 at par with regularly appointed Staff Nurses of Respondent No.3;*
- (ii) *to revise their pay on a par with regular Staff Nurses w.e.f. their respective dates of initial engagement on contract basis."*

The OA was allowed by this Tribunal vide order dated

23.02.2017 with the following directions:-

"5.2 However, if some provision of the contract is found to be unconscionable or attracts the frown of section 23 of the Contract Act 1872, the same cannot be legally sustained. In the instant case, the contractual monthly remuneration of Rs.17,140/- (consolidated) can only be said to be unconscionable, rather immoral. In this view of the matter and also keeping in view the identity in quality and quantity of work being performed by the applicants and regular Staff Nurses, we are of the view that the respondents can be directed to revise the same and pay to the applicants the salary, allowances and other perquisites as admissible to regular Staff Nurses on their initial appointment. And, we hereby so direct. The arrears due to

the applicants 14 w.e.f. the date of filing of this OA shall be calculated and paid within four weeks from the date of receipt of a copy of this Order.”

2. Against non-compliance of the Tribunal's aforesaid order, the applicants filed this Contempt Petition. On 29.04.2019, the respondents stated that they had already partly complied with the orders of this Tribunal by issuing office order dated 19.03.2019. They further stated that Hon'ble High Court of Delhi was seized of the matter in WP (C) No.12632/2018 filed by them.

3. In view of pendency of the matter before the Hon'ble High Court, the Tribunal vide order dated 29.04.2019 closed the CP and discharged notices with liberty to the applicants to avail remedies, in accordance with law, once the WP(C) is finally disposed off. The said Writ Petition was dismissed by the Hon'ble High Court vide order dated 15.07.2019 whereby the order of the Tribunal was upheld.

The relevant portion of the order reads as under:-

“7. We see no reason to take a different view than the earlier view taken by this court and coordinate Division Bench of this Court. We may also add that the SLP filed against the decision in the case of Victoria Massey (supra), was dismissed.

8. Consequently, we find no merit in this petition and no infirmity in the order passed by the Tribunal. Therefore, the writ petition as well as the pending applications are dismissed.”

4. Consequently, the applicants filed MA No.2589/2019 for reviving the CP, which was allowed by the Tribunal vide order dated 16.08.2019 and the CP was revived.

5. In the meantime, the respondents challenged the order of the Hon'ble High Court before the Hon'ble Apex Court by way of SLP No.46635/2019, which is still pending. On 31.01.2020, the Hon'ble Apex Court passed the following order:-

"Delay condoned.

Issue notice returnable in four weeks.

We have been informed that the contractual staff nurses have been paid minimum of the scale which roughly amounts to Rs.50,000/- (Basic +D.A.). The dispute pertains to the other allowances.

Stay of the operation of the other allowances in the meanwhile."

6. It is clear from the above that the first part of the relief, which pertains to salary equivalent to the minimum of the scale, has been settled. The Hon'ble Apex Court has stayed the operation of this Tribunal's order pertaining to "other allowances".

7. In light of the order of the Hon'ble Apex Court, this CP does not sustain and the same is accordingly closed. Notices are discharged. However, the applicants are at liberty to avail their remedies, in accordance with law, once the SLP is finally disposed of.

(Aradhana Johri)
Member (A)

(Justice Vijay Lakshmi)
Member (J)

/AhujA/