

**Central Administrative Tribunal
Principal Bench**

OA No. 4627/2014

With

OA No. 1650/2016

New Delhi, this the 05th day of March, 2020



**Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Mr. A.K. Bishnoi, Member (A)**

OA No. 4627/2014

1. Manju Kalgoankar
Technical Assistant (Retd.)
W/o Sashi Kant Kalangar
Aged 61 years
R/o 73- Vikas Sheel Apartment
Sector-3, Rohini, New Delhi.
2. Mahesh Arora
Technical Assistant (Retd.)
W/o Inder Mohan Arora
Aged 60 years
R/o 242, Vishwas Apartment, Plot No. 6A
Sector 23, Dwarka
New Delhi-110075.
3. Chander Kant Kapoor
Technical Assistant (Retd.)
W/o S.N. Kapoor
Aged 61 years
R/o C-3/298
Yamuna Vihar, Delhi-110053.
4. Mr. Kamlesh Gupta
Technical Assistant (Retd.)
D/o late Shri P.L. Gupta
E-120, Amar Colony
Lajpat Nagar IV, New Delhi-110024.
5. Suresh Chand Relhan
Technical Assistant (Retd.)

S/o late J.N. Relhan
400, Sudhana Nagar, Sonipat, Haryana. ...Applicants

(through Sh. N.M. Verghese)

Versus

1. Govt. of NCT of Delhi
Through its Chief Secretary
Delhi Secretariat, New Delhi.
2. The Additional Secretary (H)
Health & Family Welfare Department
TRC, 9th Level A-Wing
Delhi Secretariat, New Delhi.
3. Dean
Maulana Azad Medical College
Bahadur Shah Zafar Marg, New Delhi.
4. The Secretary
Department of Expenditure
Ministry of Finance, Govt. of India
North Block, New Delhi.
5. The Secretary
Department of Health & Family Welfare
Govt. of India, Nirman Bhavan, New Delhi.

...Respondents

(through Ms. Alka Sharma for R. Nos. 1, 2 and 3 and Sh. Gyanendra Singh)

OA No. 1650/2016

1. Savita Sharma, aged 62 years
Technical Assistant (Retd.)
W/o V.K. Sharma
MAMC, New Delhi-2
Presently residing at
B-408, Navin Apartment
Dwarka, New Delhi-75.
2. Sam Mathew, aged 66 years
Technical Assistant (Retd.)
S/o late K.O. Mathew
MAMC, New Delhi



Presently residing at
H.No. 17, Rajpur Khurd Extension
Chattarpur, New Delhi-68.

3. Radhey Shyam Gupta, aged 68 years
Technical Assistant (Retd.)
S/o late V.P. Gupta
MAMC, New Delhi-2
Presently residing at
Flat No. 100, Siddharth Niketan
Sector 14, Kaushambi, Ghaziabad, UP-201010.
4. Shiv Kumar Dixit, aged 66 years
Technical Assistant (Retd.)
S/o late K. Dixit
MAMC, New Delhi-2, presently residing at
D-3, Street No. 8, Jyothi Colony
Shahdara, Delhi-110032.

...Applicants

(through Sh. N.M. Verghese)

Versus

1. Govt. of NCT of Delhi
Through its Chief Secretary
9th Level, A-Wing, Delhi Secretariat, New Delhi.
2. The Principal Secretary (H)
Health & Welfare Department
9th Level A-Wing
Delhi Secretariat, New Delhi.
3. The Secretary
Department of Expenditure
Ministry of Finance, Govt. of India
North Block, New Delhi.
4. Director General
Directorate of General Health Services
Ministry of Health and Family Welfare
Nirman Bhavan, New Delhi.
5. The Secretary
Department of Health & Family Welfare
Govt. of India, Nirman Bhavan, New Delhi.
6. The Dean
Maulana Azad Medical College



Bahadur Shan Zafar Marg, New Delhi.

7. The Deputy Director
Maulana Azad Medical College
Bahadur Shah Zafar Marg, New Delhi. ...Respondents

(through Sh. Amit Yadav and Sh. Gyanendra Singh)

ORDER (ORAL)



Justice L. Narasimha Reddy, Chairman :-

In these two OAs, common questions of law are involved.

Hence, they are disposed of by passing a common order.

2. The applicants were holding various Lab related posts in the Maulana Azad Medical College, under the administration of Government of NCT of Delhi. Before the recommendation of the Vth Central Pay Commission (CPC), the arrangement was that there existed posts of (a) Laboratory Assistant (b) Laboratory Technician (c) Technical Assistant and (d) Technical Supervisor, with different scales of pay. It is stated that on the recommendations of the VIth CPC, the pay scales attached to the post of Laboratory Technician on the one hand, and Technical Assistant on the other hand, were merged. The applicants contend that the stipulation of the same scale of pay for the feeder category as well as promotional category is totally opposed to law.

3. Earlier the applicants approached this Tribunal by filing OA No. 2615/2003. The prayer was to upgrade the pay scale of the

Technical Assistant from Rs. 4500-7000/- to Rs. 5500-9000/-. The OA was disposed on 28.10.2003 directing the respondents to address the grievance of the applicants. In compliance with the same, the Government of Delhi issued an order dated 31.12.2004 narrating the various developments and stating that the request cannot be acceded to. Thereafter, the applicants are said to have made representations. This OA is filed with a prayer to direct the first respondent to submit a comprehensive proposal to the fourth respondent for correction of the anomaly and to direct the respondents to issue appropriate proceedings, revising the pay scale of the Technical Assistant, with reference to the recommendations of the Vth and VIth CPC.



4. The applicants contend that when the two posts, namely, Laboratory Technician and Technical Assistant carry different scales of pay, there was no basis for stipulation of the same scale of pay for both of them.

5. The respondents filed counter affidavit opposing the OA. It is stated that the OA cannot be maintained at this length of time, seeking relief in relation to the recommendations of the Vth CPC. It is also stated that the pay structure was fixed, taking into account, all the relevant factors and meddling with the same at this stage would lead to several complications.

6. We heard Sh. N.M. Verghese, learned counsel for the applicant, Sh. Gyanendra Singh, Ms. Alka Sharma and Sh. Amit Yadav, learned counsel for the respondents.



7. This is the second round of litigation by the applicants and the issue is more than 15 years old. After the recommendations of the Vth CPC were implemented, two more Commissions came to be appointed. The applicants did not place before us, the Recruitment Rules for the hospital. What is available on record, is the structure of establishments in certain other hospitals where, the hierarchy of the posts is substantially different from the one indicated above. For example, in the Lab Staff itself, there are two separate categories and three sub categories to each of them. Lab Assistant- III, II and I and Lab Technicians-III, II and I, all with different scales of pay are indicated in the establishments of Central Government hospitals. The one that is prevailing in the Maulana Azad hospital is not placed before us.

8. Assuming that the two posts, one of which is the feeder category for the other were merged, there is nothing extraordinary about it. An employee can have genuine grievance, if only, pay scale attached to the post held by him is altered or reduced to his detriment. The mere fact that the same scale of pay is attached to a merged post should not be a matter of concern to him. At any rate, the order dated 31.12.2004 is not challenged and the applicants have since retired from service, and before retirement, they moved on to higher posts. The relief cannot be granted in respect of a position which the applicants held for a brief interval, long ago.

9. We do not find any merit in the OA and accordingly, the same is dismissed. There shall be no order as to costs.

(A.K. Bishnoi)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

/ns/

