

**Central Administrative Tribunal
Principal Bench, New Delhi**

O.A. No.1853/2020

M.A. No.2381/2020

With

O.A. No.1435/2020

Tuesday, this the 15th day of December, 2020

Through video conferencing

Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Mr. Mohd. Jamshed, Member (A)

O.A. No.1853/2020

1. Mahendar Singh
Nursing Officer,
Emp Code:3055
Dr. Ram Manohar Lohia Hospital,
Baba Khark Singh Marg,
Near Gurudwara Bangla Sahib,
Connaught Place,
Delhi 110001

2. Sheeba Jiji
Nursing Officer,
Emp Code: 4719
Dr. Ram Manohar Lohia Hospital,
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3. Jitendra Kumar Yadav,
Nursing Officer,
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4. Divya Yadav,
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5. Jyoti,
Nursing Officer,
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6. Neila Mary Alex,
Nursing Officer,
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7. Avinash Kumar Kalal,
Nursing Officer,
Emp Code: 3102
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8. Anil Kumar Sharma,
Nursing Officer,
Emp Code: 3057
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9. Adarsh Yadav,
Nursing Officer,
Emp Code: 1154
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10. Priscilla Zammuanchning,

Nursing Officer,
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11. SubyJohnfy,
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12. Sulaja P.S.,
Nursing Officer,
Emp Code: 5491
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13. Sangita Singh,
Nursing Officer,
Emp Code: 4741
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14. Pratibha Surehatia,
Nursing Officer,
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15. Poonam Tiwari,
Nursing Officer,
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16.Kavita Pal,
Nursing Officer,
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17.Parvinder Sawhney,
Nursing Officer,
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18. Rajesh Sonwal,
Nursing Officer,
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19.Geeta,
Nursing Officer,
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20. BincyEbyIsac,
Nursing Officer,
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21.Kavita Seth,

Nursing Officer,
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22. Ravindra Kumar Yadav,
Nursing Officer,
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23. Alpana Kariti,
Nursing Officer,
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24. A. Evelyn
Nursing Officer,
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25. Yogesh Kumar Jangir,
Nursing Officer,
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26. Nisha Tandon,
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27. Urmila Kumari,
Nursing Officer,
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28. Rakhi Satone
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29. Jyoti Tyagi
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30. Sunita Yadav
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31. Priyanka
Nursing Officer,
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32. MaharabamKiranbala Devi
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33. Pushpa Bhandari
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34. Usha Sharma
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35. Meharban Singh
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36. Pratibha Lodhi
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37. AnujaJith
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38. Navneet Kaur Mehta
Nursing Officer,
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39. Nisha Sagar
Nursing Officer,
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40. Bharti
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ADDRESS FOR SERVICE:

Mr. Jose Abraham,
Advocate,
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.. Applicants

(Through Mr. M P Srivignesh, Advocate)

Versus

1. Union of India,
Through its Secretary,
Ministry of Health and Family Welfare
'A' Wing, Nirman Bhavan,
New Delhi-110011
2. Dr. Dr. Ram Manohar Lohia Hospital
Through its Director & Medical Superintendent
Baba Khark Singh Marg,
Near Gurudwara Bangla Sahib,
Connaught Place,

Delhi- 110001

.. Respondents

(Through Mrs. Anupama Bansal, Advocate)

O.A. No.1435/2020

Mr. Ramesh Chand Yadav,
Nursing Officer,
Emp Code: 2439,
Dr. Ram Manohar Lohia Hospital,
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ADDRESS FOR SERVICE:

Mr. Jose Abraham,
Advocate,
D-144-A, Harinagar,
Ashram, New Delhi – 110014.

.. Applicants

(Through Mr. M P Srivignesh, Advocate)

Versus

1. Union of India,
Through its Secretary,
Ministry of Health and Family Welfare
'A' Wing, Nirman Bhavan,
New Delhi-110011
2. Dr. Dr. Ram Manohar Lohia Hospital
Through its Director & Medical Superintendent
Baba Khark Singh Marg,
Near Gurudwara Bangla Sahib,
Connaught Place,
Delhi- 110001

.. Respondents

(Through Mr. Ashish Rai, Advocate)

ORDER (ORAL)

Mr. Justice L. Narasimha Reddy:

M.A. No.2381/2020 in O.A. No.1853/2020 filed for joining together is allowed.

2. The applicants were working as Nursing Officers, in the hospital establishment of Central Government. In the year 2005, a memorandum was issued conferring the benefit of incentive increment on such of the Nursing Officers, who passed B.Sc. in Nursing, in addition to Diploma in General Nursing and Midwifery (GNM). The Rules, however, were amended in the year 2014. The applicants acquired the B.Sc. in Nursing in the year 2015. They are extended the benefits of incentive increment. However, at a later stage, the authorities of the hospital sought clarification from the Ministry of Health & Family Welfare. Through an order dated 06.08.2019, the Ministry clarified that the Nursing Officers, who have acquired B.Sc/B.Sc. (Hon)/Post Basic B.Sc. in Nursing prior to 12.08.2014, are entitled to incentive increment. It was also mentioned that under the amended Rules, the B.Sc. in Nursing (Post Basic) is made one of the qualifications for appointment and in that view of the matter, it cannot be treated as basis for incentive, once the Rules came into effect. These O.As. are filed challenging the clarification dated 06.08.2019.

3. The applicants contend that they were appointed before the new Rules of 2014 came into effect, and accordingly they are entitled to the benefit of incentive increment. Various other contentions are also raised.

4. We heard Mr. M P Srivignesh, learned counsel for applicants, Mrs. Anupama Bansal, learned counsel for respondents in O.A. No.1853/2020 and Mr. Ashish Rai, learned counsel for respondents in O.A. No.1435/2020, through video conferencing.

5. The challenge in these O.As. is to the memorandum dated 06.08.2019. It is not in dispute that the respondents issued a memorandum in the year 2005, providing for incentive to such of the Nursing Officers, who acquired B.Sc. in Nursing (Post Basic). That was at a time when the educational qualification for appointment to the post of Nursing Officer was GNM Diploma. Naturally, the superior qualification acquired by the serving Nursing Officers was treated as a basis for granting incentive increment. However, once that very superior qualification is made essential for appointment, the question of treating it as basis for incentive, does not arise. Things would have been different altogether, had the applicants acquired the qualification of B.Sc. in Nursing before the Rules of 2014 came into force. It is a matter of record that the applicants acquired the qualification of B.Sc. in Nursing in 2015. No exception can

be taken to the clarification issued by the respondents or the consequential steps. However, the respondents cannot recover the amount, if any, already paid to the applicants as incentive for acquiring the qualification of B.Sc. in Nursing.

7. The O.As. are accordingly disposed of. There shall be no order as to costs.

(Mohd. Jamshed) (Justice L. Narasimha Reddy)
Member (A) Chairman

December 15, 2020
/sunil/ns/sd