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Central Administrative Tribunal
Principal Bench, New Delhi.

gS

Pre-delivery order in OA-2847/2004 with OA-463/2005 and OA-231/2005 is sent herewith for kind consideration.

With regards,

I agree
Pragya
27.2.2015

(Shekhar Agarwal)
Member (A)
27.02.2015

Hon'ble Sh. A.K. Bhardwaj, M(J)

Central Administrative Tribunal
Principal Bench, New Delhi.

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OA-2847/2004

With

OA-463/2005

OA-231/2005

Reserved on : 25.02.2015.

Pronounced on : 27.02.15

Hon'ble Mr. A.K. Bhardwaj, Member (J)
Hon'ble Mr. Shekhar Agarwal, Member (A)

OA-2847/2004

1. Sh Baldev Raj
S/O Sh Shankar Dass
r/o A-76 Suraj Mal Vihar
Delhi-92
2. Sh Ram Dhari Sharma
S/O Late Sh Phullu Ram Sharma
r/o 222, Sharda Niketan,
New Delhi-34
3. Rajender Prasad Gaur
S/O Late Sh Nain Singh
r/o C-33/B Gali No 4, Jagatpuri Extn,
Delhi-93
4. Pratap Singh Gupta
S/O Late Sh. Dungar Mal Viash
r/o C-5A/209 Janakpuri, New Delhi-58
5. Vishwanath Sharma
144, Sharda Niketan
Saraswati Vihar,
New Delhi.
6. Sh Khazan Singh
S/O Late Sh. Inderaj,
r/o VPO – Bijawasan, Delhi-61.
7. Smt. Sushila Devi,
r/o 51/16, Old Rajender Nagar,
Delhi.

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8. Sh. Daya Nand
s/o Sh Ram Chander
r/o 1/3363, Ram Nagar Ext., Delhi-32.
9. Sh Ram Kumar Tayagi
S/O Sh Mukund Lal,
r/o 414, Gali No. 1, Braham Puri,
Delhi-53.
10. Sh. Virender Kumar Gupta,
S/O Sh Khushi Ram,
r/o 27/111, Gali No. 7, Vishwash Nagar,
Delhi-92.
11. Sh Braham Singh Yadav,
S/O Sh H. S. Yadav,
r/o C-296 Suraj Mal Vihar
Delhi-92.
12. Sh. Om Dutt Sharma,
s/o Sh Birbal Dutt Sharma,
r/o 8-A New Layal Pur Colony
Delhi-51.
13. Smt. Parmeshwari Sahai,
w/o Sh. Mahabir Sahai,
r/o C-128, Suraj Mal Vihar,
Delhi-92.
14. Sh. Manohar Lal,
s/o Late Sh. Yadram,
r/o WZ-35 Posangipur,
Delhi-58.
15. Sh Raghuvir Saran Sharma,
s/o Sh. Kazan Singh,
R/o C-12, North Ghonda,
Delhi-53.
16. Sh. Daya Chand Attray,
s/o Sh. M. S. Attray,
r/o D-94, Suraj Mal Vihar,
Delhi-92.
17. Sh. P. K. Saxena,
S/O Late Sh. D. P. Saxena,
r/o C-275, Suraj Mal Vihar,

88

Delhi-92.

18. Sh Duli Chand Sharma,
s/o Sh. Radhey Lal,
r/o D-688, Saraswati Vihar,
Delhi-34.
19. Sh. K. C. Sharma,
s/o Sh. Balwant Singh,
r/o B-24/1 Arjun Mohalla,
Maujpur, Delhi-92
20. Sh. M. P. Sharma,
s/o Sh. Har Prasad Sharma,
r/o C5A-207 Janak Puri,
Delhi.
21. Sh. M. K. Chaddha,
s/o Late Sh. Mulkh Raj,
r/o 28-B, Ram Nagar,
Tilak Nagar,
Delhi-92.
22. Sh. R. S. Rawat,
s/o Sh. M. S. Rawat,
r/O B-160, Suraj Mal Vihar,
Delhi-92.
23. Smt. Sushila Devi,
w/o Late Sh. J. S. Sharma,
Delhi.
24. Sh. Ram Lal Verma,
s/o Sh. Tula Ram,
r/o 96, Sun light Colony II,
Hari Nagar,
Delhi-92.
25. Sh. Krishan Mohan Gupta,
s/o Sh. Chander Sain Gupta,
r/o 27/361, Vishwash Nagar,
Delhi-32.
26. Sh. R. S. Yadav,
r/o 1/5142, Balbir Nagar,
Shahdara, Delhi-32.
27. Sh. B.S. Tayagi,

9

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s/o Sh. G. S. Tayagi,
r/o B-144, Suraj Mal Vihar,
Delhi-92.

28. Smt. Prem Vati,
w/o Sh. Sansar Singh,
r/o C-163, Suraj Mal Vihar,
Delhi-92.

29. Sh. Ziaul Hasan,
s/o Sh. Mizhar Hasan,
r/o RZS Khushi Ram Park,
Om Vihar, Uttam Nagar,
Delhi-59.

30. Sh Jainarain Gautam,
r/o 131A/1, Yusuf Sarai,
Delhi-16.

31. Sh. S. P. Bhatia,
s/o Late Sh. Bhagat Ram Bhatia,
r/o A1B/45, Janak Puri,
Delhi.

32. Sh. Suraj Mal Sharma,
r/o 135, Main Road, Moujpur,
Delhi-53.

33. Sh. Shiv Chander Sharma,
s/o Sh. Tikka Ram Sharma,
r/o B-28, Nav Rachna Apartment,
Delhi-32.

34. Sh. Shri Niwas Suman,
s/o Sh. Bharat Ram Sharma,
r/o C-48, Chnader Nagar,
Delhi-51.

35. Sh Shekhar Jain,
s/o Sh. Sh. R. C. Jain,
r/o B-72 Suraj Mal Vihar,
Delhi-92.

36. Sh. Om Prakash Gupta,
s/o Sh. Mushdi Lal,
r/o 2502, Amar Mohalla,
Old Seelam Pur,
Delhi-31.

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37. Sh. Raj Kumar Gupta,
s/o Sh. Jati Ram Gupta,
R/O A-13/2, Moujpur,
Delhi-53.
38. Sh. Chander Bhan,
s/o Late Sh. Bhoja Ram,
r/o 59/10, Ashok Nagar,
Delhi-18.
39. Sh. K. S. Panwar,
s/o late Sh. Ghasi Ram,
r/o E-244, Naraina Vihar,
Delhi-28.
40. Sh. Ham Chand Sharma,
s/o Late Sh. Tarif Singh Sharma,
r/o WZ-72/2, Mohan Nagar,
Gali No 2, Pankha Road,
Delhi-46.
41. Sh. Parma Nand,
s/o Late Sh. Gordhan Dass,
r/o PP 18, Pitam Pura,
Delhi-34.
42. Sh. Prem Prakash Sharma,
s/o Sh. Bhagat Ram,
r/o K.P. 78, Pitam Pura,
Delhi-34.
43. Sh. Prem Chand Aggarwal,
s/o Sh. Roop Lal,
r/o 35 Sharda Niketan,
Delhi-34.
44. Sh. Om Prakash Counsel,
s/o Sh. Janki Prasa,
r/o 104, New Lajpat Colony,
Delhi-51.
45. Sh Bishan Dass,
s/o Sh. Piyare Lal,
r/o B-35, Suraj Mal Vihar,
Delhi-92.
46. Sh. R.R. Dureja,



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s/o Sh. Sajjan Dass,
r/o C-187, Suraj Mal Vihar,
Delhi-92.

47. Smt. Subash Kumari,
w/o Sh. T. N. Aggarwal,
r/o 32/95, Janak Puri,
Delhi-58.
48. Sh. Pratap Singh Gupta,
s/o Late Sh. Dungarmal Vaish,
r/o C5A-1209, Janak Puri,
Delhi-58.
49. Sh. Bedram Sharma,
r/o G 8/3 Lajpat Nagar Ring Road,
Delhi.
50. Smt. Sudesh Kausal,
w/o Sh. Baldev Raj,
r/o A-76, Suraj Mal Vihar,
Delhi-92.
51. Sh. Ramesh Chand Sharma,
s/o Sh. Hari Prasad Sharma,
r/o 6, Malook Singh Marg,
Arjun Nagar, Delhi-51.
52. Sh. Ram Bhoop Sharma,
s/o Sh. Mushadi Lal Sharma,
r/o 5417, Old Seelam Pur,
Delhi-31.
53. Sh. K. B. Pathak,
s/o Late Sh. S. L. Pathak,
r/o A5/16, Paschim Vihar,
Delhi-63.
54. Sh. Hari Ram,
s/o Late Sh. Ram Chand,
r/o VPO Bijwasan, Nayak Pana,
Delhi-61.
55. Sh. Diwan Singh Yadav,
s/o Late Sh. Lilapal Singh Yadav,
r/o B-80 Ganesh Nagar,
Delhi-18.

6

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56. Sh. Kishori Lal Rohila,
s/o Late Sh. Kallu Ram Rohilla,
r/o H.No. 212, VPO Bijwasan,
Delhi-61.
57. Smt. Satayawati Arora,
w/o Sh. Ved Pal Arora,
r/o B-263, Suraj Mal Vihar,
Delhi-92.
58. Sh. B.S. Singla,
s/o Sh. Bidhi Chand,
Delhi.
59. Sh. Bharat Singh Garg,
s/o Late Sh. Ram Chander,
r/o E-859, Saraswati Vihar,
Delhi-34.
60. Sh. Davinder Nath,
r/o 185 Anand Vihar,
Delhi.
61. Smt. Kamla Chadha,
w/o Sh. Sudarshan Chadha,
r/o 126, Sharda Niketan,
Delhi-34.
62. Sh. Rajender Pal Sharma,
s/o Late Sh. Nakul Singh,
r/o B-71, Hari Nagar,
Delhi-64.
63. Sh Jagdish Chand Pothiyal,
s/o Sh. Shankar Dutt,
r/o C-165, Suraj Mal Vihar,
Delhi-92.
64. Sh. Girdhari Lal Sharma,
s/o Sh Harbans Lal,
r/o F-30, West Jyoti Nagar,
Delhi-93.
65. Sh. Anup Dutt Sharma,
s/o Sh. Harswario Sharma,
r/o 4927, Balbir Nagar Ext.,
Delhi-32.

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66. Sh. Vidya Sagar Sharma,
s/o Sh. Murli Dutt Sharma,
r/o 1/10207, West Gorakh Park,
Delhi-32.
67. Sh. Malkhan Singh,
s/o Sh. Harbakash Singh,
r/o Vill. Gotra, P.O. Khekra,
Baghpat, U.P.
68. Sh. R. C. Sharma,
s/o Late Sh. K. L. Sharma,
r/o A4C/80, Janak Puri,
Delhi-58.
69. Sh. S. M. Walia,
r/o 127, Sharda Niketan,
Delhi-34.
70. Sh Mansa Ram Verma,
s/o Sh. Bhagat Singh,
r/o F-47 Braham Puri,
Delhi-53.
71. Sh. J. M. Joshi,
r/o 304/1 Lajpat Nagar, New Rly. Road,
Gurgaon, Haryana.
72. Sh. Ram Pal Sharma,
s/o Sh. Sardar Mal Sharma,
r/o 117, Baldev Park,
Delhi-51.
73. Sh. Prem Narain Sharma,
r/o 40, Nimri Colony,
Delhi-52.
74. Sh. Harish Chander,
r/o 199, Tarun Enclave,
Delhi-34.
75. Sh. Daryao Sigh,
s/o Late Sh. Karan Singh,
r/o C-48, Jeewan Park, Pankha Road,
Delhi-59.
76. Sh. Vishawa Nath Sharma,
s/o Sh. N.S. Sharma,

99

r/o 1/13, Vishwas Nagar,
Delhi.

77. Sh. Ram Saran Tyagi,
s/o Sh. Raghubir Singh,
r/o B-2/441, Yamuna Vihar,
Delhi-53.

78. Sh. Raghunandan Prasad Sharma,
s/o s/o Sh. Ram Chander,
r/o 117-A, Baldev Park,
Delhi-51.

79. Sh Gopilal Sharma,
s/o Sh Girwar Singh,
r/o 18, New Loyal Pur Colony,
Delhi-51.

80. Sh. Bhagirath Singh Verma,
s/o Sh. Piyare Lal,
r/o 383/1, East Azad Nagar,
Delhi-51.

81. Sh. Amarjit Singh,
s/o Sh. Mula Singh,
r/o C1A/10C, Janak Puri,
Delhi-58.

82. Sh. B.C. Vashist,
s/o late Sh. Chet Ram,
r/o D2/64, Janak Puri,
Delhi-58.

83. Sh Jai Ram Sharma,
s/o late Sh. Mange Ram,
r/o 75/4 Udayan Pana, Narela,
Delhi-41.

84. Sh. A. S. Singal,
s/o Sh Vasudev Sahai,
r/o 1/4891, Baldev Extension,
Delhi-32.

85. Sh. H.C. Kaushik,
s/o Sh. Lakhi Ram,
r/o 1/5338, Balbir Nagar Ext.,
Delhi.

86. Smt. Asha Rani Dureja,

9

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w/o Sh. Kishorilal Dureja,
r/o C-166, Suraj Mal Vihar,
Delhi-92.

87. Smt. Sulachna Maini,
w/o Sh. P. K. Maini,
r/o B-139, Suraj Mal Vihar,
Delhi-92.

88. Sh. S. S. Parmar,
s/o Late Sh. Pirthi Singh,
r/o D-2/106, Janak Puri,
Delhi-58.

89. Sh. Ram Dhari Sharma,
s/o Sh. Phulu Ram Sharma,
r/o 222, Sharda Niketan,
Delhi-34.

90. Sh. Mahender Singh,
s/o Sh. Sadhu Singh,
r/o 497, Nimri Colony,
Delhi-52.

91. Sh. Om Prakash Verma,
r/o 3935, Gali Attiran Pahri Dhiraj
Delhi-06.

92. Sh. Bhagirath Sharma,
s/o Sh Girdhari Lal Sharma,
r/o C-9/64, Yamuna Vihar,
Delhi.

93. Sh. Govind Prasad Sharma,
s/o Sh. B. S. Sharma,
r/o 67, New Loyal Pur Colony,
Delhi-51.

94. Sh. Nanak Chand Gupta,
s/o Sh. Ramji Lal
r/o 3057, Gali No 4, Ragubarpura-2,
Delhi-31.

95. Sh. Charan Singh,,
s/o Sh. Mukhtiyar Singh,
r/o A-32, Defence Colony, Bhojpura,
Ghaziabad, U.P.

96. Sh. Randhir Singh Panwar,

9

96

s/o Sh. Ram Singh,
r/o D5 Gokul Pur Village,
Delhi-94.

97. Sh. Moti Lal,
r/o 80, Sharda Niketan,
Delhi-34.

98. Sh. Harish Chander,
s/o late Sh Pyare Lal,
r/o A2A/147 Janak Puri,
Delhi-58.

99. Sh. Ranbir Singh,
s/o late Sh. Jaswant Singh
r/o 252 Kangra Niketan,
Delhi-18.

100. Sh. R. A. Sharma,
r/O A2A/39 DDA Flat,
Delhi.

101. Sh. Baljor Singh Rana,
s/o Sh. Sukhi Ram,
r/o A-12/1, Moujpur,
Delhi-53.

102. Sh. Bhagwan Aggarwal,
s/o Sh. Raguveer Saran,
r/o 42, Baldev Park,
Delhi-51.

103. Sh. Dharam Pal Singh,
s/o Sh. Charan Singh,
r/o C-202, Suraj Mal Vihar,
Delhi-92.

104. Sh. S. N. Gaur,
s/o Sh. Jog Rami,
Delhi.

105. Sh. Satpal Thakur,
s/o Sh. Keshav Dev,
r/o 227, Dayanand Vihar,
Delhi-92.

106. Sh. Deen Dayal Sharma,
s/o Sh Gokhol Chand,

9

92

r/o 1/4909, Gali No 7,
Balbir Nagar, Shahdara,
Delhi.

107.Sh. Mahesh Chandra,
s/o Sh. Khub Chand,
r/o 176/2, South Anarkali,
Delhi.

108.Sh. Rameshwar Dayal Sharma,
s/o Sh. Harbans Lal,
r/o x/2435, Raguvapura,
Delhi-31.

109.Sh. Mahabir Prasad Sharma,
s/o Sh. Sohan Lal,
r/o 3415, Gali No. 1, Raguvarpura,
Delhi-31.

110.Sh. Kishan Chand Udar,
s/o Sh Mam Chand,
r/o VPO Bharthal,
Delhi-45.

111.Mrs. Parveen Kanwar,
w/o Sh. D. S. Kanwar,
r/o A3/151, Janak Puri,
Delhi-58.

112.Sh. Jage Ram,
s/o late Sh. Chandgi Ram,
r/o VPO Sahabad Mohdpur,
Delhi-61.

113.Sh. Brij Bhushan Sharma,
r/o 1/5359, Balbir Nagar Ext.,
Delhi-32.

114.Sh. R. C. Gupta,
r/o E-1083, Sarwati Vihar,
Delhi-34.

115.Sh. Murari Lal Sharma,
r/o C-8/64, Yamuna Vihar,
Delhi-53.

116.Sh. Dayanand Dabas,
r/o B 46 Asha Park,

6

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Delhi-18.

117. Sh. Mahabir Singh Sharma,
s/o Sh. Ram Saran Singh,
r/o 24/2, Bhola Nath Nagar,
Delhi.
118. Sh. V. P. Tyagi,
s/o Sh. Nain Singh,
r/o 415 Ghonda, Brahampuri,
Delhi-53.
119. Sh. Ram Pal Singh,
r/o 34/12. Shalimar Park, Shahdara,
Delhi.
120. Sh. Om Prakash Tejpal,
s/o Sh. Dewan Chand Tejpal,
r/o 86, HIG Duplex, Brij Vihar,
(U.P.)
121. Sh. Pratap Singh,
s/o late Sh. Khushi Ram Singh,
r/o B1/A/35C Janak Puri,
Delhi-58.
122. Sh. Vijay Pal Singh,
s/o late Sh. R. S. Singh,
r/o B1/159, Janak Puri,
Delhi-58.
123. Sh. Radhey Shyam,
s/o Late Sh. Narain Dutt,
r/o 93 VPO Dhasa,
Delhi-73.
124. Sh. Uma Dutt Sharma,
r/o 521/29A, Gali No 5 Vijay Park,
Maujpur, Delhi-31.
125. Sh. Mannu Singh,
s/o Sh. Sadhu Singh,
r/o C-5/185, Yamuna Vihar,
Delhi-53.
126. Sh. Prithvi Singh,
s/o Sh. Kashi Ram,
r/o 15-81, Braham Puri,

6

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Delhi-53.

127.Sh. Gopal Singh Atorry,
s/o Sh. Bhola Singh,
r/o W-38, Babar Pur,
Delhi-32.

128.Sh. Ved Pal Singh,
s/o Sh. Asha Ram,
r/o 29/5-B, Babar Pur,
Delhi-32.

129.Sh. Harikesh Kunte,
s/o Sh Hari Chand
r/o 419, Braham Puri
Delhi-53 .

130.Sh. Babu Ram Verma,
s/o Sh. Dharam Singh,
r/o 1/5563, Balbir Nagar Ext.,
Delhi-32.

131.missing

132.Sh. J. C. Jhamb,
s/o Late Sh. Chaman Lal Jhamb,
r/o C 3/428, Janak Puri,
Delhi-58.

133.Sh. Sukh Dev,
s/o Sh. Hukam Chand,
r/o 18A Ajai Ednclave,
Delhi-18.

134.Sh. Dwarka Nath,
s/o Late Sh. Dayal Dass,
r/o AGI/172A Vikas Puri,
Delhi-58.

135.Sh. Ganeshi Lal Gupta,
s/o Sh. Kusiya Mal,
r/o C-148, Suraj Mal Vihar,
Delhi-92.

136.Sh. Jagan Nath Garg,
s/o Chandi Lal Garg,
r/o 27/48, Vishwash Nagar,
Delhi-32.

9

100

137. Sh. Brahama Nand Sharma,
s/o Sh. Laxmi Chand Sharma,
r/o 9/5111, East Old Seelam Pur,
Delhi.
138. Mrs Kaushiya Ram,
w/o Sh. Shiv Kumar Miglani,
r/o D2/10, Janakpuri,
Delhi-58.
139. Sh. Jagdish Chand Sharma,
s/o Sh Ram Saran,
r/o B-21/4, Arjun Mohalla, Maujpur,
Delhi-53.
140. Sh. Mahender Singh,
s/o Sh. Devi Dutt Sharma,
r/o 177, New Loyal Pur Colony,
Delhi.
141. Sh. Mohan Lal Goyal,
s/o Sh. Jagan Nath Parsad,
r/o 1/7050, Vishnu Marg, Shivaji Park,
Delhi-32.
142. Sh. Laxmi Chander Sharma,
s/o Sh Daley Singh
r/o 5/48, Kunti Marg, Vishwas Nagar,
Delhi-32.
143. Sh. Sekhar Chand Jain,
s/o Sh Ram Chander Jain,
r/o B-72, Suraj Mal Vihar,
Delhi-92.
144. Sh. H. K. Gupta,
s/o Sh. Prem Raj,
Delhi.
145. Sh. Mohan Lal Sharma,
s/o Sh. Inderaj Singh,
r/o 1/7371, East Gorkh Park,
Delhi-32.
146. Sh. V. N. Sharma,
s/o late Sh. Madhu Prasad,
r/o 144, Sharda Niketan,

9

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Delhi-34.

147. Sh. R. S. Yadav,
s/o Sh. Hukmi Ram,
r/o F-76, Saidulabad,
Delhi-30.

148. Sh. Manohar Lal,
s/o Kate Sh Bihari Lal
r/o E-228, Naraina Vihar,
Delhi-28.

149. Mrs. Sarla Kapoor,
w/o Late Sh. Balraj Kapoor,
r/o A3/259, Janakpuri,
Delhi-58.

150. Sh. Rakesh Singh,
s/o Sh. Ram Dass,
r/o A/255 Suraj Mal Vihar,
Delhi-92.

151. Sh. Diwan Chand Gupta,
1/5902, Shahdara,
Delhi-32.

.... Applicants

Versus

1. Union of India through
Secretary,
Ministry of Finance,
Central Secretariat,
New Delhi.
2. Secretary,
Deptt. of Pension and Pensioners Welfare,
DOPT,
Central Secretariat,
New Delhi.
3. Govt. of NCT of Delhi through
Its Chief Secretary,
Players Building,
ITO, New Delhi.
4. Secretary (Finance),
Govt. of NCT of Delhi
Players Building,

6

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ITO, New Delhi.

5. Secretary (Education),
Department of Education,
Govt. of NCT of Delhi,
Players Building,
ITO, New Delhi.
6. The Director of Education,
Directorate of Education,
Behind Old Secretariat,
Delhi.
7. Chief Account Officer,
Govt. of NCT of Delhi,
ITO, New Delhi.

..... Respondents

OA-231/2005

Sh. S.K. Shukla,
S/o late Sh. H.H. Shukla,
R/o E-869, Saraswati Vihar,
New Delhi.
(Formerly Addl. Director of
Education Delhi Administration)

.... Applicant

Versus

1. Union of India through
its Secretary,
Ministry of Finance,
Central Secretariat,
New Delhi.
2. The Secretary,
Deptt. of Pension and
Pensioners Welfare
DOPT, Central Secretariat,
New Delhi.
3. Govt. of NCT of Delhi
Through its Chief Secretary,
Players Building, ITO,
New Delhi.
4. The Director of Education,
Directorate of Education,
Old Secretariat,

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Delhi-54.

5. Pay and Accounts Officer-IX,
Old Secretariat,
Delhi-54.

.... Respondents

OA-463/2005

1. Shri J.D. Gupta,
Retired Principal,
Govt. of NCT of Delhi,
A-2/328-329, Sector-8,
Rohini, Delhi-85.
2. Shri Tara Chand,
Retired Vice Principal,
Govt. of NCT of Delhi,
T-229, Indira Colony,
Narela, Delhi-40.
3. Sh. B.K. Gupta, Retired P.G. Teacher,
Govt. of NCT of Delhi,
178, Shahbad, Doultapur,
Delhi-42.
4. Sh. Jai Kishan Gupta,
Retired Principal,
Govt. of NCT of Delhi,
26/5, Shakti Nagar,
Delhi-6.
5. Sh. M.K. Garg,
Retired P.G. Teacher,
Govt. of NCT of Delhi,
C-9/27, Sector-15, Rohini,
Delhi-85.
6. Sh. P.S. Nahar,
Retired Principal,
Govt. of NCT of Delhi,
Block-C-2/B, MIG Flat No. 51C,
Janakpuri, Delhi-58.
7. Sh. Gaj Raj Singh,
Retired Principal,
Govt. of NCT of Delhi,
B-37, Ashoka Niketan,
Delhi-92.

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8. Sh. C.S. Sarna,
Retired Principal,
Govt. of NCT of Delhi,
D-736, Saraswati Vihar,
Pitampura, Delhi-34.

9. Sh. Vidya Sagar Sharma,
Retired Vice-Principal,
Govt. of NCT of Delhi,
C-24, Punjabi Basti,
Nagloi, Delhi-41.

..... Applicants

Versus

1. Govt. of NCT of Delhi through
Chief Secretary,
Govt. of NCT of Delhi,
Indra Prastha Estate,
New Delhi-1.

2. Director of Education,
Govt. of NCT of Delhi,
Delhi Administrative,
Sham Nath Marg, Delhi.

3. Dy. Controller of Accounts (EDN),
Pension and Pay Fixation Branch,
Director of Education, Govt. of NCT of Delhi,
Sham Nath Marg, Delhi.

4. Secretary,
Finance Deptt.,
Govt. of NCT of Delhi,
Indra Prastha Estate, Delhi-6.

5. The Secretary,
Deptt. of Pension and Pensioners Welfare,
Ministry of Pension, Public Grievances
and Pension,
Govt. of India, New Delhi.

6. The Secretary,
Deptt. of Expenditure,
Ministry of Finance,
North Block, New Delhi.

..... Respondents

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Present : Sh. Gyan Prakash, counsel for applicants.
Sh. N.K. Singh for Mrs. Avnish Ahlawat, counsel for respondents.

ORDER

Mr. Shekhar Agarwal, Member (A)

These three OAs are based on identical facts and involve common question of law. Hence, they are being disposed of by this common order.

2. The applicants are all citizens of India and were working as Teachers in the respondent Department of Education in the Government of NCT. They retired on different dates between 01.01.1986 and 31.12.1995. They were all governed by CCS Pension Rules, 1972 and their retiral benefits including gratuity were settled in accordance with the rules prevalent at that time. Notably, all of them were paid DCRG as per the above rules on the basis of basic pay without adding any part of dearness allowance as dearness pay. On 27.10.1997 an O.M. was issued by the Government introducing modification in the Rules regulating pension, DCRG and family pension. However, it was stated in Para-3.1 of the aforesaid O.M. that the revised provisions would be applicable only to those Government servants who retire/die in harness on or after 01.01.1996. It was also mentioned in the aforesaid O.M. that separate orders will be issued in respect of employees who had retired/died prior to 01.01.1996.

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However, no such orders were issued.

3. In the aforesaid O.M. it was, inter alia, provided that in case of DCRG, dearness allowance admissible at the time of retirement/death shall also be treated as emoluments. Thus, for the purpose of calculating DCRG not only the basic pay of the employee but also the dearness allowance he was drawing at the time of retirement/death was to be taken into consideration.

4. The grievance of the applicants is that the action of the respondents was illegal, unfair and against the principles of natural justice inasmuch as the impugned O.M. dated 27.10.1997 restricts the benefits only to retirees after 01.01.1996. Their contention is that such an action is discriminatory, violative of Articles 14, 16 and 21 of the Constitution. The cut off date of 01.01.1996 is arbitrary and illegal as it has no nexus with the object sought to be achieved. The applicants and other teachers, who retired on or after 01.01.1996, form one class and cannot be governed by different set of Rules even if financial implications are involved.

5. In their reply, the respondents have stated that it was the prerogative of the Government to decide whether the new Rules for computing gratuity be given retrospective effect or not. Relying on the judgment of Hon'ble Supreme Court in the matter of **State Government Pensioners Association & Ors. Vs. State of**

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Andhra Pradesh, AIR 1986 SC 1907, the respondents have stated that gratuity is payable on the basis of Rules prevalent at the time of retirement. Once it is paid, the transaction is completed and closed. There is no scope for upward or downward revision in the same.

6. We have heard learned counsel for the applicants Sh. Gyan Prakash and Sh. N.K. Singh, proxy for Mrs. Avnish Ahlawat, learned counsel for the respondents and perused the material placed on record. These OAs had earlier been decided by this Tribunal vide order dated 09.01.2007, the operative part of which reads as follows:-

"10. OA stands disposed of. We remit back the matter to the respondents to be reconsidered in the light of our observations made and in the wake of Article 14 of the Constitution of India. Such a consideration would culminate into a reasoned order, to be passed within a period of six months from the date of receipt of a copy of this order. In the event it is decided to grant the benefits to applicants consequences would ensue in accordance with law. No costs."

6.1 This order was challenged before Hon'ble High Court of Delhi by the Government of NCT of Delhi & Ors. by means of Writ Petition Civil No. 6351/2007. The aforesaid WPC was decided by Hon'ble High Court of Delhi by their order dated 29.07.2013, the operative part of which is reproduced below:-

"1. Issue concerns a cut off date, being January 01, 1996, in the context of merger of Dearness Allowance in the basic pay, impacting gratuity.

2. The Office Memorandum in question, with reference to the

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cut off date January 01, 1996, records that those who retired prior thereto would not be receiving gratuity with reference to revised Dearness Allowance being merged in the basic pay; meaning thereby that post January 01, 1996 retirees were to be given the benefit thereof.

3. We find that on the subject, there is a decision reported as (2005) 6 SCC 754 State of Punjab and Ors. vs Amar Nath Goyal and Ors. attention whereof has escaped the notice of the Tribunal.

4. We find that the Tribunal has remanded the matter to the department for reconsideration in light of the observations made by the Tribunal.

5. Since we are remanding the matter to the Tribunal, learned counsel for the parties agree that at the remanded stage the Tribunal would take a decision which would be final and not one of remand.

6. Ordered Accordingly.

7. We dispose of the writ petition setting aside the impugned order dated January 09, 2007. O.A.No.2847/2004 is restored for fresh adjudication before the Tribunal.

8. Parties shall appear before the Registrar of the Tribunal on August 12, 2013 who shall list the Original Application in Court.

9. No costs."

6.2 Thus, the Hon'ble High Court of Delhi remanded the matter to the Tribunal for reconsideration mainly on the grounds that the decision of Hon'ble Supreme Court in the case of **State of Punjab and Others Vs. Amar Nath Goyal and Ors.**, (2005) 6 SCC 754 has escaped the notice of the Tribunal while delivering the judgment dated 09.01.2007.

6.3 Accordingly, these cases were heard afresh. Learned counsel for the applicants Sh. Gyan Prakash relied on the

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judgment of Hon'ble Supreme Court in the case of **UOI & Ors. Vs.**

Dr. Vijayapurapu Subbayamma, JT 2000(Suppl.1) SC 14, in Para-7

of which following has been held:-

"Where an employee at the time of retirement is entitled to pension under the relevant Rules, any subsequent amendment to the relevant Rules enhancing pension or conferring additional benefit would be also applicable to him."

6.4 Leaned counsel also relied on the judgement of Hon'ble

Supreme Court in the case of **D.S. Nakara and Ors. Vs. UOI**,

1983(1)AISLJ 131 in which it has been held as follows:-

"**Held** that if the State considered it necessary to liberalize the pension scheme, we find no rational principle behind it for granting these benefits only to those who retired subsequent to that date simultaneously denying the same to those who retired prior to that date. If the liberalization was considered necessary for augmenting social security in old age to government servants then those who retired earlier cannot be worst off than those who retire later. Therefore, this division which classified pensioners into two classes is not based on any rational principle and if the rational principle is the one of dividing pensioners with a view to giving something more to persons otherwise equally placed, it would be discriminatory. To illustrate, take two persons, one retired just a day prior and another a day just succeeding the specified date. Both were in the same pay bracket, the average emolument was the same and both had put in equal number of years of service. How does a fortuitous circumstance of retiring a day earlier or a day later will permit totally unequal treatment in the matter of pension. One retiring a day earlier will have to be subject to ceiling of Rs.8,100/- p.a. and average emolument to be worked out on 36 months' salary while the other will have a ceiling of Rs.12,000/- p.a. and average emolument will be computed on the basis of last ten months average. The artificial division stares into face and is unrelated to any principle and whatever principle, if there be any, has absolutely no nexus to the objects sought to be achieved by liberalizing the pension scheme. In fact this arbitrary division has not only no nexus to the liberalized pension scheme but it is counter productive and runs counter to the whole gamut of pension scheme. The equal

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treatment guaranteed in Art. 14 is wholly violated inasmuch as the pension rules being statutory in character, since the specified date, the rules accord differential and discriminatory treatment to equals in the matter of commutation of pension. A 48 hours difference in matter of retirement would have a traumatic effect. Division is thus both arbitrary and unprincipled. Therefore, the classification does not stand the test of Art. 14."

6.5 On the other hand, respondents' counsel Sh. N.K. Singh relied on the judgment of Hon'ble Supreme Court in the case of **State of Bihar and Ors. Vs. Bihar Pensioners Samaj**, (2006) 5 SCC 65 in which it has been held as follows:-

"The contention of the State is well founded. It is settled that fixing of a cut off date for granting of benefits is well within the powers of the Government as long as the reasons therefore are not arbitrary and are based on some rational consideration.

In the present case, the State Government declined to pay the arrears from 1-1-1986 on the ground of financial consideration, which, undoubtedly, is a very material consideration for any administration. Therefore, the refusal to make payments of arrears from 1-1-1986 to 28-2-1989 on the ground of financial burden cannot be held to be an arbitrary ground or irrational consideration. Hence, the argument based on Article 14 of the Constitution must fail."

6.6 Further, in accordance with the directions of Hon'ble High Court of Delhi, learned counsel for the respondents produced before us judgment of Hon'ble Supreme Court in the case of **State of Punjab and Ors. Vs. Amar Nath Goyal and Ors.**, (2005) 6 SCC 754 in which it has been held that the action of the Government in limiting the grant of increased death-cum-retirement gratuity benefit to those who had died or retired on or after 01.04.1995 was neither arbitrary nor irrational or

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violative of Article-14. Para-37 of the judgment reads as follows:-

"In the instant case before us, the cut-off date has been fixed as 1-4-1995 on a very valid ground, namely, that of financial constraints. Consequently, we reject the contention that fixing of the cut-off date was arbitrary, irrational or had no rational basis or that it offends Article 14."

7. We have considered the aforesaid submissions of the parties.

On going through the above mentioned judgments, we find that the present case is squarely covered by the judgment of Hon'ble Supreme Court in **Amar Nath Goyal's** case (supra). The only difference is that in **Amar Nath Goyal's** case the cut off date of 01.04.1995 had been prescribed for giving enhanced death-cum-retirement gratuity benefit after merging a part of the dearness allowance whereas in the present case cut off date of 01.01.1996 has been fixed for giving DCRG benefits by counting entire dearness allowance payable on the date of retirement/death as emoluments for the purpose of DCRG calculation. We also notice that while delivering the aforesaid judgment, Hon'ble Supreme Court have considered and negatived applicability in the gratuity case of their judgment in the case of **D.S. Nakara** (supra), which has been relied upon by the applicants. Para-29 of the judgment reads as follows:-

"29. D.S. Nakara (supra), which is the mainstay of the case of the employees, arose under special circumstances, quite different from the present case. It was a case of revision of pensionary benefits and classifications of pensioners into two groups by drawing a cut-off line and granting the revised pensionary benefits to employees retiring on or after the cut-off date. The criterion made applicable was "being in service and retiring subsequent to

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the specified date". This Court held that for being eligible for liberalised pension scheme, application of such a criterion is violative of Article 14 of the Constitution, as it was both arbitrary and discriminatory in nature. The reason given by the Court was that the employees who retired prior to a specified date, and those who retired thereafter formed one class of pensioners. The attempt to classify them into separate classes/ groups for the purpose of pensionary benefits was not founded on any intelligible differentia, which had a rational nexus with the object sought to be achieved. However, it must be noted that even in cases of pension, subsequent judgments of this Court have considerably watered down the rigid view taken in D.S. Nakara (supra) as we shall see later in T. N. Electricity Board v. R. Veerasamy and Ors. ("Veerasamy"). In any event, this is not a case of a continuing benefit like pension; it is a one-time benefit like gratuity."

7.1 The only other judgment relied upon by the learned counsel for the applicants was **Dr. Vijayapurapu Subbayamma** (supra). We find from Para-29 of **Amar Nath Goyal's** judgment quoted above that Hon'ble Supreme Court has made a distinction between continuing benefit like pension and one time benefit like gratuity. In the case of **Dr. Vijayapurapu Subbayamma** (supra) relied upon by the applicants, the issue was payment of enhanced pension and not a one time benefit like gratuity. Thus, even this judgment can be distinguished from the present O.A. and cannot be of help to the applicants.


7.2 The applicants had argued that the cut off date of 01.01.1996 fixed by the respondents was arbitrary and therefore illegal. However, we are not inclined to agree with the applicants. This is the date from which the recommendations of Fifth Central Pay Commission have been implemented. Since the revision in the


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manner in which the DCRG was to be calculated was also done on the basis of the recommendations of Fifth Central Pay Commission, there is rational behind choosing 01.01.1996 as the cut off date.

8. In view of the above, we do not find any merit in these OAs and the same are dismissed.

9. A copy of this order be placed in each case file.


(Shekhar Agarwal)
Member (A)


(A.K. Bhardwaj)
Member (J)

/vinita/