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

M.A.No.2133/2006 in O.A.No.2461/2001
&
O.A.No.435/2004

Monday, this the 16th day of April 2007

Hon'ble Shri Shanker Raju, Member (J)
Hon'ble Shri N.D. Dayal, Member (A)

MA-2133/2006 in OA-2461/2001

1. Rama Shanker s/o Shri Jamna Prasad
2. Josaf s/o Shri Gyan Prakash
3. Birender Pratap Singh s/o Shri Devsingh
4. Sunder Lal s/o Shri Jhandu Ram
5. Jitender Kumar Hari Poojan
6. Pramod Kumar s/o Shri Ram Chander
7. Ramesh Kumar s/o Lt. Shri Jamna Prasad
8. Bimba Dhar Sethi s/o Shri Laxman Sethi
9. Smt. Chander Kanta w/o Shri Sukumar

All are cured Leprosy Person residing in Leprosy complex
Tahirpur, Shahdara, New Delhi

..Applicants

(By Advocate: Shri Yogesh Sharma)

Versus

1. NCT of Delhi
through the Chief Secretary
Delhi Secretariat
New Delhi
2. The Director
Directorate of Health Services
Govt. of NCT of Delhi
Swasth Sewa Bhawan, Kakaduma
3. The Medical Superintendent
Deen Dayal Upadhya Hospital
Govt. of NCT of Delhi
Hari Nagar, New Delhi-64
4. UOI through Secretary
M/o Health & F.W.
Nirman Bhawan, New Delhi

5. UOI through Secretary
M/o Home Affairs
North Block, New Delhi

..Respondents

(By Advocates Shri J.B. Mudgil and Shri Ajesh Luthra)

OA-435/2004

1. Josaf s/o Shri Gyan Prakash
2. Rama Shanker s/o Shri Jamna Prasad
3. Virender Pratap Singh s/o Shri Devsingh
4. Sunder Lal s/o Shri Jhandu Ram
5. Jitender Kumar Hari Poojan
6. Pramod Kumar s/o Shri Ram Chander
7. Ramesh Kumar s/o Lt. Shri Jamna Prasad
8. Bimba Dhar Sethi s/o Shri Laxman Sethi
9. Shambhu s/o Shri Jamuna Parshad
10. Smt. Chander Kanta w/o Shri Sukumar

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**ORDER (ORAL)**

Hon'ble Shri Shanker Raju:

Being founded on same set of facts and common question of law, MA-2133/2006 in OA-2461/2001 and OA-435/2004 are being disposed of by this common order.

2. Leprosy cured patients seek appointment as Nursing Orderly under the scheme of Government of India promulgated as National Leprosy Central Programme (NLCP) vide Office Memorandum dated 3.6.1981.

3. Learned counsel for applicants states that under the Government of NCT, to which programme is applicable, posts of Nursing Orderly, Sweeper, Ward Attendants and Dressers, being leprosy cured patient, have preferential rights for consideration for appointment. Accordingly, it is stated that in several hospitals of Delhi Government, leprosy cured patients are being appointed, which is continuing, would extend invidious discrimination to the applicants and would be violative of Articles 14 & 16 of the Constitution.

4. On the other hand, Shri J.B. Mudgil, learned counsel for respondents states that Group 'D' staff is not covered by the letter dated 20.4.2000 issued by the Directorate of Social Welfare as there is no post under the NLCP for which the Govt. of NCT of Delhi should make recruitment.

5. During the course of hearing on a *suo motu* exercise, we directed impleadment of Govt. of NCT of Delhi through Ministry of

Health & Family Welfare. Accordingly, a reply was preferred wherein it is stated that as NLCP existed for six plans vide Ministry's circular dated 3.6.1981, the posts are to be filled up preferentially by leprosy cured patients. Accordingly, it is argued that the guidelines issued by the Ministry of Health & Family Welfare on 31.7.2001 that the integration of leprosy services with General Health Care Services, NLCP units stood abolished, as such the instructions issued by the Government of India dated 3.6.1981 are no longer in operation. However, it is stated that some reservation exists for physically handicap persons, including leprosy cured patients as per Govt. of India's instructions dated 24.11.2006.

6. Shri Ajesh Luthra, learned counsel stated that as the instructions of 1981 are not invoked and the posts are not identified under the Delhi Government in NLCP, applicants have no valid legal claim.

7. We have carefully considered the rival contentions of the parties and perused the material placed on record.

8. In the light of non-extension of NLCP and withdrawal of OM dated 3.6.1981 vide OM dated 31.7.2001 though leprosy cured patients as per Govt. of India's stand and admission would be treated as handicap and have amenability under the Persons with Disabilities (Equal opportunities, protection of rights and full participation) Act, 1995, we do not find from OM dated 29.12.2005 that DOPT has identified as handicap persons to leprosy cured patients. Accordingly, though reservation is admitted by the Government but is not incorporated in the identification of posts.

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9. As a result on consideration of rival contentions, we dispose of the MA-2133/2006 in OA-2461/2001 and OA-435/2004 in the light of specific admission of the respondents, i.e., Govt. of India as to reservation of leprosy cured patients under the Disability Act 1995 ibid to consult DOPT and facilitate issue of an Office Memorandum specifying the leprosy cured patients to be handicap persons within the definition of the Disability Act 1995 ibid and clarify vide Office Memorandum within a period of three months from the date of receipt of a copy of this order. Thereupon, the Govt. of NCT shall consider the claim of the applicants under the vacancies reserved in the hospitals specifically for handicap persons treating them disabled within the permissible identified posts. No costs.

Let a copy of this order be placed in each case file.

(N.D. Dayal) VI
Member (A)

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(Shanker Raju)
Member (J)