



**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI**

**O.A. No. 1899/2021
M.A No. 2426/2021**

This the 7th day of September, 2021

Through Video Conferencing

**Hon'ble Ms. Manjula Das, Chairman
Hon'ble Mr. Mohd. Jamshed, Member (A)**

1. AMAR CHAND,
Aged about 32 yrs,
AIIMS, Nursing Officer, Group-B,
S/o Sh. Bajrang Lal,
R/o- RZB 25/4, Mahavir Enclave,
Palam, New Delhi – 110045.
2. ASLAM KHAN,
Aged about 40 yrs,
AIIMS, Nursing Officer, Group-B,
S/o Sh. Sarfuddin Khan,
R/o- H. No. 157/A, IIInd Floor,
Sultanpur, New Delhi – 110030.
3. ANITA RAO,
Aged about 37 yrs,
AIIMS, Nursing Officer, Group-B,
W/o Sh. Ganesh Kumar,
R/o- C-19/1 Rajpur Khurd,
Chattarpur, New Delhi – 110068.
4. ANITA,
Aged about 37 yrs,
AIIMS, Nursing Officer, Group-B,
W/o Sh. Manoj Kumar
R/o- Ward No.4, Jai Hind Colony,
Jhajjar, Haryana – 124103.



5. **ASHOK KUMAR SHARMA,**
Aged about 40 yrs,
AIIMS, Nursing Officer, Group-B
S/o Sh. Shyamlal Sharma,
R/o- C-200, Street No.8,
Bhajanpura, Delhi – 110005.
6. **ASHA SINGARIY A,**
Aged about 33 yrs,
AIIMS, Nursing Officer, Group-B
W/o Sh. Jeetu Ram,
R/o- C/o Jagbir Singh, H.No. 124, DDA Flat,
Behind Wine Shop, Lado Sarai,
New Delhi – 110030.
7. **BEENA YADAV,**
Aged about 34 yrs,
AIIMS, Nursing Officer, Group-B,
W/o Sh. Ishwar Singh Yadav
R/o- F 1-901, Residential Complex,
NCI AIIMS, Basa, Jhajjar,
Haryana – 124105.
8. **BANWARI LAL SHARMA,**
Aged about 33 yrs,
AIIMS, Nursing Officer, Group-B,
S/o Sh. Mahavir Prasad Sharma
R/o- RZB 25/4, 1st Floor, Gurudwara Road,
Mahavir Enclave, Palam,
New Delhi – 110045.
9. **BABITA KUMARI,**
Aged about 34 yrs,
AIIMS, Nursing Officer, Group-B,
D/o Sh. Rajendra Kumar
R/o- A-6, Ambedkar Colony,
Chattarpur, New Delhi – 110074.
10. **BHANWAR LAL BOHARA,**
Aged about 42 yrs,



AIIMS, Nursing Officer, Group-B,
 S/o Sh. Babu Lal Sharma,
 R/o- F-223, Near Ald Anurag Training Centre,
 Ladosarai, Delhi – 110030.

11. EBIN P SEBASTIAN,
 Aged about 33 yrs,
 AIIMS, Nursing Officer, Group-B,
 S/o Sh. Sebastian PV,
 R/o- G-1 /5, IIInd Floor, Kh No. 15/20/ 1,
 Near Jyoti Backery,
 Mahavir Enclave, New Delhi – 110045.
12. INDU RATHORE,
 Aged about 32 yrs,
 AIIMS, Nursing Officer, Group-B,
 W/o Sh. Pradeep Singh,
 R/o- 105/5, IIIrd Floor, Adhchini Village,
 New Delhi – 110017.
13. IMMANUEL MAKWANA,
 Aged about 32 yrs,
 AIIMS, Nursing Officer, Group-B,
 S/o Sh. Makwana Govindbhai Chaturbhai,
 R/o- RZ-2690, Gali No. 29,
 Tughlaquabad Extension, New Delhi – 110019.
14. JITENDER KUMAR,
 Aged about 34 yrs,
 AIIMS, Nursing Officer, Group-B,
 S/o Sh. Dharampal,
 R/o- House No. A-1, First Floor,
 K.No. 243, Gherri Ka Kyyan,
 Ghitorni, New Delhi – 110030.
15. KAPIL KUMAR JAIN
 Aged about 35 yrs,
 AIIMS, Nursing Officer, Group-B,
 S/o Sh. Sumati Lal Jain,
 R/o- R2-B 152, First Floor, Gurudwara Road,
 Mahavir Enclave,
 Palam, New Delhi – 110045.



16. KRISHAN KUMAR,
 Aged about 40 yrs,
 AIIMS, Nursing Officer, Group-B,
 S/o Sh. Kashmiri Lal,
 R/o- F1-902, NCI Resident Complex, Badsa,
 Jhajjar, Haryana- 124105.

17. LAXMI RANI,
 Aged about 34 yrs,
 AIIMS, Nursing Officer, Group-B,
 W/o Sh. Raghunath,
 R/o- Flat No.3, Top Floor,
 Vishanu Apartments,
 895, C/31, Ward No.8,
 Mehrauli, New Delhi- 110030.

18. MOHAMMED ALI,
 Aged about 36 yrs,
 AIIMS, Nursing Officer, Group-B,
 S/o Late Sh. Ahsan Ali
 R/o- 113 A, First Floor, Right Side,
 Adchini, New Delhi – 110017.

19. MUKESH KUMAR YADAV
 Aged about 32 yrs,
 AIIMS, Nursing Officer, Group-B,
 S/o Sh. Ramnath Yadav,
 R/o- F-153, Room No. 34, Hanuman Mandir,
 Lado Sarai, New Delhi – 110030.

20. MANOJ KUMAR,
 Aged about 40 yrs,
 AIIMS, Nursing Officer, Group-B,
 S/o Sh. Roop Ram,
 R/o- Flat No. A2, First Floor, Kh. No. 243,
 Ghitorni, New Delhi – 110030.

21. MOOLCHAND
 Aged about 35 yrs,
 AIIMS, Nursing Officer, Group-B,
 S/o Sh. Talkaram



R/o- House No. 1742, Sher Singh Bazaar,
Kotla Mubarakpur, New Delhi – 110003.

22. MAMTA YADAV

Aged about 33 yrs,
AIIMS, Nursing Officer, Group-B,
W/o Sh. Babulal Yadav
R/o- House No. 133, Kh. No. 554,
Upper Ground Floor,
Sultanpur, New Delhi – 110030.

23. MANOJ SINGH PAL,

Aged about 40 yrs,
AIIMS, Nursing Officer, Group-B,
S/o Sh. Sonelal,
R/o- House No. 274, Pocket -9, Ground Floor,
Rohini Sector- 21, New Delhi- 10086.

24. MOHAMMAD USMAN,

Aged about 40 yrs,
AIIMS, Nursing Officer, Group-B,
S/o Sh. Jaan Muhammad
R/o- Flat No. B1, IInd. Floor,
Near Gherri Ka Kuyan, Kh. No. 24,
Ghitorni, New Delhi – 110030.

25. MURLI DHAR NAGAR,

Aged about 39 yrs,
AIIMS, Nursing Officer, Group-B,
S/o Sh. Kalu Lal Nagar,
R/o- F-69, Near Anurag Centre,
Lado Sarai, New Delhi -110030.

26. MADAN LAL SAINI,

Aged about 41 yrs,
AIIMS, Nursing Officer, Group-B,
S/o Sh. Babu Lal Saini
R/o- L- 1, Gali No. 29/2,
1787 Near Asthal Mandir,
Sangam Vihar, New Delhi – 110080.



27. MAHESH CHAND YADAV,
 Aged about 43 yrs,
 AIIMS, Nursing Officer, Group-B,
 S/o Sh. Sunder Lal Yadav
 R/o- C/o Satya Mann, Kh. No. 1163,
 Gali No. 0, Near Shiv Mandir,
 Alipur, New Delhi – 110036.

28. NEERAJ KUMAR,
 Aged about 33 yrs,
 AIIMS, Nursing Officer, Group-B,
 S/o Sh. Prakesh Chand Jat
 R/o- Vill- Nagal Siya, Po- Ajarka, Th.- Mundwar,
 Alwar, Rajasthan- 301401.

29. NIRMALA,
 Aged about 41 yrs,
 AIIMS, Nursing Officer, Group-B,
 W/o Sh. Rajesh Kumar
 R/o- F 1/ 1004, NCI Residential Campus,
 AIIMS, Badsa, Jhajjar,
 Haryana- 124105.

30. NEELAM DEVI,
 Aged about 31 yrs,
 AIIMS, Nursing Officer, Group-B,
 D/o Sh. Naresh Kumar,
 R/o- A-39, Kanwar Singh Building,
 Sultanpur, New Delhi – 110030.

31. RAJPAL YADAV,
 Aged about 30 yrs,
 AIIMS, Nursing Officer, Group-B,
 S/o Sh. Dindayal Yadav,
 R/o- Vill- Kalyanpur, The-Behrur,
 Distt- Alwar,
 Rajasthan- 301701.

32. RUNA KUMARI,
 Aged about 36 yrs,
 AIIMS, Nursing Officer, Group-B,
 W/o Sh. Santosh Kumar,



R/o- Vill- Suggi, Po- Umga, Ps- Madanpur,
Distt. Aurangabad, Bihar- 824208.

33. RAJENDRA KUMAR

Aged about 35 yrs,
AIIMS, Nursing Officer, Group-B,
S/o Sh. Mohan Lal,
R/o- R250, Gali No.3, Syndicate Enclave,
Raghunagar,
Dabri, New Delhi- 110045

34. RAJ KUMAR MEENA

Aged about 28 years
AIIMS Nursing Officer, Group-B
S/o Sh. Ramnivas Meena,
R/o 13/1, Nangali, Rajpur,
Sarai Kale Khan,
New Delhi – 110 013.

35. RAJESH PANWAR

Aged about 40 yrs,
AIIMS, Nursing Officer, Group-B
S/o Sh. Bhanwar Panwar
R/o-Khasra No. 399, 121 Sultanpur,
New Delhi- 110030

36. PAWAN KUMAR RAJAWAT

Aged about 45 yrs,
AIIMS, Nursing Officer, Group-B
S/o Sh. Pabudan Rajawat
R/o-House No. A-42-43, Bhagwati Garden,
Near SL Public School,
Dwarka More, New Delhi - 110059

37. SARITA MALAV

Aged about 31 yrs,
AIIMS, Nursing Officer, Group-B
W/o Sh. Ashok Kumar Malav
R/o-895, C/31, Flat No. 5, Top Floor,
Vishanu Apartments, Ward No. 8,
Mehrauli, New Delhi- 110030



38. SHRI CHAND YADAV

Aged about 38 yrs,
 AIIMS, Nursing Officer, Group-B
 S/o Sh. Kallu Ram
 R/o-Vill- Majri, Khurd, Po- Majri Kalan,
 Teh. Neemrana,
 Distt- Alwar, Rajasthan -301703

39. SUBHASH CHAND DORAWAL

Aged about 34 yrs,
 AIIMS, Nursing Officer, Group-B
 S/o Sh. Bhagwan Das
 R/o- Vill- Mundiya Khera, Po- Chikani,
 Alwar, Rajasthan

40. KM RANJANA YADAV

Aged about 35 yrs,
 AIIMS, Nursing Officer, Group-B
 D/o Sh. Ramswaroop Yadav
 R/o-House No. 247, Ground Floor,
 Near Shani Mandir, Souther Part -II,
 New Delhi - 110049

41. SONIYA YADAV

Aged about 31 yrs,
 AIIMS, Nursing Officer, Group-B
 W/o Sh. Suresh Kumar
 R/o- F2-302, Residential Campus,
 NCI, AIIMS, Badsa,
 Jhajjar, Haryana - 124105

42. VARSHA MANN

Aged about 38 yrs,
 AIIMS, Nursing Officer, Group-B
 W/o Sh. Parvinder Maan
 R/o-House No. 230, Sector- 9
 Bahadurgarh, Haryana - 124507

43. VIJENDRA KUMAR BAIRWA

Aged about 33 yrs,
 AIIMS, Nursing Officer, Group-B
 S/o Sh. Badri Lal



R/o-F 1903, Residential Complex, NCI, Badsa,
Jhajjar, Haryana - 124105

44. VINEET SHARMA

Aged about 38 yrs,
AIIMS, Nursing Officer, Group-B
S/o Sh. Jagdish Prasad Sharma
R/o- House No. 301, First Floor,
Chajan Nagar, Gali No. 1,
Faridabad, Haryana - 121003

45. VASUDEVAN Y

Aged about 32 yrs,
AIIMS, Nursing Officer, Group-B
S/o Sh. T.V. Yogananthan
R/o-F-41, First Floor, Ward No. 4,
Mehrauli, New Delhi - 110030

46. VIRENDRA KUMAR BUDANIA

Aged about 38 yrs,
AIIMS, Nursing Officer, Group-B
S/o Sh. Ramgopal
R/o-RZH 19, Mahavir Enclave,
Palam, New Delhi - 110045

47. NEELAM LODHI

Aged about 35 yrs,
AIIMS, Nursing Officer, Group-B
D/o Sh. Lakhan Singh
R/o-B2/385, Gharoli Extension,
Delhi- 110096

48. SONALI CHAHAR

Aged about 31 yrs,
AIIMS, Nursing Officer, Group-B
W/o Sh. Pramod Kumar
R/o-B-604, Pan Oasis, Sector-70,
Noida, Uttar Pradesh-201301

49. ISHWAR LAL KUMAWAT

Aged about 37 yrs,
AIIMS, Nursing Officer, Group-B



S/o Sh. Ratanlal Kumawat
R/o- F-1/Flat No. F-1104,
NCI, AIIMS Residential Complex,
Badsa, Haryana- 124105.

...Applicants

(By Advocate: Mr. Gyanant Kumar Singh)

Versus

1. All India Institute of Medical Sciences, Delhi
Through its Director,
Ansari Nagar, New Delhi – 110029.
2. Union of India,
Through Secretary,
Ministry of Health and Family Welfare,
Nirman Bhawan, New Delhi – 110011.
3. Union of India,
Through Secretary,
Department of Personnel and Training,
Ministry of Personnel, Public Grievances &
Pensions,
North Block, New Delhi – 110001.

...Respondents

(By Advocate: Mr. Kaushal Gautam for respondent no. 1 and Mr. C Bheemanna for respondents no. 2 & 3)

ORDER (O R A L)

Hon'ble Ms. Manjula Das, Chairman

MA No. 2426/2021 :

This MA has been filed by the applicants under Section 4 (5) (a) of the CAT (Procedure) Rules, 1987 for joining together in a single OA.



For the reasons stated in the MA, the same is allowed and the applicants are allowed to join together in a single OA.

OA No. 1899/2021 :

The applicants herein approached this Tribunal under Section 19 of the Administrative Tribunals Act, 1985, seeking the following reliefs :-

- “a. *Quash/set aside Memoranda by AIIMS dated 7.12.2020 sent to AIIMS Nurses Union and to the Applicants (Annexure-I) rejecting the representation for reservation in promotion from the post of Nursing Officer to the post of Senior Nursing Officer under the disability quota in violation of the law and judicial dicta;*
- b. *Direct the Respondents to consider promotion of Applicants under the disability quota with all consequential reliefs and benefits, including arrears, by constituting DPC for the years when Applicants became eligible;*
- c. *Direct the Respondents to implement the mandate of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 and the Rights of Persons with Disabilities Act, 2016 with respect to the manner and quantum of reservation to disabled as held by the Hon’ble Supreme Court in Rajeev Kumar Gupta and successive judgments being followed by high courts;*
- d. *Pass an order as to costs; and/or;*
- e. *Pass such other order(s) or direction(s) as this Hon’ble Tribunal may deem fit and just in the interest of justice.”*



2. The basic grievance of the applicants is that their request for grant of promotion to the post of Nursing Officer has not been acceded to by the respondents on the ground that the post of Sr. Nursing Officer in respondent organization is a promotional and Group-B post, and the reservation for PH quota is not applicable in Group-B post. Learned counsel, however, referred to many decisions of the Hon'ble Supreme Court as well as High Court, which are enlisted hereunder :-

(i). **Rajeev Kumar Gupta & Ors. Vs. UOI & Ors.** in WP (C) No. 521/2008, wherein the Hon'ble Supreme Court has held as under :-

“24. A combined reading of Sections 32 and 33 of the 1995 Act explicates a fine and designed balance between requirements of administration and the imperative to provide greater opportunities to PWD. Therefore, as detailed in the first part of our analysis, the identification exercise under Section 32 is crucial. Once a post is identified, it means that a PWD is fully capable of discharging the functions associated with the identified post. Once found to be so capable reservation under Section 33 to an extent of not less than three percent must follow. Once the post is identified, it must be reserved for PWD irrespective of the mode of recruitment adopted by the State for filling up of the said post.

25. In light of the preceding analysis, we declare the impugned memoranda as illegal



and inconsistent with the 1995 Act. We further direct the Government to extend three percent reservation to PWD in all IDENTIFIED POSTS in Group A and Group B, irrespective of the mode of filling up of such posts. This writ petition is accordingly allowed.”

(ii) In the case of **Siddaraju Vs. State of Karnataka & Ors.** in Civil Appeal No. 1567/2017 and batch, the Hon'ble Supreme Court held as under :-

“13. This matter arises out of the order of the Central Administrative Tribunal, Bangalore Bench, Bangalore dated 24.07.2015 in which the 2005 O.M. has been followed without reference to any of the judgments of this Court. A writ petition from the aforesaid judgment was dismissed by the Karnataka High Court on 23.03.2016, stating that the precise question of law that arises in this case was kept open. Accordingly, we set aside the judgment of the CAT and consequently that of the High Court. The case is to be governed by the three decisions of this Court outlined above, which judgments have to be followed by the Union of India and the States. It is not necessary to pass any further directions. The appeal is disposed of accordingly.”

(iii) In the case of **State of Kerala Vs. Leesamma Joseph**, in Civil Appeal No. 59 of 2021, the Hon'ble Supreme Court held as under :-

“29. We are of the view that the course of action followed by the High Court in the impugned order is salutary and does not call



for any interference. We have also answered various questions which have arisen in the present proceedings assisted by learned Amicus Curiae. In fact, what seems to emerge is that the appellant-State has not implemented the judgment of this Court in *Rajeev Kumar Gupta's* and *Siddaraju's* cases (*supra*). Thus, we consider it appropriate to issue directions to the State of Kerala to implement these judgments and provide for reservation in promotion in all posts after identifying said posts. This exercise should 14 A case before the Chief Commissioner for Persons with Disabilities (*Divyangjan*), Govt. of India be completed within a period of three months. We are making it time bound so that the mandate of the Act is not again frustrated by making Section 32 as an excuse for not having identified the post.

30. We may also note that that the 2016 Act has now taken care of how to deal with the aspect of reservation in promotion. The view aforesaid was required to be propounded as a large number of cases may still arise in the context of the 1995 Act.

31. The appeal is accordingly dismissed in terms aforesaid.”

(iv) In the case of **Poonam Manchanda Vs. UOI & Ors.** [CWP No. 13575 of 2016 and batch], Hon'ble High Court of Punjab & Haryana has held as under :-

“Consequently, these petitions are allowed. The order of the Tribunal is quashed. The respondents are directed to consider the case of the petitioners for promotion being persons with disability under the three per cent reservation provided for persons with disability.”



3. It is submitted by the learned counsel for the applicants that though the case of the applicants is fully covered by various judgments cited hereinabove, the respondent-department has not considered their claim in the light of the decision of the Hon'ble Supreme Court in ***Rajeev Kumar Gupta & Ors*** (supra). As such, learned counsel for the applicants prayed for a direction to be issued to the respondents to take a final decision in the light of the decisions mentioned in the OA by treating the OA as a comprehensive representation.

4. By accepting the prayer made by the learned counsel for the applicants and without going into the merits of the case, we direct the applicants to furnish a copy of the instant OA to the respondent-department within a period of one month along with this order. The competent authority shall consider the case of the applicants, treating the OA as comprehensive representation in the light of the decisions relied upon by the applicants and recorded in this order, and pass a reasoned and speaking order, within a period of four months thereafter. If the authority comes to the conclusion that the applicants are similarly situated and



the ratio of the aforementioned decisions cover their case, in that eventuality, the same benefits shall be extended to them and the decision so arrived at by the respondents, shall be communicated to the applicants forthwith. Liberty is however, granted to the applicants to approach this Tribunal, if their grievance still subsists or they are not satisfied with the decision of the respondent authority.

5. With the above observations/directions, the OA stand disposed of. There shall be no order as to costs.

(Mohd. Jamshed)
Member (A)

(Manjula Das)
Chairman

jyoti/Mbt/dd