

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



**O.A. No.928/2021
MA No.1190/2021**

This the 30th day of April, 2021

(Through Video Conferencing)

**Hon'ble Mr. A.K. Bishnoi, Member (A)
Hon'ble Mr. Ashish Kalia, Member (J)**

1. Kavita
D/o Hira Lal
Aged about 46 years
R/o H. No.455, H. Block
Mandir Marg, New Delhi.
Presently posted as Lab Assistant
(now JMLT), Maulana Azad Medical College
2, Bahadur Shah Zafar Marg
New Delhi-02
Group-IV
Sub: Pension/pay-fixation
Mob.9313248226.
2. Bala Kumari
D/o Kanshi Ram
Aged about 47 years
R/o 82-D3, Railway Colony
Tughlakabad, New Delhi – 44
Presently posted as Lab Assistant
Maulana Azad Medical College (now JMLT)
2, Bahadur Shah Zafar Marg
New Delhi-02
Group-IV
Sub: Pension/pay-fixation.
3. Sunita Rani
D/o Dulichand
Aged about 47 years
R/o G-2, Shakarpur
New Delhi -92.
Presently posted as Lab Assistant
Now Junior Medical Lab Technologist,
G.T. B. Hospital, N. D-32.
Sub: Pension/pay-fixation.



4. Kusum Lata
D/o Ram Kumar Kashyap
Aged about 47 years
R/o S-160, GF
Pandav Nagar, Main Road
Posted as Lab Assistant (now JMLT)
Maulana Azad Medical College
New Delhi-02
Sub: Pension/pay-fixation
Group-IV.
5. Suman Rani
W/o Sunil Kumar
Aged about 45 years
R/o 239A, Patparganj village
Mayur Vihar, Delhi-91
Posted as Lab Assistant (now JMLT)
Maulana Azad Medical College
New Delhi-02
Sub: Pension/pay-fixation
Group-IV.
6. Nishi
D/o Harbhajan Singh
Aged 47 years
R/o R-5-C, R-Block
Dilshad Garden, Delhi-95
Posted as Lab Assistant (now JMLT)
LNJP, Hospital, Near Delhi Gate
JLN Marg, New Delhi-02
Sub: Pension/Pay-fixation
Group-IV.
7. Hem Lata
D/o Anand Pal
W/o Ashok Kumar Panwar
Aged about 47 years
R/o C-319, Street No.24
Bhajanpura, New Delhi-53
Posted as Lab Assistant (now JMLT)
GTB Hospital, Dilshad Garden
New Delhi-95
Sub: Pension/pay-fixation
Group -IV.

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Applicants

(through Advocate Shri Ranjit Sharma)



Versus

1. The Government of NCTD
Through the principal
Secretary, Health
9th Floor, New Secretariat
I.T.O., Delhi-01.
2. Medical Superintendent
Maulana Azad Medical College-2
Bahadur Shah Zafar Marg
New Delhi-02.
3. The Medical Superintendent
GTB, Hospital, Dilshad Garden
Delhi-95.
4. The Medical Superintendent
LNJP Hospital, JLN Marg, Delhi-02. ... Respondents

(through Advocate Ms. Esha Mazumdar)

ORDER (Oral)

Hon'ble Mr. Ashish Kalia, Member (J):

The applicants by filing the instant OA under Section 19 of the Administrative Tribunals Act, 1985, are seeking the following reliefs:-

“i. Direct the respondents to grant the benefit of Old Pension Scheme to the applicants in connection with their appointment as Lab Assistant (now JMLT) with the respondents qua Post-Codes 58/99 and 197/99 and further fix their pay at par with candidates who joined the post in the year, 2003 qua the said Post-Codes and release the arrears thereof, granting them notional seniority and other consequential benefits;”



2. Learned counsel for the applicants submits that the process for selection for the posts of Lab Assistant has been started much before their actual selection, i.e., 1.1.2004 and some of the candidates were offered appointments before 1.1.2004 and they have joined somewhere in 2005 after culmination of their litigation in Hon'ble Delhi High Court on 13.5.2005. In the meanwhile, some notification was issued by the Government on 17.2.2000 – “Some of the candidates selected through a common selection process were issued offers of appointments and were also appointed before 1.1.2004 whereas the offers of appointments to other selected candidates were issued on or after 1.1.2004 due to administrative reasons/constrains including pendency of Court/CAT case” clarifying certain cases which are covered under the Old Pension Scheme. The applicants are claiming that their cases are also covered by the aforesaid clarification.

3. Learned counsel for the applicants further submits that the applicants have made representations on 27.5.2020 onwards. Learned counsel for the applicants also drawn our attention to the matter decided by the Hon'ble High Court of Delhi in the matter of **Niraj Kumar**

Singh and others vs. Union of India and others

(W.P.(C) No.13129/2019) wherein it has been held as under:-



“6. It has been consistently held by this Court in a series of orders that those who had participated in the examination of 2003 would be covered by the OPS, notwithstanding that they had been offered letters of appointment only after 1st January, 2004.”

Similar view was taken in W.P. (C) No.8208/2020 by the Hon’ble High Court of Delhi on 15.1.2021

4. Ms. Esha Mazumdar, learned counsel, who appears on behalf of the respondents on advance information, accepts notice and opposes the contention of the learned counsel for the applicants.

5. However, after hearing both sides, we direct that respondents shall dispose of the aforesaid representations of the applicants within a period of four months by passing a reasoned and speaking order and communicate their decision to the applicants. If the applicants are not satisfied with the decision of the respondents, they may take legal recourse in accordance with law, if so advised.

6. It is made clear that while disposing of this OA, this Tribunal has not gone into the merit of the claim of the applicants.

7. With the above observations, the present OA is disposed of.

Pending MA also stands disposed of accordingly.



(Ashish Kalia)
Member (J)

(A. K. Bishnoi)
Member (A)

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