

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

OA No.3483/2014

New Delhi, this the 3rd day of August, 2016

Hon'ble Mr. P.K. Basu, Member (A)

Hon'ble Dr. Brahm Avtar Agrawal, Member (J)

1. Kishore Kr. Singh Rana
S/o T.S. Rana
Lab. Technician
Department of Gastroenterology
GP Pant Hospital New Delhi-2

2. Vijay Kumar Nautiyal, S/o A.T. Nautiyal
Junior Radiographer
Radiography Department
G.B. Pant Hospital, New Delhi -2

3. Rakesh Kumar, S/o Ramayan Singh
Technical Assistant
Microbiology of Department
Lok Nayak Hospital, New Delhi-2

4. Anand Prakash, S/o Kaladhar Misra
O.T. Technician
Department of Anesthesia
Lok Nayak Hospital
New Delhi-2 .. Applicants

(By Advocate: Mr.Ranjit Sharma)

Versus

1. Government of NCT of Delhi.
Through the Principal
Secretary, Health & Family Welfare
At New Secretariat, I.T.O Delhi.

2. G.B. Pant Hospital
Through the Administrative
Officer, JLN Marg, Delhi Gate
New Delhi-2
3. Lok Nayak Hospital
Through the Administrative Officer
JLN Marg, Delhi Gate, New Delhi-2 ..Respondents

(By Advocate: Mrs. Alka Sharma)

ORDER (ORAL)

Hon'ble Mr. P.K. Basu, Member (A)

The applicants appeared in examination conducted by the respondents for the posts of Lab. Technician and result thereof declared in the year 2003. The applicants were not allowed to join duty on the ground that they did not have diploma and degree from the recognised University. They challenged this decision before the Hon'ble High Court and after prolonged litigation vide order dated 29.1.2001, the High Court with respect to the applicants directed as following:-

“(3)As regards petitioner No.3 of W.P.[C] No. 5396-98/2005 and the appellants of LPA No. 1653-58/2005 we direct that they be granted employment as Medical Laboratory Technicians and for the purposes of seniority be placed as per their position in the select panel. They would not be entitled to any back-wages, save and except appellant No.3 who has been working at DDU Hospital and qua him we direct that he would be entitled to the same benefit as Lalit Kumar Vimal.”

2. It is admitted that the respondents have restored the seniority of the applicants viz-a-viz those who were appointed in the year 2003.

3. The contention of the applicants is that once seniority has been protected their pay should be protected and as a consequence they should be also be considered for benefits under MACP and old pension scheme applicable before 2004. They have also prayed for release of pay of arrears from 2003 till the date of their joining in the year 2012.

4. It is argued that once seniority is protected it naturally follows that pay should also be protected. Similarly, since their seniority has been fixed notionally w.e.f. 2003 they should be covered by the Pension Scheme applicable before 2004 and the whole notional period between 2003 to 2012 should be counted for the purpose of MACP.

5. Per contra, learned counsel for the respondents states that the order of the Hon'ble High Court is very specific, namely, that applicants will be granted employment and for the purpose of seniority they will be placed as per their select panel. The Hon'ble High Court, further states that they are not entitled to

any back wages, save and except appellant No.3 who had been working at DDU Hospital under GNCTD since 2002.

6. We have heard the learned counsel for the parties and perused the pleadings available on record. The order of the Hon'ble High Court is very specific inasmuch as the Hon'ble High Court has only protected the seniority of the applicants. The Court order does not say anything regarding counting of service for the period of 2003 to 2012 when they were not in service of the respondents nor about notional pay fixation. The order also does not state "with all consequential benefits". Moreover, the protection of seniority does not suo-moto guarantee protection of pay.

7. In view of the above, we are of the opinion that the respondents have implemented the order of the Hon'ble High Court in true letter and spirit and no interference is called for. The OA is, therefore, dismissed. No costs.

(Dr. Brahm Avtar Agrawal)
Member (J)

/mk/

(P.K. Basu)
Member A)

