

Central Administrative Tribunal
Principal Bench
New Delhi

O.A.No.2995/2014
M.A.No.2797/2014

with

O.A.No.2996/2014
M.A.No.2798/2014

Order Reserved on: 07.03.2016
Order pronounced on 19.04.2016

Hon'ble Shri V. Ajay Kumar, Member (J)
Hon'ble Shri P. K. Basu, Member (A)

O.A.No.2995/2014:

1. Dharambir Singh Ranga
Aged 59 years
s/o Sh. Chandgi Ram
Post:-O.T.Technician
R/o ESI Hospital
Rohini, Delhi.
2. Sudershan Kumari
Aged about 49 years
W/o Sh. Jagbir Singh
Post:- O.T.Technician
R/o ESI Hospital
Rohini, Delhi.
3. Ram Charan,
Age 55 years
S/o Sh. Bharat Singh
Post:-O.T.Technician
R/o ESI Hospital
Rohini, Delhi.

4. Bijendar Singh
Aged about 53 years
S/o Sh. Kishan Lal Singh
O.T.Technician
R/o ESI Hospital
Rohini, Delhi.
5. Mahinder Singh
Age 48 years
S/o Sh. Ram Kishan
Post:-O.T.Technician
R/o ESI Hospital
Rohini, Delhi.
6. Krishan Pal, aged about 50 years
S/o Sh. Amichand, O.T.Technician
Post:-O.T.Technician
R/o ESI Hospital
Rohini, Delhi.
7. Yudhister Kumar, aged about 51 years
S/o Sh. Beg Raj,
Post:- C.S.S.D.Assistant
R/o ESI Hospital
Rohini, Delhi.
8. Jai Bhagwan, aged about 48 years
S/o Sh. Suraj Bhan
Post:- C.S.S.D.Assistant
R/o ESI Hospital
Rohini, Delhi.
9. Rajbir, aged about 48 years
S/o Sh. Sat Narain
Post:- C.S.S.D.Assistant
R/o ESI Hospital
Rohini, Delhi.

10. Vijender Prasad, aged about 50 years
S/o Sh. Shyam Behari
Post:- C.S.S.D.Assistant
R/o ESI Hospital
Rohini, Delhi.
11. Anil Kumar Sharma
Aged about 48 years
S/o Sh. Ram Kanwar Sharma
Post:- C.S.S.D.Assistant
R/o ESI Hospital
Rohini, Delhi.
12. Dalbir Singh, aged about 46 years
S/o Sh. Dharam Singh,
Post:- C.S.S.D.Assistant
R/o ESI Hospital
Rohini, Delhi.
13. Jai Dev Sharma
Aged about 48 years
S/o Late Sh. Ganga Bishmini
Post:- C.S.S.D.Assistant
R/o ESI Hospital
Jhilmil, Delhi.
14. Rajesh Ch. Sharma, aged about 49 years
S/o Sh. P.C.Sharma,
Post:- O.T.Technician
R/o ESI Hospital
Jhilmil, Delhi.
15. Balu Ram
Aged about 54 years
S/o Sh. Ruhla Singh
Post:-O.T.Technician
R/o ESI Hospital
Jhilmil, Delhi.

16. Om Parkesh Sharma
Aged about 52 years
S/o Sh. Durga Parsad Sharma,
Post:- O.T.Technician
R/o ESI Hospital
Jhilmil, Delhi.
17. Bisan Devi
Aged about 50 years
W/o Sh. Uday Pal,
Post:- C.S.S.D.Assistant
R/o ESI Hospital
Jhilmil, Delhi.
18. Surender Pal Sharma
Aged about 42 years
S/o Late Sh. Shiv Narayan Sharma
Post:- C.S.S.D.Assistant
R/o ESI Hospital
Jhilmil, Delhi.
19. Hari Kishan
Aged about 43 years
S/o Late Sh. Ram Lal
Post:- C.S.S.D.Assistant
R/o ESI Hospital
Jhilmil, Delhi.
20. Mahesh Dutt
Aged about 54 years
S/o Sh. Babu Ram Sharma
Post:-O.T.Technician
R/o ESI Hospital
Jhilmil, Delhi.
21. Tara Chand
Aged about 40 years
S/o Sh. Saggan
Post:- C.S.S.D.Assistant
R/o ESI Hospital
Jhilmil, Delhi.

22. Ajab Singh
Aged about 49 years
S/o Sh. Indraj Singh
Post:- C.S.S.D.Assistant
R/o ESI Hospital
Jhilmil, Delhi.
23. Sultan Singh
Aged about 46 years
S/o Late Sh. Ratan Singh
Post:- C.S.S.D.Assistant
R/o ESI Hospital
Noida, UP.
24. Satya Veer Singh
Aged about years
S/o Sh. Tej Singh
Post:-O.T.Technician
R/o ESI Hospital
Noida, UP.
25. Hari Gopal
Aged about 43 years
S/o Sh. Ram Das
Post:- C.S.S.D.Assistant
R/o ESI Hospital
Noida, UP.
26. Kehri Singh, aged about 56 years
S/o Sh. Khajan Singh
Post:- C.S.S.D.Assistant
R/o ESI Hospital
Noida, UP.
27. Prakash Chander
Aged about 49 years
S/o Sh. Bachui Ram
Post:- C.S.S.D. Technician
R/o ESI Hospital
Basaidarapur, Delhi – 110 015.

28. Ramesh Chander, aged about 52 years
S/o Sh. Heeramani,
Post:-O.T. Technician
R/o ESI Hospital
Basaidarapur, Delhi – 110 015.
29. Ram Kumar, aged about 54 years
S/o Sh. Ram Kishan,
Post:- C.S.S.D. Technician
R/o ESI Hospital
Basaidarapur, Delhi – 110 015.
30. Atma Ram, aged about 58 years
S/o Sh. Bhanwar Singh
Post:- Sr. C.S.S.D.Technician
R/o ESI Hospital
Basaidarapur, Delhi – 110 015.
31. Ravikant Tiwari, aged about 45 years
S/o Sh. R.C.Tiwari,
Post:- C.S.S.D.Assistant
R/o ESI Hospital
Basaidarapur
Delhi – 110 015.
32. Prem Ballabh, Aged about 45 years
S/o Sh. Jay Dutt,
Post:- C.S.S.D.Assistant
R/o ESI Hospital
Basaidarapur
Delhi – 110 015.
33. Ummed Singh, aged about 47 years
S/o Sh. Gopi,
Post:- C.S.S.D.Technician
R/o ESI Hospital
Basaidarapur
Delhi – 110 015.

34. Raj Pal, aged about 47 years
S/o Sh. Musaddi All,
Post:-O.T. Technician
R/o ESI Hospital
Basaidarapur
Delhi – 110 015.
35. Randir Singh, aged about 45 years
S/o Sh. Than Singh
Post:- C.S.S.D.Assistant
R/o ESI Hospital
Basaidarapur
Delhi – 110 015.
36. Surender Kumar, aged about 54 years
S/o Late Sh. Meer Singh,
Post:- C.S.S.D.Assistant
R/o ESI Hospital
Basaidarapur
Delhi – 110 015.
37. Subhash Kumar, aged about 45 years
S/o Sh. Suraj Bhan,
Post:- C.S.S.D.Assistant
R/o ESI Hospital
Basaidarapur
Delhi – 110 015.
38. Mange Ram, aged about 52 years
S/o SH. Charan Singh
Post:- C.S.S.D.Assistant
R/o ESI Hospital
Okhla,
Delhi.
39. Deep Chand, Aged about 43 years
S/o Late Sh. Bhagwan Singh
Post:- C.S.S.D.Assistant
R/o ESI Hospital
Okhla, Delhi.

40. Shanti Kerketta, aged about 51 years
 S/o Sh. Kushal Chand Kerkettam
 Post:- C.S.S.D.Assistant
 R/o ESI Hospital
 Okhla
 Delhi. ... Applicants

(By Advocate: Sh. R.K.Sharma)

Versus

1. Director General
 E.S.I.Corporation, Panchdeep Bhawan
 Kotla Road
 New Delhi – 110 002.
2. The Director
 Directorate (Medical) Delhi
 Employees State Insurance Scheme
 Dispensary Complex,
 Tilak Vihar
 New Delhi.
3. The Medical Superintendent
 Employees State Insurance Corporation
 E.S.I.Hospital, Sector-15, Rohini, Delhi-89.
4. The Medical Superintendent
 Employees State Insurance Corporation
 E.S.I.Hospital, Basidarapur, Delhi-15.
5. The Medical Superintendent
 Employees State Insurance Corporation
 E.S.I.Hospital, Noida, U.P.
6. The Medical Superintendent
 Employees State Insurance Corporation
 E.S.I.Hospital, Jhilmil, Delhi-89.

7. The Medical Superintendent
 Employees State Insurance Corporation
 E.S.I.Hospital, Okhala, Delhi. ... Respondents

(By Advocate: Sh. A.K.Verma)

O.A.No.2996/2014:

1. Munish Kumar, aged about 50 years
 S/o Late Sh. Amar Singh
 Post:- O.T.Technician
 O/o ESI Hospital
 Basaidarapur, Delhi – 110 015.
2. Ved Parkash, aged about 52 years
 S/o Sh. Sohan Lal,
 Post:- O.T.Technician
 O/o ESI Hospital
 Basaidarapur, Delhi – 110 015.
3. Satpal Singh
 Aged about 48 years
 S/o Late Sh. Bhanwar Singh
 Post:- O.T.Technician
 O/o ESI Hospital
 Basaidarapur, Delhi – 110 015.
4. Ashok Kumar, aged about 45 years
 S/o Sh. Karam Singh,
 Post:- O.T.Assistant
 R/o ESI Hospital
 Basaidarapur, Delhi – 110 015.
5. Shital Prasad, aged about 49 years
 S/o Sh. Koshori Lal,
 Post:- O.T.Assistant
 R/o ESI Hospital
 Basaidarapur, Delhi – 110 015.
6. Neeru, aged about 47 years

W/o Sh. Sanjay Kumar,
Post:-C.S.S.D.Technician
R/o ESI Hospital
Basaidarapur, Delhi – 110 015.

7. Krishan Kumar Verma, aged about 47 years
S/o Late Sh. Bhagwati, Pd. Verma
Post:-C.S.S.D.Technician
O/o ESI Hospital
Basaidarapur, Delhi – 110 015.
8. Bahadur Singh Adhikari, aged about 45 years
S/o Late Sh. Khem Singh Adhikari,
Post:-O.T.Assistant
R/o ESI Hospital
Basaidarapur, Delhi – 110 015.
9. Bhuwan Chandra, aged about 49 years
S/o Late Sh. Ganga Dutt Joshi
Post:-C.S.S.D.Technician
R/o ESI Hospital
Basaidarapur, Delhi – 110 015.
10. Sanjay Pandey, aged about 45 years
S/o Sh. Ram Charan Pandey
R/o ESI Hospital, Basaidarpur, Delhi-110 015.
11. Rajneesh Kumar Negi, aged about 51 years
S/o Sh. T.S.Negi,
Post:-O.T.Technician
R/o ESI Hospital
Basaidarapur, Delhi – 110 015.
12. Hema Sharma, aged about 44 years
W/o Sh. Alok Sharma,
Post:-O.T.Technician
R/o ESI Hospital
Basaidarapur, Delhi – 110 015.

13. Hari Singh, aged about 57 years
S/o Sh. Ram Chand,
Post:-C.S.S.D.Assistant
R/o ESI Hospital
Basaidarapur, Delhi – 110 015.
14. Raj Pati Dubey, aged about 48 years
S/o Sh. Babu Ram Dubey,
Post:-O.T.Technician
R/o ESI Hospital
Basaidarapur, Delhi – 110 015.
15. Uttam Singh Negi, aged about 45 years
S/o Sh. T.S.Negi,
Post:- O.T.Assistant
R/o ESI Hospital, Basaidarapur,
Delhi – 110 015.
16. Balwan Singh, Aged about 48 years
S/o Late Sh. Chotty Ram,
Post:- O.T.Assistant
R/o ESI Hospital, Basaidarapur,
Delhi – 110 015.
17. Mod Lal, aged about 45 years
S/o Sh. Pars Nath Pd.
Post:- O.T.Assistant
R/o ESI Hospital, Basaidarapur,
Delhi – 110 015.
18. Someshwar Dayal, aged about 49 years
S/o Sh. Ram Nath Singh
Post:-C.S.S.D.Technician
R/o ESI Hospital, Basaidarapur,
Delhi – 110 015.
19. Kishan Chand, age 44 years
S/o Sh. Bhajan Lal
Post:- O.T.Assistant
R/o ESI Hospital, Basaidarapur,
Delhi – 110 015.

20. Sunil Kumar, age 28 years
S/o Sh. Kedar Mahato
Post:- O.T.Assistant
R/o ESI Hospital, Rohini,
Delhi.
21. Vinod Kumar, aged about 45 years
S/o Sh. Kanwal Singh,
Post:- O.T.Assistant
R/o ESI Hospital, Rohini,
Delhi.
22. Deepak Kumar Tiwari, age 32 years
S/o Sh. Shree Krishan Tiwari
O.T.Assistant
R/o ESI Hospital, Rohini, Delhi.
23. Kailash Mahto, aged about 44 years
S/o Sh. Mohar Mahto,
Post:- O.T.Assistant
R/o ESI Hospital, Rohini,
Delhi.
24. Mahesh Kumar, age about 46 years
S/o Sh. Shyam Lal
Post:- O.T.Assistant
R/o ESI Hospital, Rohini,
Delhi.
25. Vinod Kumar, aged about 45 years
S/o Sh. Shiv Lal,
Post:- O.T.Assistant
R/o ESI Hospital, Rohini,
Delhi.
26. Rajesh Malik, age 33 years
S/o Sh. Ram Karan Malik
Post:- O.T.Assistant
R/o ESI Hospital, Rohini,
Delhi.

27. Praveen Rana, age 32 years
S/o Sh. Om Singh,
O.T.Assistant
R/o ESI Hospital, Rohini,
Delhi.
28. Pradeep Kumar, age 35 years
S/o Sh. Raj Singh
O.T.Assistant
R/o ESI Hospital, Rohini,
Delhi.
29. Loveleen Thomas, age 41 years
S/o Sh. Samuel Thomas,
O.T.Technician
R/o ESI Hospital, Rohini,
Delhi.
30. Chander Shekhar, age 51 years
S/o SH. Bachiram,
Post:- O.T.Technician
R/o ESI Hospital, Rohini,
Delhi.
31. Ramesh Singh Negi, aged about 48 years
S/o Sh. B.S.Negi,
O.T.Technician
R/o ESI Hospital, Rohini,
Delhi.
32. Naveen Chander Tiwari, aged about 48 years
S/o Sh. U.D.Tiwari,
Post:-CSSD Assistant
R/o ESI Hospital, Rohini,
Delhi.
33. Jeevan Lal, aged about 48 years
S/o Late Sh. Govind Lal,
Post:-CSSD Tech.
R/o ESI Hospital, Rohini,
Delhi.

34. Sunil Dutt, aged about 42 years
S/o Sh. Shambhu Prasad,
Post:-CSSD Tech.
R/o ESI Hospital, Rohini,
Delhi.
35. Rakesh Kumar, aged about 47 years
S/o Sh. Moti Ram,
Post:- CSSD Assistant
R/o ESI Hospital, Rohini,
Delhi.
36. Krishan Pal, aged about 58 years
S/o Sh. Man Singh,
Post:- O.T.Technician
R/o ESI Hospital, Jhilmil,
Delhi.
37. Ranbir Singh, aged about 52 years
S/o Sh. Ram Pal Singh
Post:-C.S.S.D.Technician
R/o ESI Hospital, Jhilmil,
Delhi.
38. Krishan Pal Singh, aged about 48 years
S/o SH. Trilok Singh
Post:- O.T.Technician
R/o ESI Hospital, Jhilmil,
Delhi.
39. Gopal Joshi, aged about 41 years
S/o Late Sh. P.C.Joshi,
Post:- O.T.Assistant
R/o ESI Hospital, Jhilmil,
Delhi.
40. Kiran Bala, aged about 45 years
W/o Sh. Parveen Kumar
Post:- O.T.Technician
R/o ESI Hospital, Jhilmil,
Delhi.

41. Sanjay Singh, aged about 42 years
S/o Late Sh. Sohan Pal Singh
Post:- O.T.Assistant
R/o ESI Hospital, Jhilmil,
Delhi.
42. Vijay Pal, aged about 49 years
S/o Sh. Ramesh Lal
R/o ESI Hospital, Jhilmil,
Delhi.
43. Chander Pal Singh, aged about 53 years
S/o Late Sh. Jowar Singh,
Post:- O.T.Assistant
R/o ESI Hospital, Jhilmil,
Delhi.
44. Mahesh Chander, aged about 42 years
S/o Late Sh. Kamla Pati,
Post:- O.T.Assistant
R/o ESI Hospital, Jhilmil,
Delhi.
45. Ravi Pratap, aged about 42 years
S/o Sh. Lutawan Yadav,
Post:-C.S.S.D.Technician
R/o ESI Hospital, Noida,
UP.
46. Luxmi Dutt, aged about 52 years
S/o Late Sh. Ram Dutt,
O.T.Technician
R/o ESI Hospital, Noida, UP.
47. Manohar Lal, aged about 53 years
S/o Late Sh. Mangat Ram,
Post:- O.T.Technician
R/o ESI Hospital, Noida, UP.

48. Ashok Kumar, aged about 55 years
S/o Late Sh. Ram Lal,
Post:- O.T.Technician
R/o ESI Hospital, Noida, UP.
49. Beena Prasad, aged about 43 years
S/o Sh. Khedan Prasad,
Post:- O.T.Technician
R/o ESI Hospital, Noida, UP.
50. Harish Chander, aged about 50 years
S/o Late Sh. Sita Ram,
Post:- O.T.Technician
R/o ESI Hospital, Noida, UP.
51. Nand Kishor
Aged about 57 years
S/o Late Sh. Parram,
Post:- O.T.Technician
R/o ESI Hospital, Noida, UP.
52. Jaswant Singh, aged about 47 years
S/o Late Sh. Vijay Singh
Post:- O.T.Assistant
R/o ESI Hospital, Noida, UP. ... Applicants

(By Advocate: Sh. R.K.Sharma)

Versus

1. Director General
E.S.I.Corporation, Panchdeep Bhawan
Kotla Road
New Delhi – 110 002.
2. The Director
Directorate (Medical) Delhi
Employees State Insurance Scheme
Dispensary Complex,
Tilak Vihar
New Delhi.

3. The Medical Superintendent
Employees State Insurance Corporation
E.S.I.Hospital, Basidarapur, Delhi-15.
4. The Medical Superintendent
Employees State Insurance Corporation
E.S.I.Hospital, Rohini, Delhi.
5. The Medical Superintendent
Employees State Insurance Corporation
E.S.I.Hospital, Jhilmil, Delhi.
6. The Medical Superintendent
Employees State Insurance Corporation
E.S.I.Hospital, Noida, U.P. ... Respondents

(By Advocate: Sh. A.K.Verma)

O R D E R (Common)

By V. Ajay Kumar, Member (J):

The applicants, who are working as Operation Theatre Assistants, and CSSD/CSR Assistants in various Hospitals of the respondent-Employees State Insurance Corporation (ESIC), filed the OA seeking a direction to extend the benefits of the 5th Pay Commission's revised report of 30.09.1997 and accordingly to grant the pay scale of Rs.4000-100-6000 w.e.f. 01.01.1996 with all consequential benefits, including interest on arrears, on par with Laboratory Assistants and Plaster Assistants of the respondent-ESIC.

2. Heard both sides, and decided to dispose of both the OAs by this common order as the facts and question of law are identical.

3. The applicants were given the scale of Rs.3050-4590 in 5th CPC. Since as per the Notification of the Central Government dated 30.09.1997, the scale of Rs.4000-6000 for the technical posts requiring matriculation with some experience was not granted to the applicants, they filed the OA.

4. It is their case that the CSR/CSSD Assistants are having identical service conditions like the Laboratory Assistants and Plaster Assistants. In case of Laboratory Assistants, in spite of the aforesaid notification, when the respondents ESIC has not granted the pay scale of Rs.4000-6000, they have filed OA No.1464/2003 – Ashok Kumar v. Union of India before this Tribunal and this Tribunal by its order dated 13.01.2004, granted the same to them. Though, the respondents filed a Writ Petition against the said orders, as no stay was granted, implemented the same in respect of Laboratory Assistants. It is also submitted on behalf of the applicants that in respect of Plaster Assistants also, this Tribunal in OA No.3227/2011 by order dated 19.12.2013 (Annexure A6), granted the pay scale of Rs.4000-6000.

5. It is further submitted that since the applicants also identically placed like the Laboratory Assistants and the Plaster Assistants of the respondent-ESIC, they are also entitled for granting of the pay scale of Rs.4000-6000 w.e.f. 01.0.1996, with all consequential benefits.

6. Per contra, the respondents while praying for dismissal of the OA, inter alia, raised the following contentions:

- a) OA is barred by limitation and latches as the claim is pertaining to the 5th CPC recommendations which came into force in the year 1996.
- b) Non-Matric of Nursing Orderly, being the feeder cadre, are eligible for promotion as CSSD Assistants and hence, granting of pay scale of Rs.4000-6000 is unwarranted to the CSSDs, as the acid test for grant of the said scale is Matriculation.
- c) The duties and responsibilities of the CSSDs are completely different and cannot be compared with Lab Assistants and Plaster Assistants.

7. A perusal of Annexure A6, i.e., Order dated 19.12.2013 in OA No.3227/2011 (Brham Pal & Anr. vs. Union of India) filed by Plaster Assistants of the respondent-ESIC, reveals that identical submissions were made on behalf of both sides, and this Tribunal after considering the same, in detail, allowed the OA by granting the scale of Rs.4000-6000 to the Plaster Assistants. Relevant paragraphs of the said order read as under:

"5. We have heard both the sides and perused the documents placed on record. With regard to limitation, the law is well established that the matter of granting pay scale is a continuing cause of action and we have no hesitation in rejecting this plea of the respondents. As per the averment of the applicants they started representing to the respondents immediately after grant of the pay scale of Rs.3200-4900, which has not been denied by the respondents. Representations were submitted by the applicants in the year 1999, 2000, 2003, 2007 and 2010 but the matter was not decided by the respondents till the applicants filed OA no.3138/2010. As such, the principle of estoppel cannot be applied in this case. The applicants had parity with Laboratory Assistants/Nurse D grade/Auxiliary Nurse and midwife till 4th Pay Commission and they were given identical pay scale of Rs.975-1540 by the 4th CPC. The 5th Pay Commission

maintained that parity and recommended a common scale of Rs.3200-4900. The problem arose when subsequently vide Government notification dated 30.09.1997, the scale was upgraded to Rs.4000-6000 and the same was not implemented for the PAs. There is no averment as to why the respondents decided to discard the parity with Nurse Dgrade and Auxiliary Nurse and midwife from that point in time onwards. The Resolution dated 30.09.1997 through which the recommendations of the 5th CPC were given effect to, states as follows:-

"XXII OTHER TECHNICIANS

- (a) Posts requiring Matriculation with 4000-100-6000 52.111 some experience as minimum qualification for direct recruitment".

6. Respondents have taken the plea that since there is a component of promotion in the grade of PA from the feeder grades of Nursing orderly/stretchers bearer/ dresser/aya where no minimum qualification has been prescribed, the aforesaid recommendation of the 5th CPC as notified in the resolution dated 30.09.1997 cannot be applied. This is highly specious argument for various reasons. The scale attached to a post is a function of job content, degree of hardship, risk etc. involved in discharging the duties. The academic qualification and experience is fixed keeping the competence level required from the persons who will be occupying the posts. If the employer has taken a view that the same competence level can be achieved by a recruit by having matriculation and one year experience in the case of direct recruitment, or 5 years experience for matriculates and 7 years experience for non-matriculates in case of promotion, there does not appear to be any further scope for discrimination in the matter of remuneration. As the employer in this case has already taken care to enhance the experience level to 5 years and 7 years respectively for promotion of matriculate and non-matriculate nursing orderly etc. it does not stand to logic that the entire cadre of PA should be given a lower pay scale for this reason alone. The hollowness of the logic put forward by the respondents gets further exposed if we consider the fact that the cadre where there is no promotion and the appointment is only by direct recruitment, a candidate with matriculation and one year experience will be eligible for higher grade of Rs.4000-6000 but a mixed cadre of direct recruit and promotees (with 5 to 7 years experience) as a whole will be downgraded to a lower pay scale. This is obviously a discrimination.

7. This Tribunal in the case of Laboratory Assistants has already taken a view in favour of admissibility of scale of Rs.4000-6000 and the respondents have implemented it provisionally subject to the outcome of the pending Writ Petitions in the Honble High Court of Delhi. However, we are not linking up the order in this OA with the order of this Tribunal in respect of Laboratory Assistants.

8. In the light of the discussion in the preceding paragraph and the reasons explained, we quash the order dated 17.01.2011 passed by the respondents in compliance of the directions of the Tribunal in OA-3138/2010 and MA no.2432/2010. The respondents are further directed to implement the scale notified vide resolution dated 30.09.1997

for other technicians (Posts) requiring matriculation with some experience as minimum qualification for direct recruitment, i.e., 4000-6000. The respondents shall implement this order within a period of two months and will also pay arrears to the applicants from the date of filing of this O.A. The O.A. stands allowed in the aforesaid terms. No costs."

8. Since the applicants who are working as O.T.Assistants/CSSD/CSR Assistants are identically placed like the Plaster Assistants and Laboratory Assistants of the respondent-ESIC, and for parity of reasons, we reject the contentions of the respondents and accordingly, allow the OA. The respondents are directed to implement the scale notified vide Resolution dated 30.09.1997, i.e., by granting the pay scale of Rs.4000-6000 to the applicants. However, they are entitled for arrears with effect from the date of filing of the OA, without any interest thereon. This exercise shall be completed within two months from the date of receipt of a copy of this order. This order is subject to the result of the Writ Petition filed by the respondents against the orders of this Tribunal dated 13.01.2004 in OA No.1464/2003-Ashok Kumar & Others v. Union of India and also the Writ Petition No.18/2015, filed against the orders dated 19.12.2013 in OA No.3227/2011 (Brham Pal & Others v. Union of India). No costs.

(P.K. Basu)
Member (A)

(V. Ajay Kumar)
Member (J)

/nsnrvak/