

Central Administrative Tribunal Principal Bench, New Delhi

O.A.No.3784/2015

Order reserved on 28th March 2017

Order pronounced on 05th April 2017

Hon'ble Mr. K.N. Shrivastava, Member (A)

1. Ved Prakash Nagar s/o Shri Bhan Singh Nagar
(Aged 33 years) Designation Assistant Public Health Inspector
r/o K-I-140, New Kavi Nagar
Ghaziabad, UP
2. Ardhenu Tank s/o Shri Ravi Kumar
(Aged 31 years) Designation Assistant Public Health Inspector
r/o 2/38, Near Jain Mandir, Kandhla, District
Shamli, UP 24777
3. Ravinder Kaushik s/o Shri Soda Dutt Kaushik
(Aged 28 years) Designation Assistant Public Health Inspector
r/o Village Junhera
Ballabgarh, Faridabad
4. Sanjiv Kaushik s/o Shri Jagdish Kaushik
(Aged 30 years) Designation Assistant Public Health Inspector
r/o village Junhera, Ballabgarh, Faridabad
5. Dinesh Kumar Meena s/o Shri Dulha Ram
(Aged 37 years) Designation Assistant Public Health Inspector
r/o Village & Post Surooth, District Karauli
Rajasthan
6. Deen Dayal Meena s/o Shri UmediLa Meena
(Aged 37 years) Designation Assistant Public Health Inspector
r/o Village & Post Bhanokhar, Than-
Kathumar, District Alwar, Rajasthan
7. Manzar Alam s/o Sh. Samsudeen
(Aged 29 years) Designation Assistant Public Health Inspector
r/o C-105, GF, Gali No.18, Madanpur Khadar Ext.
Delhi
8. Rajesh Nagar s/o Shri Udayveer Nagar
(Aged 33 years) Designation Assistant Public Health Inspector
r/o 299, Alpha 1, Greater Noida, UP
9. Rajeev Prakash s/o Shri Gajhodhar Prashad
(Aged 35 years) Designation Assistant Malaria Inspector

r/o Leela Bhawan Nangla, Harprasad
Yamuna Par, Laxmi Nagar, Mathura, UP

10. Rakesh Kumar s/o Shri Ram Singh
(Aged 34 years) Designation Assistant Malaria Inspector
r/o G-209, Sangam Vihar, New Delhi
11. Santosh Kumar s/o Shri Vidhyaram Verma
(Aged 25 years) Designation Assistant Malaria Inspector
r/o H-21, M B Road, Lal Kuan, Delhi – 44
12. Sanjeev Kumar s/o Shri Amar Singh
(Aged 33 years) Designation Assistant Malaria Inspector
r/o 146, Masjid Moth, South Extn. New Delhi – 49
13. Rajender s/o Shri Ram Dhan Verma
(Aged 32 years) Designation Assistant Malaria Inspector
r/o 637/309, Chuhan Mohalla, Madanpur Khadar, Delhi
14. Sandeep Gupta s/o Shri Sohan Lal Gupta
(Aged 29 years) Designation Assistant Malaria Inspector
r/o J-1/156, 2nd Floor, DDA Flats
Kalkaji, Delhi
15. Anuj Kumar Sahu s/o Shri Ramesh Chand
(Aged 28 years) Designation Assistant Malaria Inspector
r/o 1534/17, I-Block, Sangam Vihar, New Delhi
16. Gaurav Bajpai s/o Ravindra Nath Bajpai
(Aged 30 years) Designation Assistant Malaria Inspector
r/o A-549, Indra Kunj, Ghaziabad UP
17. Pankaj Kumar s/o Shri Prem Chand Pal
(Aged 33 years) Designation Assistant Malaria Inspector
r/o 200, Savitri Nagar, Delhi
18. Amit Kumar Gautam s/o Shri H R Gautam
(Aged 28 years) Designation Assistant Malaria Inspector
r/o RZ-27/404 P, Gali No.15E, Shivpuri, West
Sagarpur, Delhi – 46
19. Mini Kumari d/o Nadish Chandra Bose
(Aged 27 years) Designation Assistant Malaria Inspector
r/o Type-I, West Kidwai Nagar, Delhi
20. Rajesh Kumar s/o Shri B N P Bhagat
(Aged 31 years) Designation Assistant Malaria Inspector
r/o 49 C Mohaamed Pur, New Delhi - 66
21. Kausal Kumar s/o Shri Ram Dass
(Aged 31 years) Designation Assistant Malaria Inspector

r/o D-13/516, Chhattarpur Hills
New Delhi 74

22. Gauri Sharma s/o Shri Laxmi Dutt
(Aged 25 years) Designation Assistant Malaria Inspector
r/o G-1328, Sangam Vihar, New Delhi
23. Ashish Sharma s/o Shri Rama Kant Sharma
(Aged 28 years) Designation Assistant Malaria Inspector
r/o 93 D/5 Sohbatia Bagh, Allahabad, UP
24. Pradeep Sharma s/o Shri Inderjit Sharma
(Aged 35 years) Designation Assistant Malaria Inspector
r/o 172/68, A/1A Uttari Lokpur
Naini, Allahabad UP 211008
25. Shiv Kumar s/o Shri Rohtash Singh
(Aged 31 years) Designation Assistant Malaria Inspector
r/o Village Behrampur, Post Fazilpur, Jharsa, Haryana
26. Tapan s/o Shri Ramesh Singh
(Aged 33 years) Designation Assistant Malaria Inspector
r/o 202/57A Rameshwar Nagar, Delhi
27. Shelendra Kumar Yadav
s/o Shri Jagat Prakash Yadav
(Aged 28 years) Designation Assistant Malaria Inspector
r/o B-496/A, Sangam Vihar, New Delhi
28. Vishant Kumar s/o Shri Ram Gopal Kholiya
(Aged 26 years) Designation Assistant Malaria Inspector
r/o A-20, Bal Nagar, Kartarpura, Jaipur
Rajasthan – 302 006
29. Reena Kumari s/o Shri Upender Mehto
(Aged 31 years) Designation Assistant Malaria Inspector
r/o 35/8, Munirka Village, Delhi
30. Gullu Chauhan s/o Shri Sir Chand
(Aged 32 years) Designation Assistant Public Health Inspector
r/o Village Khera Khalilpur, PO Indri
District Mewat, Haryana
31. Suraj s/o Shri Chander
(Aged 32 years) Designation Assistant Public Health Inspector
r/o 47A/1 Savitri Nagar, New Delhi
32. Ankur S/o Shri Atul Kumar
(Aged 26 years) Designation Assistant Public Health Inspector
r/o HL-20A Upper Ground Floor, Hari Nagar, Delhi

33. Hans Raj Meena s/o Shri B L Meena
(Aged 29 years) Designation Assistant Public Health Inspector
r/o C-12 Vishnu Vihar, Jagatpura, Jaipur, Rajasthan
34. Kailash Chand Yadav s/o Shri S L Yadav
(Aged 32 years) Designation Assistant Public Health Inspector
r/o Vilalge & Post Dhamred, Tehsil Rajgarh,
District Alwar, Rajasthan 301408
35. Jatin Parihar s/o Shri Narayan Singh Parihar
(Aged 32 years) Designation Assistant Public Health Inspector
r/o H.No.716/29 Anandpuri, Dhola Bhata
Ajmer, Rajasthan
36. Kalu Ram Meena s/o Shri Dhansi Ram Meena
(Aged 29 years) Designation Assistant Public Health Inspector
r/o RZF-708/5A, Gali No.1, Rajnagar-II, Palam, Delhi
37. Nitish Prakash Pandey s/o Shri Ved Prakash Pandey
(Aged 32 years) Designation Assistant Public Health Inspector
r/o 3103, Plot No.8A, Sector 11, Dwarka, Delhi
38. Om Prakash Kashav s/o Shri Devender Singh Kashav
(Aged 29 years) Designation Assistant Public Health Inspector
r/o G-5, Sangam Vihar, New Delhi – 62
39. Pramod Kumar Bhan s/o Shri Suraj Bhan
(Aged 34 years) Designation Assistant Public Health Inspector
r/o D 22A, D Block, Masoodpur, B-8, Vasant Kunj
New Delhi 70
40. Arun Singh s/o Shri Ram Lakhan Rajpat
(Aged 31 years) Designation Assistant Malaria Inspector
r/o A-116, Gali No.89, Jagatpuri Delhi
41. Baijnath Kumar s/o Shri Doman Sharma
(Aged 31 years) Designation Assistant Malaria Inspector
r/o 76 Krishan Kunj Colony, Laxmi Nagar, Delhi – 92
42. Ram Kumar s/o Shri Jai Narayan Mahto
(Aged 33 years) Designation Assistant Public Health Inspector
r/o MB-87, 2nd Floor, Gali No.5, Shakarpur,
Delhi – 92
43. Naveen Kumar s/o Shri Vishnu
(Aged 26 years) Designation Assistant Public Health Inspector
r/o 58 Shajpurjat, Near Khelgaon, Delhi
44. Tarun Kumar Chaudhary s/o
Shri Lallan Pratap Chauhary
(Aged 28 years) Designation Assistant Malaria Inspector

r/o 76 Krishan Kunj Colony, Laxmi Nagar
Delhi – 92

45. Priti Verma s/o Shri Vishwamitra
(Aged 25 years) Designation Assistant Malaria Inspector
r/o 101/10 Circular Road, Pal Gali Shahdra
Delhi
46. Bankal Singh s/o Shri Dharampal Singh
(Aged 35 years) Designation Assistant Malaria Inspector
r/o VillageBaiwpur, PO Bhawan Bahadur
Nagar, District Bulandshahr, UP
47. Rukesh Kumar s/o Shri Rajveer Singh
(Aged 36 years) Designation Assistant Malaria Inspector
r/o A-386, G B Colony, Mayur Vihar III, Delhi
48. Sonpal Singh s/o Shri Kewal Singh
(Aged 27 years) Designation Assistant Malaria Inspector
r/o Village Nagal Gilli Post Dhrampur
District Bulandshahr, UP
49. Satender s/o Shri Amar Singh
(Aged 31 years) Designation Assistant Malaria Inspector
r/o 492/1, MOH, Hiralal, Mawana, District
Meerut, UP
50. Neeraj Kumar s/o Shri Ram Charan
(Aged 32 years) Designation Assistant Malaria Inspector
r/o B-965, G D Colony, Mayur Vihar I, Delhi – 96
51. Rajpal S/o Shri Ram Chander Pal
(Aged 30 years) Designation Assistant Malaria Inspector
r/o Nagla Caupal, PO Sikhra, District
Kasganj, UP
52. Sanjay Kumar s/o Shri Sri Pal
(Aged 36 years) Designation Assistant Malaria Inspector
r/o IX/4773A, Old Seelampur, Delhi

..Applicants

(Mr. Pawan Kumar Bahl, Advocate)

Versus

1. South Delhi Municipal Corporation
Through Commissioner, Dr. S P M, Civic Centre
Minto Road, New Delhi
2. East Delhi Municipal Corporation
Through its Commissioner, EDMC (HQ)

Patparganj Industrial Area, Patparganj
New Delhi

3. Delhi Subordinate Service Selection Board
Through Secretary, Govt. of NCT of Delhi
FC 18, Institutional Area, Karkardooma, Delhi ..Respondents
(Mrs. Anupama Bansal, Advocate for respondent No.1,
Mr. Bal Kishan, Advocate for respondent No.2 –
Nemo for respondent No.3)

O R D E R

Through the medium of this O.A. filed under Section 19 of the Administrative Tribunals Act, 1985, the applicants have prayed for the following main reliefs:-

“i) To direct the respondents to implement the orders passed by govt. of NCT to similarly situated employees of same categories and as per the judgment of the Hon’ble Tribunal and Hon’ble High Court as noted above and give equal pay to the applicants, as being paid to the regular employees to the similar post; and

ii) To pay all the emoluments and benefits as per the entitlement in terms of the judgments passed in the cases of Paramedical staff on contract basis including Victoria messy and Rajesh Kumar Sharma and others and other similar judgments.”

2. Brief facts of the case are under:-

2.1 The applicants were engaged as Assistant Malaria Inspectors (AMIs) and Assistant Public Health Inspectors (APHIs), on contract basis, in September 2010 by the erstwhile Municipal Corporation of Delhi (MCD). They were issued appointment letters; one such letter is annexed as Annexure P-1. These applicants possess the requisite educational qualification required for regular appointment against the posts of AMIs and APHIs. They are presently being paid basic pay *plus* Grade Pay *plus* variable DA of the post of AMI/APHI.

2.2 In the year 2012, the MCD was trifurcated into three Municipal Corporations, i.e., North Delhi Municipal Corporation (North DMC), South Delhi Municipal Corporation (South DMC) and East Delhi Municipal Corporation (East DMC).

2.3 The applicants are presently working under South DMC and East DMC (respondent Nos. 1 & 2 respectively). Their claim is that as they are working as Paramedical staff in the respective Municipal Corporations, in addition to the basic pay, Grade Pay and variable DA, they are also entitled for other allowances, viz. Transport allowance, Washing Allowance, Compensatory Allowance, House Rent Allowance, etc.

2.4. In support of their claim, the applicants have relied on two judgments of the Hon'ble High Court of Delhi in the cases of **Govt. of NCT of Delhi v. Victoria Massey** (W.P. (C) No.8476/2009) decided on 22.05.2009 and **Rajesh Kumar Sharma & others v. Govt. of NCT of Delhi & others** (W.P. (C) No.3769/2013) decided on 04.07.2013. The Hon'ble High Court has discussed the judgment in **Victoria Massey** (supra) in **Rajesh Kumar Sharma's** case (supra). The case of **Victoria Massey** was first adjudicated by a Full Bench of this Tribunal in O.A. No.1330/2007. The applicants in the said O.A. were working as Staff Nurses/Paramedics, on contract basis, in the erstwhile MCD. They had prayed for payment of same salary and annual increments as were being paid to the permanently appointed Staff Nurses/Paramedics by the MCD. The said O.A. was disposed of by the Tribunal vide order dated 23.07.2008 holding therein that the contract employees working in various hospitals established by the Govt. of NCT of Delhi as also the MCD would be entitled to wages at par

with the regular employees, including increments. The judgment of the Full Bench of the Tribunal in **Victoria Massey** (supra) was challenged by the respondents therein before a Division Bench of the Hon'ble High Court in W.P. (C) No.8476/2009, which was disposed of vide judgment dated 22.05.2009, holding that the contract employees would be entitled to wages in the minimum of the pay scale applicable to regular employees but not increments. The SLP filed against the said judgment was dismissed by the Hon'ble Supreme Court.

2.5 The second judgment relied upon by the applicants is in the case of **Rajesh Kumar Sharma** (supra). The petitioners therein had filed an earlier O.A. No.3327/2010 praying therein that they be paid salary and annual increments, which were being paid to permanently appointed Staff Nurses and Paramedics by the MCD. The said O.A. was disposed of by the Tribunal vide order dated 27.01.2011 directing that the directions issued in **Victoria Massey's** case (supra) by the Full Bench of the Tribunal and as affirmed by the High Court of Delhi would apply to the applicants therein.

2.6 Pursuant to the directions of the Tribunal in order dated 27.01.2011 in O.A. No.3327/2010, the MCD passed an order that the applicants therein be paid salary in the minimum of the scale applicable to the regular employees + Grade Pay + DA. Accordingly by the said order, Rajesh Kumar Sharma & others, who were applicants in O.A. No.3327/2010, filed W.P. (C) No.3769/2013 before the High Court of Delhi, which was disposed of vide judgment dated 04.07.2013. The High Court, in the *ibid* judgment, made the following significant observations:

"7. It is not in dispute that the decision of the Full Bench of the Tribunal in Victoria Massey's case was modified by Division Bench of this Court on May 22, 2009 when WP(C) 8476/2009 Government of NCT of Delhi vs. Victoria Massey was decided. The Division Bench held that contract employees would be entitled to wages in the minimum of the pay scale applicable to regular employees but not increments.

8. To this extent, the observation of the Tribunal in its decision dated January 27, 2011 when O.A.No.3327/2010 was disposed of are incorrect i.e. that the Full Bench decision of the Tribunal in Victoria Massey's case was affirmed by a Division Bench of this Court.

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12. We do not agree. Wages was always understood by the Government of NCT of Delhi and erstwhile Municipal Corporation of Delhi to mean not only the basic pay as also the Grade Pay and the Dearness Allowance but also Nursing Allowance (for Nurse), Patient Care Allowance (for other than Nurses), Uniform Allowance, Washing Allowance, House Rent Allowance and the Transport Allowance. This is evident from the fact that the Government of NCT of Delhi had issued an order on November 19, 2011 which reads as under:-

"GOVT OF NCT OF DELHI
DEPARTMENT OF HEALTH & FAMILY WELFARE
9th LEVEL, A-WING, I.P. ESTATE, DELHI SECRETARIAT,
DELHI-110002.
No.F.1(550)/TRC/H&FW/2012/12026-12061 Dated 19/22/2012
ORDER

Approval of the competent authority is hereby conveyed for payment of the following remuneration to the paramedical staff engaged on contract basis by the Health & Family Welfare Department, Government of NCT of Delhi, with immediate effect:-

- (i) Basic Pay
- (ii) Grade Pay
- (iii) Dearness Allowance
- (iv) Nursing Allowance (for Nurses)
- (v) Patient Care Allowance (for other than nurses)
- (vi) Uniform Allowance
- (vii) Washing Allowance
- (viii) House Rent Allowance
- (ix) Transport Allowance

Paramedical staff engaged on contract basis will get pay at the minimum of the pay band of the respective/responding post. They will not be entitled to increment in pay or promotion or regularization in service.

This issues with the concurrence of the FD vide U.O.No.624/DS-I dated 16.11.2012.

Sd/-
 (SUDHIR KUMAR)
 SPECIAL SECRETARY
 HEALTH & FAMILY WELFARE"

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15. That apart, the decision of the Full Bench of the Tribunal in Victoria Massey's case categorically held that contractual employees would be entitled to all benefits which were given to the regularly appointed employees; and needless to state as per the Full Bench of the Tribunal this included annual increment as well. The expression 'wages' used by the Full Bench of the Tribunal has to be understood in said context i.e. the context of the finding by the Full Bench that contract appointed employees would be entitled to same benefits as were being made available to regular employees. It is in this context that the Division Bench judgment of this Court has to be understood where it set aside that part of the decision of the Full Bench of the Tribunal where it was directed that equivalent benefits would include increment as well. (Which part of the Full Bench order was set aside.)"

The operative part of the judgment reads thus:-

"18. We allow the writ petition directing the second respondent to pay salary and allowances to the petitioners as also to all other Staff Nurses and para-medics by including therein not only the Basic Pay, Grade Pay and Dearness Allowance but such other allowances as are being paid by the Government of NCT of Delhi to its contract appointed employees as per the letter dated November 19, 2012."

The applicants have pleaded for the implementation of the judgments of the Hon'ble High Court in **Victoria Massey** and **Rajesh Kumar Sharma** (supra) in their cases also.

3. Pursuant to the notice, the respondents entered appearance and filed their reply. The applicants thereafter filed their rejoinder. During the

course of hearing of the arguments of the parties on 19.01.2017, this Tribunal passed the following interlocutory order:-

"The applicants are working as Assistant Malaria Inspectors (AMIs) / Assistant Public Health Inspectors (APHIs) on contract basis under South Delhi Municipal Corporation (SDMC). They were appointed vide Annexure P-1 order dated 17.09.2010. All of them are S.I. Diploma Holders. Their contention is that they come under the category of Paramedical Staff (Paramedics) and that they are entitled to all the financial benefits that are available to the Paramedical Staff. They are presently being paid just Basic Pay + Grade Pay + Variable Dearness Allowance and if they are declared as Paramedics, they will be entitled to some other financial benefits, viz. Hospital Patent Care Allowance (HPCA), Traveling Allowance (TA), Washing Allowance (WA), Conveyance Allowance (CA) and House Rent Allowance (HRA).

Learned counsel for applicants, espousing the case of the applicants, submitted some additional documents, which he would be filing formally by way of an affidavit before the next date of hearing. These documents indicate that Mr. Jorawar Singh and Mr. Vishwnath, AMIs have been getting the additional financial benefits, which the applicant are claiming. These documents also include circular No.CA/F&G/4 (32)/2000/ 1124 dated 27.03.2000 issued by the erstwhile Municipal Corporation of Delhi (MCD), which would indicate that Malaria Workers (MWs) are also entitled for HPCA.

Learned counsel for respondents, however, disputed the claim of the applicants that they fall under the category of Paramedics. In this connection, she drew my attention to the reply filed on behalf of the respondents wherein the duties and responsibilities of Paramedical Staff have been defined as under:-

"Paramedic can be defined as a practice in the field of medical science that deals with pre-hospital emergency services. A person working in this field is referred to as a paramedic. A person working in this field is referred to as a paramedic. They work as an emergency medical care provider, who provides primary medical and trauma care. To become a successful paramedic, a person should have presence of mind to take the right decision during an emergency. The major areas of work in the field of paramedical sciences are spinal injury management, fracture management, obstetrics, management of burns and assessment, and evaluation of general incident scene. A person working in the field Para- Medicine must be well acquainted with the medical equipment maintenance procedures, radio operating procedures as well as emergency vehicle operation."

She further submitted that the applicants themselves in their Annexure P-13 representation dated 03.11.2014 addressed to the

Municipal Health Officer, South DMC have indicated their duties as under:-

"We all (Contractual AMIs/APHIs) are working in Public Health Department from September 2010 to till date. With enthusiasm we are performing our duties and functions, assigned by the department for monitoring and reporting the status of Vector and Water Borne Disease like Dengue, Malaria, Chikungunya, Japanese encephalitis and Cholera etc."

which would go to indicate that they are not Paramedics. She also stated that the dictionary definition of 'Paramedics' is as under:-

Paramedical personnel, also called Paramedics, health-care workers who provide clinical services to patients under the supervision of a physician. The term generally encompasses nurses, therapists, technicians, and other ancillary personnel involved in medical care but is frequently applied specifically to highly trained persons who share with physicians the direct responsibility for patient care. This category includes nurse practitioners, physician's assistants, and emergency medical technicians. These paramedical workers perform routine diagnostic procedures, such as the taking of blood samples, and therapeutic procedures, such as administering injections or suturing wounds; they also relieve physicians of making routine health assessments and taking medical histories. Paramedical training generally prepares individuals to fill specific health-care roles and is considerably less comprehensive than the education required of physicians."

Learned counsel for applicants shall file the above referred additional documents, submitted by him today, formally with an affidavit before the next date of hearing. Learned counsel for respondents would seek instructions with regard to the pay slips of Mr. Jorawar Singh and Mr. Vishwnath, AMIs, as also in regard to the circular dated 27.03.2000. Based on the instructions received, she would make further submissions on the next date of hearing.

List on 28.02.2017 as **part heard."**

4. Pursuant to the order dated 19.01.2017, the applicants filed an affidavit enclosing therewith copies of pay slips of Mr. Zorawar Singh and Vishwnath, Assistant Malaria Inspectors, which indicate that these two persons are working as AMIs in MCD on permanent/regular basis. The

applicants also enclosed copies of orders dated 27.03.2000, 21.08.2000 and 05.09.2014.

5. Arguments of learned counsel for the parties were heard on 28.03.2017.

6. Learned counsel for applicants, elaborating the averments made in the O.A., submitted that the Hon'ble High Court of Delhi in **Victoria Massey and Rajesh Kumar Sharma** (supra) has clearly held that all Staff Nurses / Paramedics of Govt. of NCT of Delhi and MCD are entitled for grant of salary and allowances that are applicable to permanent staff sans annual increments. He further submitted that respondent No.1, in reply to an RTI query vide letter dated 30.09.2014 (Annexure P-11), has stated as under:-

“3. The designation of employees group ‘C’ & ‘D’ covered under Paramedical staff in Malaria department is contractual Asstt. Malaria Inspector and contractual field worker.”

This would indicate that the applicants indeed fall under the category of Paramedical staff and thus are entitled to all the benefits granted to such staff as per the judgments of Hon'ble High Court of Delhi in **Victoria Massey and Rajesh Kumar Sharma** (supra).

7. Mr. Pawan Kumar Bahl, learned counsel for applicants also relied upon the order of this Tribunal in **Mr. Satish Kumar & others v. Chief Secretary, Govt. of NCT of Delhi & another** (O.A. No.2538/2011) decided on 09.08.2012, wherein, in the context of Craft Instructors working on contract basis, it has been held as under:-

“15. In view of the above position, this O.A. is allowed. Consequently, we direct the respondents to grant the applicants salary and other benefits as given to the other contractual employees under the Govt. of NCT of Delhi. They shall also grant other benefits like Earned Leave (Medical Leave and Paternity Leave), Health Card facility, Transport Allowance, HRA, Bonus, LTC, child fees, etc. However, arrears arising out of the aforesaid direction shall be given to them from 14.07.2011 i.e. the date of filing the present O.A.”

8. It is noticed herein that the said order of the Tribunal was challenged in Hon’ble High Court of Delhi by the Govt. of NCT of Delhi by filing W.P. (C) No.2915/2015, which was disposed of vide order dated 01.11.2013. The High Court modified the order dated 09.08.2012 in the following terms:-

“31. Accordingly, WP(C) 2915/2013 stands disposed of modifying the impugned decision dated August 09, 2012 by restricting the total emoluments payable by the Government of NCT of Delhi to Craft Instructors as follows : Basic Pay in the grade + Grade Pay + Dearness Allowance + House Rent Allowance + Transport Allowance. With further direction that within six weeks a decision would be conveyed to the respondents on the applicability of the Maternity Benefits Act, 1961 and if the Act is found applicable the benefits thereof shall be granted to the contract appointed Craft Instructors.”

Concluding his arguments, the learned counsel prayed for grant of the reliefs claimed in paragraph (1) above.

9. *Per contra*, learned counsel for respondent No.1 submitted that the applicants, unlike Paramedics, do not deal with pre-hospital emergency services nor do they work in rotational shifts. They are neither required to take an appropriate decision during an emergency. Their area of work, in no way, relates to that of a paramedic. The judgments of Hon’ble High Court in **Victoria Massey and Rajesh Kumar Sharma** (supra) are in the context of Staff Nurses and other para-medical staff working on

contract basis. Benefits of those judgments cannot be made applicable to these applicants. She thus prayed for dismissal of the O.A.

10. Learned counsel for respondent No.2 adopted the arguments put-forth by the learned counsel for respondent No.1. However, nobody appeared on behalf of respondent No.3.

11. I have given my thoughtful consideration to the arguments of learned counsel for the parties and have also perused the pleadings and documents annexed thereto.

12. In the context of Staff Nurse and other para-medical staff, working on contract basis, the judgments of the Hon'ble High Court in **Victoria Massey and Rajesh Kumar Sharma** (supra) have made it clear that such contractual staff are entitled for all applicable allowances and salary, except regular annual increments. The controversy involved is as to the applicability of other allowances to the applicants, viz. washing allowance, Transport Allowance, Compensatory Allowance, House Rent Allowance, etc. Presently, the applicants are just getting minimum of the basic pay *plus* Grade Pay *plus* Variable DA. Even though they were engaged way back in September 2010 on contract basis, their engagement has since been continued by way of regular extensions. This prolong engagement of the applicants would indicate that the jobs performed by them are perennial in nature. Like the regular AMIs/APHIs, such as Jorawar Singh and Vishwnath, these applicants are also discharging the same kind of duty and but are deprived of special allowances like Transport allowance, Washing Allowance, Compensatory Allowance, House Rent Allowance, etc. In this

connection, it would be pertinent to observe that these allowances are meant for defraying certain kinds of special type of costs involved. The House Rent Allowance is to defray the cost of housing, the Compensatory Allowance is for compensating the increase in cost of living in the city, the Transport Allowance is meant to defray the cost of travel, etc. Since these applicants are performing duties, which are perennial in nature, their claim for these special allowances appears to be legitimate. The basic principle enunciated by the Hon'ble High Court in **Victoria Massey and Rajesh Kumar Sharma** (supra), in the context of Staff Nurses/Paramedical staff working on contract basis, is that all such contractual employees performing duties, which are of regular in nature, are entitled for the special allowances also. The same principle applies even in the context of the present applicants even if they are not declared as Paramedical staff. After all, Jorawar Singh and Vishwnath, who are regular AIMs, are getting such allowances.

Hence, I am of the view that the ratio in **Victoria Massey and Rajesh Kumar Sharma** (supra) would apply to the present applicants as well.

13. In the conspectus of the discussion in the pre-paragraphs, O.A. is allowed. Respondents are directed to extend the benefits of the judgments of Hon'ble High Court of Delhi in **Victoria Massey and Rajesh Kumar Sharma** (supra) and grant special allowances like Transport allowance, Washing Allowance, Compensatory Allowance, House Rent Allowance, etc. to these applicants also. It is, however, made clear that these allowances

shall be paid to the applicants from prospective effect and they shall have no claim for any arrears in regard to such allowances.

No order as to costs.

(K.N. Shrivastava)
Member (A)

/sunil/