

**Central Administrative Tribunal
Principal Bench**

OA No.2276/2017

New Delhi, this the 24th day of October, 2018

**Hon'ble Mr. V. Ajay Kumar, Member (J)
Hon'ble Mr. A.K. Bishnoi, Member (A)**

1. Sh. Prakash Rathod,
S/o Shri Unalu Rathor,
Working as Staff Nurse,
Aged about 31 yrs.,
R/o 3363, C/o Bodhraj Maramat,
Pusa Gate, South Patel Nagar,
New Delhi.
2. Sh. Himanshu Joshi,
S/o Shri Dhaneswar Joshi,
Aged about 25 years,
R/o 863, Havlock Square,
3rd Floor, Block No.17,
Kalibari Lane, Near Gole dakkhana,
New Delhi-110001.
3. Ms. Pooja,
W/o Shri Parveen Kumar,
Aged about 27 years,
R/o H.No.27,
Pkt.C-7, Sect.7, Rohini,
Delhi.
4. Ms. Nemkhoching,
W/o Shri Ramesh,
Aged about 34 years,
R/o Ngaihte Cottage Tawldamna inn,
Damkam Bazar,
Elim Veng, New Lamka,
Churachandpur, Manipur.
5. Ms. Sanjana Tyagi,
D/o Shri Rakesh Tyagi,
Aged about 30 years,
R/o H.No.103, Gali No.10,
Budh vihar, Mandoli Extension,

Delhi-110093.

6. Ms. Jyotika Lall,
D/o Shri Sushil S. Lall,
Aged about 29 years,
R/o Christian Agriculture College,
Mission Compound, Agra Road,
Etah, UP.
7. Ms. Naresh Kumari,
D/o Shri Veer Singh,
Aged about 28 years,
R/o H.No.657, Second Floor,
Janta Flats, GTB Enclave,
Dilshad Garden,
Delhi-110093.
8. Shri Sushil Kumar,
S/o Shri Hariom,
Aged about 29 years,
R/o H.No.946, Gali Ramlalpura,
VPO. Dichopon Kalan,
Near Najhaf Garh, Delhi-110043.
9. Ms. Ramya Raju,
D/o Shri Raju,
Aged about 33 years,
R/o L-87/1, Phase-II, Sector-4,
Vijay Vihar, Kabir Mandir Gali,
Rohini, Delhi-110085.
10. Iram Mughal,
D/o Shri Nawab Uddain,
Aged about 26 years, R/o F/66,
Bhagatsingh Market,
Near Golemarket, New Delhi.
11. Shri Ajay Kumar Bhuriya,
S/o Shri Durga Datt Bhuriya,
Aged about 31 years,
R/o B-21, Sanjay Colony,
Shiv Path, Pani Pech, Jaipur,
Rajasthan-302016.
12. Shri Harish Kumar,
S/o Shri Devi Dutt,
R/o Ganpati Nagar, Ward No.5,

Jhunjhunu,
Rajasthan-33001.

13. Ms. Seema Rani,
D/o Shri Kishan,
Aged about 29 years,
R/o H.No.378, V&PO, Banker,
Nairala, Delhi-110040.
14. Ms. Basanti Kumari,
D/o Shri Devi Singh Lamba,
Aged about 25 years,
R/o 48A, Gopal Nagar, Block-B,
Najhafgarh, New Delhi-110043.
15. Ms. Manisha Devi,
D/o Shri Ram Singh Yadav,
Aged about 27 years,
R/o Vill. Amaer Pura, PO, Raikaran Pura,
The: Kotputli, Jaipur,
Rajasthan-303105
16. Shri Manoj Kumar,
S/o Shri Mangtu Ram,
Aged about 27 years,
R/o Flat No.19, Utsav Appartment,
Block No.F, Sec.18, Rohini,
Delhi-110085.
17. Sh. Sekhoo Ram Gujar,
S/o Shri Jaimal Gujjar,
Aged about 29 years,
R/o Vill: Jhagdet Kalan,
PO: Neemuchanea, Teh : Bansur,
Distt: Alwar, Rajasthan-301024.
18. Ms. Satywati,
D/o Shri Sudhir Mahato,
R/o H.No.67, Kasturba Gram,
Tahirpur, Delhi-110095.
19. Ms. Promila Dixon,
D/o Dixon B. Lal,
R/o C.1/54, Som Bazar Road,
Rithala, Rohini,
Delhi-110085.

20. Ms. Poonam,
D/o Sh. Satbir Singh,
R/o 3/25, Veena Enclave,
Mangoli, Delhi-110041.

21. Ms. Rosaline Kainter,
D/o Shri John H. Kainter,
R/o H.No.37, Silburt Gunj,
Prem Nagar, Jhansi, Uttarpradesh.

...Applicants

(None)

Versus

1. Union of India,
Ministry of Health & Family Welfare,
Through its Secretary,
Nirman Bhawan, New Delhi.

2. Union of India,
Ministry of Health & Family Welfare,
Director General of Health Service,
Nirman Bhawan, New Delhi.

3. Dr. Ram Manohar Lohia Hospital,
Through its Director,
Baba Kharak Singh Marg,
Connaught Place,
Delhi-110001.

...Respondents

(By Advocate : Shri R.K. Jain)

ORDER (ORAL)

Mr. V. Ajay Kumar, Member (J) :-

Even on revised call, there is no representation on behalf of the applicant. Heard the learned counsel for respondents.

2. The applicants, 21 in number, filed the OA aggrieved by the Annexure-A/1 order dated 16.06.2017, wherein one month notice was issued to the applicants for termination of their contracts, by stating that in view of the regular recruitment for the post of Nursing Officers and in view of their joining, the services of the applicants who are working on contractual basis against the same vacancies, are terminated, as indicated therein.

3. This Tribunal while issuing notice on 13.07.2017, directed the respondents to continue the services of the applicants on first come last go basis, if there are still vacancies, even after joining of the regularly recruited candidates.

4. The respondents vide their counter stated as under :-

“Further, offers of appointment have been sent to 226 candidates, who were found eligible on the basis of examination conducted by All India Institute of Medical Science in January, 2017 for appointment of regular basis. On the joining of these successful candidates, all the vacant posts in the cadre of Nursing Officer in Dr. RML Hospitals would be filled up. Thus, it will become necessary to terminate the services of Staff Nurses appointed on contract basis on first come last go basis. It is humbly submitted that Staff Nurses appointed on contractual basis will be replaced by the Staff Nurses selected through competitive examination for appointment on regular basis. Further, the contractual staff nurses would be replaced by Staff Nurses to be appointed on regular basis.”

5. It is the settled principle of law that if a vacancy is filled up with regular recruitment, any person who is working on casual/daily wage/contract/temporary basis etc. has to give way to the regularly recruited employees.

6. Hence, we cannot find fault with the action of the respondents in terminating the services of the applicants wherever regularly recruited employees have joined. However, the applicants are working on contractual basis since long time and their rights for continuation against any subsisting vacancies on the same terms, also cannot be ignored.

7. In the circumstances, the OA is disposed of by directing the respondents to continue the services of the applicants on the same terms, if there is work and vacancies are still available after filling up the vacancies on regular basis, and in preference to any of their juniors/freshers/outsourced employees. No costs.

(A.K. Bishnoi)
Member (A)

(V. Ajay Kumar)
Member (J)

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