

CENTRAL ADMINISTRATIVE TRIBUNAL
PATNA BENCH, PATNA
OA /050/00576/2018

Date of order 28.03.2019

CORAM
HON'BLE MR. JAYESH V. BHAIKAVIA, MEMBER (J)
HON'BLE DINESH SHARMA, MEMBER (A)

1. Taramani Ekka, Wife of Sri Raj Kumar Singh, Chief Matron, Central Super Specialty Hospital, East Central Railway, Karbaghiya, Patna (Bihar).
2. Reena Kumari, Wife of Sri Anil Kumar, Chief Matron, Central Super Specialty Hospital, East Central Railway, Karbaghiya, Patna (Bihar).
3. Piyusha Kumari, W/O, Sri Manish Kumar Gupta, Nursing Sister, East Central Railway, Karbaghiya, Patna (Bihar).
4. Rinki Sinha, Wife of Sri Binay Kumar, Nursing Sister, East Central Railway, Karbaghiya, Patna (Bihar).
5. Jayanti Kumari, , W/O, Sri Naresh Prasad, Nursing Sister, East Central Railway, Karbaghiya, Patna (Bihar).
6. Munni Kumari, , W/O, Sri Sunil Kumar, Nursing Sister, East Central Railway, Karbaghiya, Patna (Bihar).
7. Alka Mumari, W/O, Sri Pankaj Kumar , Nursing Sister, East Central Railway, Karbaghiya, Patna (Bihar).
8. Rampari Devi, W/O, Sri Kamal Deo Prasad , Nursing Sister, East Central Railway, Karbaghiya, Patna (Bihar).
9. Rashmi Shrivastava, W/O, Sri Sunil Kumar Sinha , Nursing Sister, East Central Railway, Karbaghiya, Patna (Bihar).
10. Pushpa Sinha, W/O, Late S.P. Sinha , Nursing Sister, East Central Railway, Karbaghiya, Patna (Bihar).
11. Shila Kumari, W/O, Sri Hira Lal, Nursing Sister, East Central Railway, Karbaghiya, Patna (Bihar).
12. Bibha Kumari, W/O, Sri K.N.P. Singh, Nursing Sister, East Central Railway, Karbaghiya, Patna (Bihar).
13. Ambika Kumari, W/O, Sri Niraj Prasad , Nursing Sister, East Central Railway, Karbaghiya, Patna (Bihar).
14. Manju Kumari, W/O, Sri Balmiki Prasad, Nursing Sister, East Central Railway, Karbaghiya, Patna (Bihar).

15. Renu Kumari, W/O, Sri Vinay Kumar, Nursing Sister, East Central Railway, Karbaghiya, Patna (Bihar).

16. Archana, W/O, Sri Abhay Kumar, Nursing Sister, Poly Clinic, , East Central Railway, Hajipur, P.O.-Digghi, Kalan, P.S.-Hajipur (Town), District-Vaishali at Hajipur (Bihar).
..... Applicant.

By advocate: Sri M.P. Dixit.

Verses

1. The Union of India through the General Manager, East Central Railway, Hajipur, P.O.-Digghi Kalan, P.S. Hajipur, District-Vaishali at Hajipur, PIN- Code-844101.
2. The General Manager (Personnel), East Central Railway, Hajipur, P.O.-Digghi Kalan, P.S. Hajipur, District-Vaishali at Hajipur, PIN- Code-844101.
3. The Principal Chief Medical Director, Central Railway, Hajipur, P.O.-Digghi Kalan, P.S. Hajipur, District-Vaishali at Hajipur, PIN- Code-844101.
4. The Principal Financial Advisor & Chief Accounts Officer, Central Railway, Hajipur, P.O.-Digghi Kalan, P.S. Hajipur, District-Vaishali at Hajipur, PIN- Code-844101.
5. The Medical Director, Super Specialty Hospital, East Central Railway, Karbighayia, Patna (Bihar). 800001.

..... Respondents.

By advocate: Smt. P.R. Laxmi.

ORDER (ORAL)

JAYESH V. BHAIRAVIA, MEMBER (J)- In the instant OA, the applicants have prayed for a direction upon the respondents to extend same and similar benefit of the judicial pronouncements rendered on 10.10.2017, in CP 297/2017 04.11.2016 in W.P.(C) No. 8058/2015 and 07.05.2014 in 3679 of 2012 delivered by Principal Bench, CAT, New Delhi upheld by Hon'ble Supreme Court of India on 01.09.2017 with regard

to grant of initial pay [Rs. 12,540/- (+) Rs. 4,600/- (=) Rs. 17,140/- as on 01.01.2006. in the Pay Band-2 [Rs.9300/- to Rs. 34,800/-, Grade Pay of Rs. 4600/-].

2. The case of the applicants in brief is that the applicants were initially appointed before 01.01.2006 as Staff Nurse in the Pay Scale of Rs.5000/- to Rs.8000/- which was subsequently upgraded to Rs. 7450/- Rs. 11500/- in S-13 which was revised in PB-2, Pay Band of Rs.9300/- to Rs.34800/-, Grade Pay of Rs.4600/- w.e.f. 01.01.2006. As per Railway Board Circular, RBE No. 108 of 2008 on 11.09.2008, the fixation of initial pay of Staff Nurse in the PB-2 [Rs.9300/- to Rs. 34,800/-, Grade Pay of Rs. 4600/-] has been shown as Grade Pay of Rs. 4600/- pay in the Pay Band of Rs. 12,540/- total Rs. 17,140/- as on 01.01.2006. In this regard, it is stated that the Staff Nurse who have been appointed on or after 01.01.2006, their initial pay has been fixed as Rs.17140/- whereas in the case of the applicants, who have been appointed before 01.01.2006, their initial pay has been fixed as Rs. 10,980/- (+) Rs. 4600/- (=) Rs. 15,580/-, much lesser than Rs. 17,140/- which is discriminatory.

3. Being aggrieved with the aforesaid discrimination, the Staff Nurses appointed before 01.01.2006, have preferred OA 3679 of 2012 before the Principal Bench, CAT, New Delhi which was allowed vide order dated 07.05.2014 with following orders:-

“In view of the above position, we allow this OA and quash and set aside the impugned speaking order dated 27.08.2012. Further, we declare that the discrimination in granting the pay scales to the directly recruited Staff Nurses prior to 01.01.2006 and after 01.01.2006 is in violation of Articles 14, 16 and 39(d) of the Constitution of India. We, therefore, direct the Respondent No.1 to treat the Applicants at par with the Direct Recruit Staff Nurses appointed after 01.10.2006 and grant the PB 2 scale of Rs.9300-34800 with the grade of pay of Rs.4600 with effect from 01.01.2006 and fix their pay accordingly. The Applicants are also entitled for all consequential benefits including arrears of pay and allowances with up to date interest at rate applicable to GPF deposits.”

4. Thereafter, the respondents have preferred writ petitions against the said order before the Hon’ble High Court Delhi, which was dismissed by the Hon’ble High Court of Delhi vide Order dated 04.11.2016 (Annexure-A/2). Thereafter, the respondents have preferred SLP No. 23404/2017 and 23663/2017 against the order of Hon’ble High Court before the

Hon'ble Supreme Court of India which was also dismissed on 01.09.2017, with the following observations:-

“The present situation is that the stepping up is available only to those who have approached the Court. But since the issue has otherwise become final, we direct the Government of India to immediately look into the matter and issue appropriate orders for granting the pay-scale so that people need not unnecessarily travel either to the Tribunal or the High Court or this Court. With the above observations and directions, the special leave petitions are dismissed.”

5. In the meantime, getting no compliance of the Order passed by the Principal Bench, CAT, N. Delhi, one Meenu Verma has preferred one contempt petition No. 297/2017 before the Principal Bench, CAT and the Principal Bench, CAT vide Order dated 10.10.2017 directed the respondents to comply with orders.(Annexure-A/3). It is also stated that the Hon'ble High Court Patna has decided the similar matter vide Order dated 28.10.2016 in LPA No. 1094/2016.

6. In view of the above judicial pronouncements, the applicants have submitted various representations for extension of same benefit before the respondents, but till date no order has been passed. Hence, this OA.

7. Respondents have filed their WS wherein it is stated that this matter has been found considerable by the competent authority. The salary fixation of the applicant is being proposed in terms of RBE No. 158/2018.

8. We have heard the parties and perused the records. From various judicial pronouncements as referred hereinabove, and also by Order passed by Hon'ble Principal Bench, CAT, New Delhi in OA 1960/2014, dated 31.01.2018, it is clear that the Staff Nurses appointed on or before 01.01.2006, are entitled to be treated at par with the direct recruit Staff Nurses appointed after 01.01.2006 and accordingly entitled the PB 2 of Rs., 9300-34800/- with the GP of Rs. 4600 w.e.f. 01.01.2006. The respondents have also accepted the said position to treat the said Staff Nurses at par with the direct recruit. Having taking note of the admission on the part of the respondents that the claim of the applicants for fixation of their pay scale has been referred to the competent authority under the guidelines of RBE 158/2018 dated 12.10.2011. Under the circumstances, we are of the view that since the respondents have already recommended the claim of the applicants before the competent authority, the said recommendation needs to be expeditiously approved in terms of RBE No. 158/2018.

9. Accordingly, we allow this OA. The respondents are directed to consider and decide the pending recommendation of the applicants for fixation of their pay in terms of provision of Railway Service (Revised Pay) Rules 2008 notified on 04.09.2008 as also in terms of Order passed by Principal Bench, CAT in OA No. 3679/2012 (Annexure-A/1 of the OA) and grant all the all the consequential benefits within 60 days from the receipt of a copy of this order. No order as to costs.

(Dinesh Sharma)/M(A)

(Jayesh V. Bhairavia)/(M) J

Bp