

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

OA No. 1384/2018

New Delhi this the 08th day of May, 2019

Hon'ble Sh. Pradeep Kumar, Member (A)
Hon'ble Sh. Ashish Kalia, Member (J)

1. Smt. Prezonía Fidalis Lobo, aged 39 years
w/o Sh. Fidalis Lobo,
Working as Staff Nurse,
Posted in Railway Hospital, Pune,
r/o A-101, GiniBellissiino Near Bharat
Dahaba,
Dhanori (Mah.)-411015
2. Nitin Anil Ram Raut, aged 37 years
s/o Sh. Anil Laxman Raut,
working as Staff Nurse,
posted in Railway Hospital Pune,
r/o B/2, 704, Oxygen Valley, Opp. Veg.
Market,
Pune-Solapur Road, Manjari (bk), Pune-
412307
3. Smt. Anuja Sanjay Shinde, aged 42 years,
w/o Sh. Sanjay M. Shinde,
working as Chief Matron
Railway Hospital, Pune
r/o Omkar Society Flat No. 14,3rd Floor,
Vadgaonsheri, Pune.
4. Smt. Mariyam Varghese, aged 56 years
w/o Sh. Oommen Varghese,
working as Nursing Sister,
Railway Hospital, Pune
r/o Row house No. F/10, Giriraj Vihar,
Bijalinagar, ChinchwadGaon, Pune-3
5. Smt. Anita Pravin Kumar Gawali, aged 43
years
w/o Sh. Pravin Kumar Baban Gawali,
working as Nursing Sister,
Railway Hospital, Pune
r/o Media Park, C-I, B.T.Kawade Road,
Ghorpadi, Pune-411001

6. Smt. Manisha Dinesh Bagul, aged 39 years
w/o Sh. Dinesh Bagul,
working as Staff Nurse,
Railway Hospital, Pune
r/o 1-7, Mantri Aangan SOC, Pingalve Vasti,
Mundhwa Road, Pune-36
7. Almas Anis Patel, aged 46 years
w/o Sh. Anis S. Patel,
working as Nursing Sister,
Railway Hospital, Pune
r/o Flat No. F-403, Unity Park,
Behind Sheetal Petrol Pump, Kondhwa,
Pune.
8. Smt. Surekha Rajendra Papat, aged 48
years
w/o Sh. Rajendra S. Papat,
working as Chief Matron in
Railway Hospital, Pune
r/o Todkar Residency, BI/503, Bibrewadi,
Pune.
9. Virangana Manoj Amalgaonkar, aged 50
years
w/o Sh. Manoj Amalgaonkar,
working as Nursing Sister,
Railway Hospital, Pune,
r/o 56/3, Balaji Nagar, VadgaonSheri,
Pune. ... Applicants

(By Advocate : Sh. Yogesh Sharma)

Versus

1. Union of India through
The General Manager,
Central Railway, Head Quarter
CST Mumbai-400001
2. The Secretary,
Ministry of Railway
Railway Bhawan, New Delhi. ...Respondents

(By Advocate : None)

Sh. Ashish Kalia, Member (J)**ORDER (ORAL)**

Many opportunities were granted to the respondents to file counter reply but they have not filed the same.

2. The learned counsel for the applicants insisted upon disposal of this case. We agreed for the same.

3. The brief facts of the case are that the nine applicants are working as Staff Nurse and Nursing Sister in the pay scale of Rs. 5000-8000/- and Rs.5500-9000/- respectively, which was upgraded by the 6th Pay Commission as 9300-34500/+Grade Pay 4600. They were recruited prior to 1.1.2006.

4. After implementation of 6th Pay Commission's recommendation, the applicants are getting lesser pay than the similarly placed employees to their cadre who were directly recruited on or after 1.1.2006. This issue has already been dealt with by this Tribunal in OA No. 98 of 2014. The operative part reads as under:-

“4. In the facts and circumstances of the case, we allow these OAs and 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 Respondents to treat the Applicants at par with the Direct Recruit Staff Nurses appointed after 01.01.2006 and grant the PB-2 scale of Rs. 9300-34800 with the grade 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. The aforesaid directions shall be complied with, within a period of two months from the date of receipt of a copy of this order. There shall be no order as to costs."

5. This matter went in appeal before Hon'ble High Court of Delhi in WP (C) No. 8058/2015 which has also considered and the operative part of the order reads as under:

"11. One cannot accept that the same post can have two different pay scales, one for existing employees performing the same tasks and doing the same work on the ground that they were appointed or have been functioning on the said post prior to 1.1.2006, whereas a person appointed later in point of time would get the higher pay scale. Logically and as sequitor, the argument of the Union of India that where new appointments or promotions were made, the employees working on the posts would immediately get the benefit of pay under Rule 7A Clause (ii) is wrong and fallacious. The principle of upgradation of pay of the senior on the junior getting a higher pay scale is applicable in certain situations. Not 2A does not prescribe and record any such precept."

14. Resultantly, the writ petitions are dismissed with the observation that the petitioners will pay to the respondents the minimum computation under clause (i) to clause (A) to Rule 7 and then compute the minimum pay applicable to the revised pay scales as mentioned in section II of Part B of the First Schedule to the 2008 Rules. If the net resultant figure as per clause (ii) to Rule 7A is higher, then the respondents would be entitled to benefit of sub-clause (ii) to Rule 7 Clause (A) of the 2008 Rules."

6. Lastly, this case has also gone to the Hon'ble Supreme Court and Hon'ble Supreme Court has also upheld the decision of the Tribunal. The operative part of this order read as under :

"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."

7. Learned counsel for the applicants have drawn our attention to the representation filed by the applicants dated 26.01.2018, which is still pending with the respondents.

8. We are of the view, the OA can be disposed off, with a direction to the respondents, to consider the pay scale as well as said representation dated 26.01.2018 in terms of the above judgments within a period of 90 days and pass a reasoned and speaking order. The respondents are directed to consider issuing policy guidelines also to avoid unnecessary litigation by other similarly placed employees. In case this representation succeeds, it is needless to say that the applicants shall be entitled for consequential benefits also. No costs.

(Ashish Kalia)
Member (J)

(Pradeep Kumar)
Member (A)

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