

**CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH: NEW DELHI**

O.A. No. 4563/2014

M.A. No. 2790/2016

M.A. No. 4335/2015

Reserved on : 03.01.2019

Pronounced on : 08.01.2019

**HON'BLE MR. V. AJAY KUMAR, MEMBER (J)  
HON'BLE MS. ARADHANA JOHRI, MEMBER (A)**

1. Suman Rana  
Nursing Sister (North M.C.D.)  
Deptt. RBIPMT  
Biometric No.10018967  
Address:  
A-2/164-165, Sector-8,  
Rohini, Delhi-110 085.
2. Smoney Joseph  
"A" Staff Nurse (North M.C.D.)  
Deptt. H.R. Hospital  
Address :  
D-60, M.C.D. Flats,  
New Usman Pur,  
Delhi-110 054.

.. Applicants

(By Advocate : Shri Sandeep Khatri)

Versus

1. Union of India,  
Department of Personnel and Training,  
Ministry of Personnel, Public Grievances  
and Pensions,  
Through it's Secretary,  
Sardar Patel Bhawan,  
New Delhi-110 001.
2. North M.C.D.,  
Through it's Commissioner,  
Office of the Administrative Officer,  
Health Deptt., 12<sup>th</sup> Floor,  
Dr. S.P. Mukherjee,

Civic Centre, J.L. Nehru Marg,  
Minto Road, New Delhi-02.

.. Respondents

(By Advocate : Shri R.V. Sinha and Shri Amit Sinha)

### **ORDER**

**By Shri V. Ajay Kumar, Member (J)**

The applicants, 2 in number, and working as Nursing Sister and 'A' Grade Staff Nurse respectively under the 2<sup>nd</sup> respondent-North Municipal Corporation of Delhi (NDMC), filed the OA seeking the following reliefs:-

“(i) Set aside the impugned seniority list dated 14.06.2012, modified on 25.10.2012 issued by the respondent No.2 in gross violation of principle's of equity, justice and merit embedded in the Constitution of India; and/or

(ii) Issue an appropriate order or direction to the respondent thereby directing the respondent No.2 to draw a fresh seniority list and grant promotions to the applicants as well as to the other eligible candidates in retrospective manner on the principle's of equity, justice & merit and on the basis of rules, regulation and policy, further to direct the respondent to release the benefits accordingly to the applicants; and/or

(iii) Issue an appropriate orders/directions to the respondents thereby directing them to demote/revert the candidates who has been granted benefit of reservation in promotion specially those who do not deserve as per the Rules and Regulations & the policy of the Government of India; and/or

(iv) Cost; and/or

(v) Any such order or further orders or directions as this Hon'ble Tribunal may deem fit and proper in the interest of justice”.

3. Heard Shri Sandeep Khatri, the learned counsel for the applicants and Shri R.V. Sinha and Shri Amit Sinha, the learned counsel for the respondents and perused the pleadings on record.

4. Shri Sandeep Khatri, the learned counsel appearing for the applicants submit that both the applicants were originally appointed as 'A' Grade Staff Nurses and the first applicant was subsequently promoted as Nursing Sister.

4. The learned counsel for the applicants mainly submitted that the respondents action in preparing the impugned seniority list dated 14.06.2012 as modified on 25.10.2012 in the category of 'A' Grade Staff Nurses is in violation of the law declared by the Constitution Bench of the Hon'ble Apex Court in ***M. Nagaraj & Ors. Vs. Union of India & Others***, (2006) 8 SCC 212, as the respondents are applying the rule of reservation in promotion. But the learned counsel for the applicants failed to substantiate his submission that when both the applicants were appointed in the initial post of 'A' Grade Staff Nurses and when the OA is filed challenging the final seniority list in the initial post of 'A' Grade Staff Nurses, how the issue of rule of reservation in promotions has any relevancy to the challenge made to the said seniority list.

6. Hence, the OA is dismissed, being devoid of any merit. However, since the issue of reservation in promotions was already

settled by two Constitution Bench decisions in ***M. Nagaraj & Ors. Vs. Union of India & Others***, (2006) 8 SCC 212 and ***Jarnail Singh and Others Vs. Lachhmi Narain Gupta and Others*** in Special Leave Petition (Civil) No.30621/2011 and batch, by its judgment dated 26.09.2018, this order shall not preclude the applicants from agitating their rights, if any, with regard to their promotions to the higher post, in accordance with law decided in the said decisions, if they are so advised.

7. All the pending MAs stand disposed of. No costs.

**(ARADHANA JOHRI)**  
**Member (A)**

**(V. AJAY KUMAR)**  
**Member (J)**

RKS