

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

**O.A. No. 2254/2019
M.A. No. 2433/2019
M.A. No. 2434/2019**

New Delhi, this the 26th day of August, 2019

**Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Mr. Mohd. Jamshed, Member (A)**

1. Makar Dhawaj Singh, Age 61 years
S/o Shri Jay Singh
R/o H.No. 314, E.S.I. Hospital Complex
Sector-24, Noida
District – H.B. Nagar, U.P.-201301.
2. Ram Kuwar, Aged about 65 years
S/o Shri Prabhu Dayal
R/o H.No. 116-126/110, Ahir Mohalla
Najafgarh Road Village
Nanglai, New Delhi-110 0041
Designation – Sr. O.T. Tech.
3. Ramakant, Aged about 64 years
S/o Shri Late Ram Dass
R/o H.No.32, M.S. Block,
Mohan Garden, Uttam Nagar
New Delhi-110059
Designation – Sr. O.T. Tech.
4. Mahasingh, Aged about 66 years
S/o Shri Late Hari Chand
R/o H.No.220, Gali No.3C,
R.K. Puram, Near Sai Ram Nursing Home
Jattal Road, Panipat, Haryana-132103
Designation – O.T. Tech.
5. Chuni Lal, Aged about 60 years
S/o Shri Late Kazan Singh

R/o 30A/K, West Sagarpur
Gandhi Market, New Delhi-110046
Designation – Sr. O.T. Tech.

6. Prem Chand, Aged about 61 years
S/o Shri Prabhu Dayal
R/o WZ-1558, Nangal Raya
New Delhi-110046
Designation – Sr. O.T. Tech.
7. Rajinder Prasad,
Aged about 66 years
S/o Shri Late Pyare Lal
R/o A-77, Street No.9, Jain Road,
Bhagwati Garden Extn., Uttam Nagar
New Delhi-110059
Designation – Sr. O.T. Tech.
8. Dharampal, Aged about 66 years
S/o Shri Late Hoshyar Singh,
R/o RZC-186, Jeewan Park,
Uttam Nagar, New Delhi-110059
Designation – Sr. CSSD Tech.
9. Tara Chand, Aged about 63 years
S/o Shri Bhagwana
R/o H.No.121, Village P.O. Bharthal
New Delhi-110077
Designation – Sr. CSSD Tech.
10. Nirmal Singh, Aged about 64 years
S/o Shri Late Karam Singh Kalsi
R/o H.No.906, Gali No.8
Govind Puri, New Delhi-110019
Designation – O.T. Tech.
11. Om Prakash, Aged about 60 years
S/o Shri Moti Ram
R/o E.S.I. Hospital, Sector-24
Noida, U.P.

12. Harish Chander Sharma,
Aged about 61 years
S/o Lt. Shri Ishwari Dutt Sharma
R/o H.No.146, 5th Floor, Block-C
E.S.I. Colony, Basaidarapur,
Delhi-15.
13. Dharmbir Singh Ranga,
Aged about 61 years
S/o Lt. Shree Chandgi Ram
R/o J-133, Old Roshanpura
Nazafgarh, New Delhi-110043.

.. Applicants

(By Advocate: Shri R.K. Sharma)

Versus

1. Director General
E.S.I. Corporation,
Panchdeep Bhawan
Kotla Road,
New Delhi-110 002.
2. The Director
Directorate (Medical) Delhi,
Employees State Insurance Scheme
Dispensary Complex, Tilak Vihar,
New Delhi.
3. The Director/Medical Superintendent
Employees State Insurance Corporation
E.S.I. Hospital, Noida, U.P.

.. Respondents

(By Advocate : None)

O R D E R (ORAL)**Justice L. Narasimha Reddy, Chairman**

The applicants are the employees of Employees State Insurance Corporation (for short, ESIC). A representation was made on their behalf on 15.07.2016, with a request to extend the benefit of pay scale of Rs.5000-150-8000, as per the recommendations of the V Central Pay Commission (for short, CPC). Through an order dated 08.02.2017, ESIC informed the applicants that they cannot base their claim on the situation prevailing in other Departments/Ministries/ Hospitals, and that the conditions of service of the employees of the ESIC are governed by the Recruitment Regulations and, according to that, the pay scale for the post was Rs.4000-6000/PB-1 with Grade Pay Rs.2400/-. This O.A. is filed challenging the same.

2. The applicants contend that the V CPC made a specific recommendation in respect of O.T. Technicians and since they are holding the same post, they are

entitled to be extended the benefit. As regards the objection about the limitation, reliance is placed upon the judgment of the Hon'ble Supreme Court in **M.R. Gupta vs. Union of India & Ors.**, Civil Appeal No.7510 of 1995, decided on 21.08.1995.

3. We heard Shri R.K. Sharma, learned counsel for the applicants.

4. The O.A. is regarding implementation of the recommendations of V CPC, which is referable to the year 1997. The O.A. is filed 20 years thereafter. It is also necessary to mention that after the submission of reports of each Pay Commission, an Anomalies Committee is constituted to address various issues. Any such issue can be addressed during the currency of the report, and not before the report submitted by the subsequent Pay Commission is implemented.

5. Applicants are claiming the relief with reference to 5th CPC. There is nothing on record to disclose that they

have approached the Anomalies Committee, at the relevant point of time, or they have agitated the issue before this Tribunal. Secondly, not only the VI CPC but also VII CPC came to be constituted with an interval of 10 years each, but their reports are also implemented.

6. It is also not the case of the applicants that any employee of their cadre, working in the ESIC, was extended the benefit of pay scales based on V CPC, though the ESIC made it clear that the service conditions of their employees are governed by their own Recruitment Rules. If, as a matter of Policy, the Corporation did not implement the recommendations of the V CPC, the applicants cannot file the O.A., at this length of time.

7. The issue before the Hon'ble Supreme Court in **M.R. Gupta**'s case, was refixation of the salaries of the employees on the basis of previous employment. It hardly needs any mention that the fixation of salaries and pension constitute a continuous cause of action and the delay would not come in their way. In the instant case,

however, the applicants want implementation of the recommendations of the V CPC, which is purely a matter of policy.

8. We do not find any merit in the O.A. and, accordingly, it is dismissed. There shall be no order as to costs.

(Mohd. Jamshed)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

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