

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

**M.A. No. 388 of 2017  
In  
OA No. 392 of 2017**

**New Delhi this the 30<sup>th</sup> May, 2019**

**HON'BLE SH. R. N. SINGH, Member (J)  
HON'BLE SH. MOHD. JAMSHED MEMBER (A)**

1. Makar Dwaj Singh (Aged about 50 years)  
S/o Sh. Jay Singh,  
R/o Ho. No. 314, E.S.I. Hospital, Noida, Distt.  
G. B. Nagar (U.P.).
2. Rajinder Prashand (Aged about 66 years)  
S/o Late Sh. Pyre Lal,  
R/o A-77 ST. No. 9, Jain Road Bhagwati,  
New Delhi. 110009
3. Ramkuwar (Aged about 65 years)  
S/o Late Sh. Prabhu Dayal,  
R/o 126/110-116, Ahir Mohalla Najafgarh,  
Road, Vill. Nangloi, New Delhi- 110041
4. Pratap Singh (Aged about 63 years)  
S/o late Sh. Kundan Lal,  
R/o WZ- 142/A Lajwanti Garden,  
New Delhi-110046.
5. Ramakant (Aged about 65 years)  
S/o Late Sh. Ram Dass,  
R/o 32 M.S. Block Mohan Garden,  
Uttam Nagar, New Delhi- 110059.
6. Premchand (Aged about 62 years)  
S/o Sh. Prabhudayal,  
R/o WZ-1558, Nangalraya,  
New Delhi- 46.
7. Chunnilal (Aged about 61 years)  
S/o Late Sh. Khazan Singh,  
R/o RZ- 30 A/K West Sagarpur Ghandhi,  
Market New Delhi- 110046.

8. Maha Singh (Aged about 66 years)  
S/o late Sh. Harichand,  
R/o 220 Gali No. 3 C,  
R. K. Puram Nr. Sai Ram, Nursing Home,  
Jattal Road Panipat, H.R. 132103
9. Dharam Pal (Aged about 67 years)  
S/o Late Sh. Hoshiyar Singh,  
R/o RZC- 186, Jeewan Park Uttam Nagar,  
New Delhi- 110059.
10. Tara Chand (Aged about 64 years)  
S/o Sh. Bhagwan,  
R/o 121 VPO Bharthal,  
New Delhi- 110077.
11. Nirmal (Aged about 65 years)  
S/o late Sh. Karam Singh Kalsi,  
R/o 906, Gali No. 8, Govindpuri,  
New Delhi- 110019.
12. Dharmbir Singh Ranga (Aged about 61 years)  
S/o late Sh. ChandgiRam,  
R/o House No. J- 133, Old Roshanpura, Nazafgarh,  
New Delhi- 110019.
13. Om Prakash (Aged about 60 years)  
S/o late Sh. Moti Ram,  
R/o F. N. T-1, Manglam Villas Apartment  
Model-8, Akkayakhand –III, Indrapuram, GZB- 201010.
14. Harish Chander (Aged about 60 years)  
S/o late Sh. Ishwari Dutt,  
R/o Q. No. 146, C- Block, 5<sup>th</sup> Floor,  
E.S.I Colony, Basaidarapur,  
New Delhi- 110015.

.....Applicants

(By Advocate: Sh. Ravinder Kumar Shamra)

Versus

1. Director General,  
E.S.I. Corporation,

Panchdeep Bhawan,  
Kotla Road, New Delhi- 02.

2. The Director,  
Directorate (Medical) Delhi,  
Employees State Insurance Scheme, Dispensary  
Complex, Tilak Vihar, New Delhi.
3. The Medical Superintendent.  
Employees Ste Insurance Corporation,  
E.S.I. Hospital, Basidarpur, Delhi- 15.
4. The Medical Superintendent.  
Employees Ste Insurance Corporation,  
E.S.I. Hospital, Rohini, Delhi
5. The Medical Superintendent.  
Employees Ste Insurance Corporation,  
E.S.I. Hospital, Jhilmil, Shahdra, Delhi- 95
6. The Medical Superintendent.  
Employees Ste Insurance Corporation,  
E.S.I. Hospital, Okhla, Phase-I, Delhi.
7. The Medical Superintendent/Director,  
Employees Ste Insurance Corporation,  
E.S.I. Hospital, Basidarpur, Noida, U.P.

.....Respondents  
(By Advocate : Sh. Pawan Kumar)

### **ORDER (ORAL)**

**HON'BLE SH. R. N. SINGH, Member (J)**

Heard the learned counsels for the parties.

### **M.A No. 388/2017**

By way of this M.A, applicants have prayed for permission to file the aforesaid OA jointly. For the reasons stated in the MA and no objection from the respondents, MA is allowed.

**OA. No. 392/2017**

By way of present OA, applicants pray for the following reliefs:-

- (a) HOLD that the Applicants are fully entitled for the grant of pay scale of Rs. 5000-100-8000, w.e.f. 30.09.1997 as per the revised 5<sup>th</sup> Pay Commission report as well as same has been replaced in Pay Band –I Grade Pay 4200 with all arrears of pay & allowances, and GRANT cost in, favour of the Applicants.
- (b) PASS any other or further order(s) in favour of the Applicants, which this Hon'ble Tribunal may deem fit, just & proper in the abovementioned facts & circumstances.

2. In pursuance to the notice in the OA, respondents have filed their reply and respondents have disputed the claim of the applicants and have also annexed order dated 08.02.2017 (Annexure R-5) with such reply. The learned counsel for the applicants submits that during the pendency of the OA, respondents have considered the pending representation of the applicants and have passed aforesaid order dated 08.02.2017 and the same had not been challenged by the applicants. At this stage, learned counsel for the applicants seeks permission to withdraw the present O.A. with a liberty to challenge the order dated 08.02.2017 passed by the respondents rejecting the claim of the applicants.

3. Learned counsel for the applicants further submits that applicants were under bonafide impression that during

pendency of the OA, aforesaid order has been passed and, therefore, the same was not required to be challenged separately and the claims made by the applicants can be considered and adjudicated in the present OA itself. He further says that if the order dated 08.02.2017 is challenged by the applicants at this stage, limitation may come in their way.

4.0 Therefore, the learned counsel for the applicants prays for permission to withdraw the present OA with a liberty to file fresh OA with order that limitation may not come in the way of such fresh OA.

5.0 In the circumstances, OA is dismissed with liberty to file fresh OA. In the facts and circumstances, it is ordered that in case applicants file a fresh OA within two weeks of receipt of a certified copy of this order, limitation shall not come in the way of the applicants to challenge the Respondents' order dated 08.02.2017, referred above.

**(Mohd. Jamshed)**  
**Member (A)**

**(R. N. Singh)**  
**Member (J)**

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