

**CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
CIRCUIT COURT AT SHILLONG**

Original Application No. 043/00176/2017.

Date of Order: This, the 15th Day of March, 2019.

THE HON'BLE MRS. MANJULA DAS, JUDICIAL MEMBER

THE HON'BLE MR. NEKKHOMANG NEIHSIAL, ADMINISTRATIVE MEMBER

1. Ms. Bina Khongbuh
Daughter of late Mrs. P. Khongbuh
Mawpun, Golf-Link Area, Shillong – 793001.
2. Mrs. Nochovono Tase
Wife of Dr. K.S. Brahma, B-3 E, NEIGRIHMS
Quarters, Shillong – 791018.
3. Mr. L. Anand
Son of P. Lakshminarashimhan, B-9 F, NEIGRIHMS
Quarters, Shillong – 790018.
4. Mrs. Namita Singha
W/o Pradyut Prakash Choudhury, B-1 E, NEIGRIHMS
Quarters, Shillong – 793018.
5. Mrs. Jodibala Haobijam
W/o Kh. Robindro Singh, B-7 E, NEIGRIHMS
Quarters, Shillong – 790018.

...Applicant.

By Sr Advocate : Sri U.K.Nair & Advocates S/Sri H.K.Das,
A.Chetry & M.P.Sharma

-versus-

1. Union of India
Represented by the Secretary, Government of India
Ministry of Health and Family Welfare, Department of

Health, Nirman Bhawan, New Delhi.

2. The Director
North Eastern Indira Gandhi Regional Institute of Health
& Medical Sciences [NEIGHRIMS], Mawdiangdiang,
Shillong-793018.

... Respondents

By Advocate: None

O R D E R (O R A L)

NEKKHOMANG NEIHSIAL, MEMBER (A):

By this O.A., filed under Section 19 of the Administrative Tribunals Act, 1985, the applicant is seeking following relief(s):-

“8.1 To direct the respondents to grant Grade Pay of Rs.6,600/- to the applicants w.e.f. 01.01.2006 in the rank of Lecturer, College of Nursing, NEIGRIHMS with all consequential benefits.

8.2 To direct the respondents to make consequential correction in the current grade pay after grant of relief 8.1 in terms of recommendation of the 7th pay commission with all consequential benefits.

8.3 Cost of the application.

8.4 Pass any such order/orders as Your Lordships may deem fit and proper.”

2. The facts as narrated by the applicant in the OA, in brief, are that applicants are presently serving as Lecturer in the College of Nursing, North Eastern Indira Gandhi Regional Institute of Health and Medical Sciences, (in short NEIGRIHMS) Shillong. The NEIGRIHMS is an autonomous institute situated at Shillong under the Ministry of Health and Family Welfare, Govt. of India. The service particulars of the applicants are given in a chart below:

Sl. No	Name & Address	Designation	DOB	Date of appointment	Date of Joining	Date of confirmation	Date of retirement
1	Ms. Bina Khongbuh	Lecturer	31.10.63	03.05.06	28.04.06	29.04.08	31.01.28
2	Mrs. Nochovono Tase	Lecturer	11.11.79	16.08.11	29.08.11	29.08.13	11.11.44
3	Mr. L. Anand	Lecturer	31.07.79	05.08.11	08.08.11	08.08.13	31.07.44
4	Mrs. Namita Singha	Lecturer	30.05.78	10.08.11	12.08.11	12.08.13	30.05.43
5	Mrs. Jodibala Haobijam	Lecturer	10.09.77	10.08.11	12.08.11	12.08.13	10.09.42

3. The applicants have claimed the relief(s) as quoted above on the basis of following grounds:-

“5.1 Because the action on the part of the respondents in negating the Grade pay of Rs. 6,600/- to the applicants is in clear violation of Article 14, 19 and 21 of the Constitution of India.

5.2 Because the respondents acted in clear opposition to the O.M. dated 10.02.2009 and subsequent clarification dated 24.03.2011 denying

Grade Pay of Rs. 6,600/- to the applicant in line with the Lecturers of AIIMS and PGIMER. The respondents were fully aware that parity of pay scales of Lecturer in NEIGRIHMS was maintained to the pay scale of Lecturer in AIIMS and PGIMER and Sr. Lecturer in all institutions prior to 01.01.2006. Therefore, unreasonable breaking of such historical parity is arbitrary. The applicants being Lecturers of an Autonomous Institute likewise AIIMS, PGIMER are entitled to get the Grade Pay of Rs. 6,600/- w.e.f. 01.01.2006 in terms of the recommendation of the 6th Central Pay Commission. Hence on this score alone the present original application deserves to be allowed.

5.3 Because the Government of India has already extended the Grade pay of Rs. 6,600/- to the Lecturers College of Nursing, AIIMS & PGIMER. Therefore, denial of similar benefits to the similarly situated persons is discriminatory and arbitrary in the eye of law. Hence on this score alone the present original application deserves to be allowed.

5.4 Because the Educational Qualification and Experience of Lecturers, College of Nursing in AIIMS & PGIMER are akin to the Educational qualification & Experience as per the Recruitment Rules of 2004. Be that as it may, no differentiation can be made between the applicants vis-a-vis the Lecturers of AIIMS & PGIMER. Hence, the respondents do not have any legally justified reasons to deny the Grade Pay of Rs. 6,600/- to the applicants. Therefore, it incurs interference of the Hon'ble Court."

4. The respondent no.2 on behalf of the respondent nos. 1 (Union of India) & 2 filed written statement on 20.11.2017. In para 6 of the written statement, they stated that vide

advertisement No. NEIGR-E.II/19/2009/Pt.II dated 20.08.2010, the Institute invited applications to fill up various categories of posts including the post of Lecturer in the Pay Band-3 and Grade Pay Rs. 5400/-. In response to the above advertisement, the Institute had received several applications including the applications of the applicants 2 to 5 of the instant O.A. In the process of interview, applicants 2 to 5 of the instant O.A. were being recommended by the Selection Committee and approved by the Competent Appointing Authority. The applicants Nos. 2 to 5 of the Instant O.A. were issued Offer of Appointment in 2011 wherein the Pay Band and Grade Pay was also indicated at Pay Band – 3 and Grade Pay Rs. 5400/- along with terms and conditions for acceptance vide Institute's Letter Nos. NEIGR-E.II/19/2004/Pt-VIII-A dated 25.07.2011. On acceptance of the terms and conditions stipulated in the Offer of Appointment the appointment orders were issued to these applicants 2 to 5 of the instant O.A.

5. The respondents further stated that the respondent No. 2 beg to state that the Government of India has created different posts for College of Nursing, NEIGRIHMS vide letter F.

No. U. 12012/37/2002-ME-III dated 29.01.2004 including Lecturer and nor Sr. Lecturer as contended by the Applicants. Therefore, Lecturer in the pay of Rs. 8000-13500/- {(pre-revised), revised Pay Band – 3 Grade Pay – 5400/-} cannot be automatically treated as Sr. Lecturer in the Grade pay of Rs. 6600/- (pre-revised 10000-15200/-) without the approval of the Competent Authority. In the instant case, the Competent Authority of the Institute for creation/upgradation of any post, the power lies with the Ministry of Health & Family welfare, Govt. of India as per Letter D.O.No.U.12012/19/99-ME(UG) dated New Delhi 25.11.1999.

6. We have heard Sri U.K.Nair, learned Sr. counsel assisted by Sri H.K.Das, learned counsel for the applicants. Smt. G.Sutradhar, learned Addl. C.G.S.C. appearing for the respondents was not present. However, Sri E Jiten Singh, Law Officer, NEIGRIHMS was present on behalf of the respondents and we have heard him on behalf of the respondents.

7. On going through the records as submitted by the respondent no.2 it is observed that the respondent no.2 had taken up the issue with the Ministry of Health and Family

Welfare vide their letter No. NEIGR-E.III/3/2014/Pt dated 24.05.2016 regarding change of nomenclature and grade pay in respect of Nursing Faculty posts in NEIGRIHMS bringing out difference between existing nomenclatures of the posts of NEIGRIHMS and the nomenclatures of the posts as per present INC norms and the grade pay attached to these posts. Supporting justification for change of the grade pay has also been enclosed. Another letter of even number dated 26.07.2016 has also been sent to the said Ministry on the subject "Pay up-gradation/revision of pay and re-designation of posts of Nursing Personnel in NEIGRIHMS, Shillong – reg." and reminder dated 03.03.2017. However, it is observed from the records that the respondent no.1 has neither rejected the proposal/demand of the applicants duly recommended by the respondent no.2 nor approved till date.

8. We have carefully gone through the pleadings and the records placed before us. We have also considered the points of grievances as made out by the applicants in the OA. It is seen that the applicants are calling for parity in the grade pay with similarly situated individuals in similar institutions with

same duties and responsibilities. The essential qualifications for the posts of lecturer/sr lecturer in the Nursing College of NEIGRIHMS are Master degree in Nursing and three years teaching experience after obtaining Master degree in Nursing. The educational qualification and experience for the post of lecturer in College of Nursing in PGIMER is also Master degree in the Specialized field of Nursing and 3 years teaching experience after M.Sc. (Nursing) as claimed by the applicants at para 4.15 of the OA. Further, they stated that the duties and responsibilities of lecturers of College of Nursing in all the autonomous institutes are same.

9. Keeping in view of the above, it is considered that the applicants have established their case and there is justification for granting them same grade pay with those faculties in other similar institutes like AIIMS, New Delhi, RAK College of Nursing, New Delhi and PGIMER, Chandigarh. Accordingly, the respondents, particularly the respondent no.1 are directed to grant grade pay of Rs.6600 to the applicants from the dates other similarly situated faculties have been granted within a period of three months from the date of

receipt of this order. As regards change of nomenclature, the issue is left with the respondents.

10. The OA is disposed of accordingly. There shall be no order as to costs.

(NEKKHOMANG NEIHSIAL)
ADMINISTRATIVE MEMBER

(MANJULA DAS)
JUDICAIL MEMBER

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