



**Central Administrative Tribunal  
Principal Bench**

**O.A. No. 692/2015**

**This the 4<sup>th</sup> day of December, 2019**

**Hon'ble Mrs. Justice Vijay Lakshmi, Member (J)  
Hon'ble Mr. Pradeep Kumar, Member (A)**

1. Mrs.Sushma Kumari  
Age 40 years  
Presently Nursing Sister  
W/o Dinesh Kumar  
R/o Qtr No. 60, Tenament III  
R.B. TB Hospital, Kingsway Camp  
New Delhi- 110009
2. Mrs Rajani Taneja  
Age 40 years  
Presently Staff Nurse  
W/o Vijay Taneja  
R/o Qtr No. 1, Tenament III  
R.B. TB Hospital, Kingsway Camp  
New Delhi- 110009
3. Mrs Manju Bharadwaj  
Age 42 years  
Staff Nurse  
W/o Lokesh Bharadwaj  
Qtr No. 50, Tenament III  
R.B. TB Hospital, Kingsway Camp  
New Delhi- 110009
4. Mrs Shiv Lata  
Staff Nurse  
Age 38 years  
W/o Gautam Sharma  
Qtr No. 27, Tenament III  
R.B. TB Hospital, Kingsway Camp  
New Delhi- 110009
5. Mrs Bhagwati  
Staff Nurse  
Age 35 years  
W/o Ashwani Kumar  
Qtr No. 49, Gali No.34  
B Block, Koushik Enclave  
Burari, Delhi – 84



6. Mrs Sushma Kumari  
Staff Nurse  
Age 35 years  
W/o Manoj  
House No.1/10, Wazirabad  
Delhi
7. Mrs. Urmil Malik  
Age 40 years  
Staff Nurse  
W/o Brij Mohan  
R/o House No. DZ/10  
Naniwala Bagh, Azad Pur  
New Delhi
8. Mrs Geeta Khanna  
Age 38 years  
Staff Nurse  
W/o Prem Prakash Khanna  
R/o House No. 416, Indira Vihar  
Near VBM Depot, Delhi-9
9. Mrs Sunita Sharma  
Age 41 years, Staff Nurse  
W/o Ashok Sharma  
R/o Qtr No.3588/5  
Narang colony, Tri Nagar  
Delhi
10. Ms Kawaljeet Kaur  
Age 40 years, Staff Nurse  
D/o Late Uttam Prakash Singh  
R/o House No.351, Bagh Kary Khan  
Kishan Ganj  
Delhi
11. Mrs Babita  
Age 40 years,  
Presently Nursing Sister  
W/o Pradeep Kumar Hotla  
R/o T-16, Malka Ganj, Delhi – 7
12. Mrs Sneha Lata  
Age 42 years  
Staff Nurse  
W/o Anil Kumar  
R/o Qtr No.1, Ward Female  $\frac{3}{4}$   
R.B. TV Hospital, Kingsway Camp

New Delhi -9



13. Mrs Shammi Grover  
Age 40 years  
Staff Nurse  
W/o Vipin Grovger  
R/o Qtr No.13, Tenament III  
R.B. TB Hospital, Kingsway Camp  
New Delhi- 110009
14. Ms Kusum Rani  
Age 35 years  
Staff Nurse  
D/o Shri Balwant Singh  
R/o 18/19, Azad Nagar  
Bagh Kary Khan, Delhi
15. Ms Suman Mala  
Age 35 years  
Staff Nurse  
D/o Shri Brij Lal  
R/o Flat No. 617 DDA, LIG  
Sanjay Enclave, Delhi -33
16. Mrs Dayawati  
Age 39 years  
Presently Nursing Sister  
w/o Shri Anil Kumar  
R/o 220, Hazarat Nizamuddin, Delhi
17. Mrs Poonam Chauhan  
Age 40 years  
Staff Nurse  
w/o Veer Singh Chauhan  
R/o House No.10, Gali No. 22  
West Sant Nagar  
Burari, Delhi
18. Mrs Chandrakanta  
Age 42 years  
Staff Nurse  
W/o Vijay Dhondiyal  
R/o D-16, Type III  
R.B. TB Hospital Kingsway Camp, Delhi-9
19. Mrs Savita Singh  
Age 39 years  
Staff Nurse  
W/o Rajendra Singh



R/o 3128A, Mohindra Park  
Rani Bagh, Delhi-34

20. Mrs Babita Singh  
Age 40 years  
Presently Nursing Sister  
W/o Virender Singh  
R/o 110, Vill Bhalswa Colony  
Gali No.5, Near MCD Primary School  
Delhi-33

21. Mrs Archana R. Ariefi  
Age 40 years  
Staff Nurse  
W/o Dr. Ariefi  
R/o Qtr 51, RB TB Hospital  
Tenament III, Kingsway Camp  
New Delhi-9

22. Mrs Bindu Prajith  
Age 40 years  
Staff Nurse  
W/o Praaji P. Nair  
R/o Qtr 69, RB TB Hospital  
Tenament II, Kingsway Camp  
New Delhi-9

23. Mrs Nisha Dhiman  
Age 40 years  
Staff Nurse  
W/o Rajesh Dhiman  
R/o C-7, MCD Flat  
Padam Nagar  
Delhi

24. Mrs Poonam  
Age 38 years  
Staff Nurse  
D/o Jagdish Kumar  
F-17, Gali No.6, Wazirabad, Delhi



25. Mrs. Mona  
Age 40 years  
Staff Nurse  
W/o Pawan Kumar Dharma  
R/o House No. S-2, Sunbiw Apartment  
Near Bank of Sant Nagar  
Delhi
26. Mrs Rekha Kotnala  
Age 35 years  
Staff Nurse  
W/o Rajesh Kumar Kotnala  
R/o R Z 54/1, Street No.6  
Main Kailash Puri  
Palam Colony (near)  
New Delhi-45
27. Mrs Renu Bala Gogia  
Age 39 years  
Staff Nurse  
W/o Rajeev Kumar Gogia  
R/o Flat No.50, Metro Apartment  
Jahangir Puri, Delhi-33
28. Mrs Sushila  
Age 42 years  
Staff Nurse  
W/o Anil Kumar  
R/o C-4/191 Yamuna Vihar, Delhi -53
29. Mrs Armit Kour  
Age 39 years  
Staff Nurse  
W/o Harbinder  
R/o 68 Vidya Apartment  
Paschim Vihar, New Delhi
30. Mrs Krishna  
Age 41 years  
Staff Nurse  
W/o Bijender  
R/o 77, Tenament II  
RB TB Hospital, Kingsway Camp, Delhi-9
31. Mrs. Shalja Sardana  
Age 36 years  
Staff Nurse  
W/o Mr Rajesh Sardana  
R/o Flat No. C-8 MCD Colony

Palam Nagar, Delhi-7



32. Mrs Uma Bharadwaj  
Age 33 years  
Staff Nurse  
W/o Anchal Bharadwaj  
R/o House No.800/3, Shastri Nagar  
New Delhi

33. Smt Kanta Sharma  
Age 42 years  
Staff Nurse  
W/o Ashok Sharma  
R/o A-7/77 Sector 17, Rohini  
New Delhi

34.. Ms Anita Lal  
Age 47 years  
Staff Nurse  
D/o Late Mr Ravindra Lal  
R/o E/5 Haerdev Nagar  
New Delhi

35. Smt Renu  
Age 42 years  
Staff Nurse  
W/o Shri Ajauder Kumar  
R/o C-22/226 Guru Nanak Pura  
Laxmi Nagar  
New Delhi

36. Smt Sabita Bala Kapooria  
Age 38 years  
Staff Nurse  
W/o Swapan Kapuria  
R/o Campus RBTB Hospital  
Kingsway Camp  
Delhi-9

37. Mrs Nutan  
Age 37 years  
A Grade Staff Nurse,  
Atma Ram Gupta Polytechnic  
W/o Sh. Brij Bhushan  
R/o A-816, Shastri Nagar, Delhi-52

38. Smt Kamla Arya  
Age 38 years  
Staff Nurse



- W/o Swapan Kapuria  
R/o House No. 278 K Block  
Jangir Puri New Delhi
- 39.Smt Jasdeep R Dean  
Age 39 years  
W/o Rahul Dean  
Staff Nurse  
R/o Q No. T.M. 3<sup>rd</sup> RBTB Hospital  
Kingsway Camp, New Delhi
- 40.Smt Shami Goover  
Age 40 years  
Staff Nurse  
W/o Vipin Grover  
R/o Qtr No.13, TM 3<sup>rd</sup> RBTB Hospital  
Kingsway Camp, Delhi
- 41.Smt Veena Rani Kanojia  
Age 40 years  
Staff Nurse  
W/o Mr Rajender Kumar  
R/o R-132 Model Town III  
New Delhi
- 42.Smt Seema Rana  
Age 41 years  
Staff Nurse  
W/o Ravinder  
R/o House No.13, Delhi Post Office  
Kheda Kala , Delhi 82
- 43.Smt Geeta Premi  
Age 39 years  
Staff Nurse  
W/o Yogender Kumar Premi  
R/o H.No. U-13/10 A Fateh Singh Marg  
Arvind Nagar, Ghonda
- 44.Smt Monika Chandra  
Age 39 years  
Staff Nurse  
W/o Rohit Chandra  
R/o House No.154 III/IV FLR  
Satya Niketan New Delhi
- 45.Smt Jemima Biju  
Age 37 years  
Staff Nurse



W/o Mr Biju N.V.  
R/o C-1/MCD Flat B Block  
Defence Colony  
New Delhi-34

46.Smt Anuradha  
Age 39 years  
Staff Nurse  
W/o Shri Sanjay Vashist  
R/o RZ-11, Sahibaba Enclave  
Tehsil Road, Najafgarh, Delhi

47.Ms Enu Pandey  
Age 35 years  
Staff Nurse  
D/o Narender Nath Pandey  
R/o E-26/16 F Sadh Nagar II  
Palam Colony, New Delhi

48.Smt Nimi Mariam  
Age 39 years  
Staff Nurse  
W/o Ajay Ekka  
R/o H No.19/20, A Block  
G No.1, Amrit Vihar  
Burari, New Delhi-84

49.Ms Lokesh Rani  
Age 42 years  
D/o Shri Satya Pal Singh  
962D, Udaygiri, II Sector 34, NOIDA

50.Ms Binesh Kumari  
Age 44 years  
D/o Shri Satya Pal Singh  
962D, Udaygiri, II Sector 34, NOIDA

51.Smt Elezabeth Miller  
Age 39 years  
W/o Johnson Miller  
R/o Qtr No.7, Campus Kasturba Hospital  
Darya Ganj Delhi-2.

52.Smt Neeta  
Age 39 years  
Staff Nurse  
R/o F – 740 Sudarshan Park  
PO Ramesh Nagar, Delhi-15





- 53.Smt Mamta Kumari  
Age 34 years  
A Grade Staff Nurse  
W/o Manoj Kumar  
R/o C-5/5, Gali No.5, Kabir Nagar  
Shahdara, New Delhi
- 54.Smt Bindu Krishna Kumar  
Age 43 years  
Staff Nurse  
W/o S.P. Krishna Kumar  
R/o J-403, Mayurdhwaj Appts  
I.P. Ext, Delhi-92
- 55.Smt Jyoti Singh  
Age 40 years  
Staff Nurse  
W/o Sh. Shishir Kr Singh  
R/o Flat No. 2, Kasturba Hospital  
New Delhi
- 56.Smt Sandhya Nair  
Age 39 years  
Staff Nurse  
W/o Santosh Nair  
R/o 112A/PKT A-2, Mayur Vihar III  
Delhi – 96
- 57.Babulal Sharma  
Age 43 years  
A grade Staff Nurse  
S/o Ram Avtar Sharma  
Plot 8-9, GF Pocket-3  
Sec 25, Rohini, Delhi-85
- 58.Smt Savitri Singh  
Age 38 years  
A Grade Staff Nurse  
W/o Bipul  
R/o House No. G 22/2 West Kanwal Nagar  
Delhi-94
- 59.Smt Sumanti Minj  
Age 44 years  
Presently Nursing Sister  
W/o Andheririnous Minj  
R/o House No. 258 G No.8 , B Block  
Uttrakhand Enclave Burari, Delhi-84



60. Smt Kiran Minj  
Age 43 years  
Staff Nurse  
W/o Suman Minj  
R/o Sahibabad, Ghaziabad, UP
61. Ms Manju Rawat  
Age 38 years  
Staff Nurse  
D/o Lt Sh Bhagat Singh  
R/o C-70, Bhojpura Tulsi Niketan
62. Smt Milred Toppo  
Age 42 years  
Staff Nurse  
W/o Anima Prakash Toppo  
R/o House No.348 F1 Ext I  
Shalimar garden, Sahibabad (UP)
63. Smt Hema Sharma  
Age 41 years  
Staff Nurse  
W/o Deepak Sharma  
R/1001 APEX GREEN VALLEY SECT 9  
Vaishau, Gaziabad UP
64. Smt Anuradha Sharma  
Age 34 years  
Staff Nurse  
W/o Ashwani Sharma  
R/o A2/25 Sect 16, rohini, Delhi
65. Smt Krishna  
Age 42 years  
Presently Nursing Sister  
W/o Satyapal Singh  
R/o House No.81, Sect 11, Pok I  
SFS, DDA Flat, Dwarka
66. Smt Mamta Mathur  
Age 38 years  
Nursing Sister  
W/o Birender Kumar  
R/o H No.114, DDA Flats  
S.J. Enclave, N Delhi
67. Smt Bindu Asthana



Age 39 years  
Staff Nurse  
W/o Lt Sh Pankaj Asthana  
R/o Q No.502, Kasturba Hos  
New Delhi

68.Smt Manju Bisht  
Age 40 years  
Staff Nurse  
W/o Rajender Singh  
R/o Flat No.72 Punch Mahal Society  
IP Ext, New Delhi

69.Smt Rita Devi Saini  
Age 38 years  
Staff Nurse  
W/o Arvind Saini  
R/o 57 A, E-5 Shatabdi Vihar  
Sect 52, NOIDA

70.Smt Shirley Jacob  
Age 39 years  
Staff Nurse  
W/o Jacob Mathew  
R/o H No.C-2, B Block  
MCD Flats, Defence Colony  
New Delhi

71.Smt Rama Madan  
Age 40 years  
Staff Nurse  
W/o Sh Vipin Kumar  
R/o I-189 Swami Dayanand Colony,  
Kishan Ganj, Delhi-11007

72.Smt Anila Nair  
Age 42 years  
Staff Nurse  
W/o Muraleedharan Nair  
R/o mt

73.Smt Alka Kaushik  
Age 41 years  
A Grade Staff Nurse  
W/o Sunil Kumar Kaushik  
R/o 517 DDA SFS Flats Pkt I  
Sec 22, Dwarka, New Delhi-75

74.Smt Jyoti Sabharwal



Age 38 years  
A Grade Staff Nurse  
W/o Ajay Sabharwal  
R/o A-19, 1<sup>st</sup> floor  
Rana Pratap Bagh, Delhi

75.Smt Pinki Rani  
Age 43 years  
Staff Nurse  
W/o Rajender Kr  
R/o C-2, MCD Flat, Padam Nagar  
Sarai Rohila, Delhi

76.Smt Sushma George  
Age 46 years  
Staff Nurse  
W/o George Joseph  
R/o Ranjeet Nagar  
West Patel Nagar  
Delhi

77.Smt Brij Rekha Chauhan  
Age 42 years  
Staff Nurse  
W/o Mr Kalyan Singth Chauhan  
R/o Flat No.912/C-3 Balaji App  
Shalimar Garden Ext I  
Shahibabad (GB)

78.Smt Laxmi Devi  
Age 38 years  
Staff Nurse  
W/o Mr Gopal Singh  
R/o B-5132 Gali No.1141  
Sant Nagar

79.Smt Neeru Sharma  
Age 42 years  
A grade Staff Nurse  
W/o Sunil Sharma  
R/o X-2061, Lane No.4  
Gandhi Nagar, Delhi

80.Smt Manju  
Age 42 years  
A Grade Staff Nurse  
W/o Manoj Kumar  
R/o H.No. 783, Punjabi Basti  
Anad Parvt, Gali No.4, Delhi-5



- 81.Smt Preeti  
Staff Nurse  
W/o Sh Naval Kishore  
R/o 9820, Ahata Thakur Das  
Sarai Rohilla, Delhi-5
- 82.Smt Rekha Sharma  
Age 40 years  
Staff Nurse  
W/o Sanjeev Kumar  
R/o H.No. 9/52, Sec-3  
Rajender Nagar  
Ghaziabad- PIN 201005
- 83.Smt Mamta Mahlan  
Age 37 years  
Staff Nurse  
W/o Vinay Mahlan  
R/o S-1/785 Shiv App Shalimar  
Garden, Sahibabad (UP)
- 84.Smt Laxmi Phogat  
Age 43 years  
W/o Anand Phagat  
Staff Nurse  
A-2, 1065/7 Mehrauli  
New Delhi
- 85.Smt Geeta Rani Malik  
Age 39 years  
W/o Rakesh Malik  
Staff Nurse  
SH-12/178 New Moti Nagar  
New Delhi-15
- 86.Smt Vandana Sharma  
Age 40 years  
W/o Mr Yogesh Kumar Sharma  
Staff Nurse, Maha Rishi Valmiki  
Infectious Diseases Hospital,Kingsway Camp  
H. No.7-A Ist & IInd Floor  
Swarg Ashram  
Near Radio Colony, Delhi-9
- 87.Smt Poornima Pant  
Age 40 years  
W/o Atul Pant  
Staff Nurse, Maha Rishi Valmiki



Infectious Diseases Hospital, Kingsway Camp  
R/o GH-14/16 MIG Flats  
Paschiim Vihar  
New Delhi-87

88. Smt Kanchan Popely  
Age 42 years  
W/o S Popely  
Staff Nurse, Maha Rishi Valmiki  
Infectious Diseases Hospital, Kingsway Camp  
R/o EU-20D Pitam Pura  
Delhi-34

89. Smt Dimple Bhatia  
Age 41 years  
W/o Ashwani Kumar Bhatia  
Staff Nurse, Maha Rishi Valmiki  
Infectious Diseases Hospital, Kingsway Camp  
WZ 330, Gali No.4  
Shri Nagar, Shanker Basti  
Delhi

90. Smt Sunita Setia  
Age 36 years  
W/o Parul Setia  
Staff Nurse, Maha Rishi Valmiki  
Infectious Diseases Hospital, Kingsway Camp  
D-2/169-A, Jeewan Park  
Pankha Road  
New Delhi-59

91. Smt Sushila Sharma  
Age 39 years  
W/o Manish Sharma  
Staff Nurse, Maha Rishi Valmiki  
Infectious Diseases Hospital, Kingsway Camp  
R/o H. No.8, 1<sup>st</sup> Floor  
Dheerupur, Near Nirankari colony  
Delhi-9

92. Smt Meenu Sharma  
Age 39 years  
W/o Sh Sunil Sharma  
Staff Nurse, Poli Clinic Alipore  
H.No.47, Village Budhpur  
Delhi-36

93. Smt Babli Dinkar  
Age 41 years



W/o Shashi Kant Dinkar  
 Staff Nurse, Maha Rishi Valmiki  
 Infectious Diseases Hospital, Kingsway Camp  
 R/o Flat No.32, IIIrd Floor  
 Type C M.V ID  
 Hospital Kingsway Camp, Delhi-9

94. Smt Hemlata Rawat

Age 39 years  
 W/o Sh. Harinder Singh Rawat  
 Staff Nurse, Maha Rishi Valmiki  
 Infectious Diseases Hospital, Kingsway Camp  
 R/o H. No. 185, Uttranchal Enclave  
 Gali No.6, Burari, Delhi-84.

95. Mrs Rachna Sharma

Age 39 years  
 W/o Sh. Jitendar Sharma  
 Staff Nurse, RBI PMT Hospital  
 R/o H.No. 34, MS Park, Shahdra,  
 Delhi-32

96. Mrs Neelam Gupta

Age 40 years  
 W/o Sh. Chandra Mohan  
 Staff Nurse, Maha RBI PMT Hospital  
 Infectious Diseases Hospital, Kingsway Camp  
 R/o B-4/234A, Lawrence Road,  
 Keshav Puram, Delhi

...Applicants

(By Advocates: Sh. Padma Kumar S. with Sh. Krishna  
 Kumar Mishra)

## VERSUS

1. North Municipal Corporation Delhi  
 Through  
 Commissioner  
 Civic Centre  
 Jawaharlal Nehru Marg  
 New Delhi-2
2. Administrative Officer  
 North Municipal Corporation Delhi  
 Health Department





12th Floor Dr.S.P. M.Civic Centre  
Jawaharlal Nehru Marg  
New Delhi-2

...Respondents

(By Advocate: Sh. Amit Sinha)

### **ORDER (Oral)**

#### **Hon'ble Mr. Pradeep Kumar, Member (A):**

The applicants, herein, are directly recruited Staff Nurses, who were appointed prior to 01.01.2006. At that time, they were drawing pay scale of Rs. 5000-8000. When the 6<sup>th</sup> Central Pay Commission was notified on 29.08.2008, directly recruited Staff Nurses, who were appointed in the pay scale of Rs. 5000-8000, were given upgraded pay scale of Rs. 7450-11500, and thereafter placed in the revised corresponding pay scale of Rs. 9300-34800 with the Grade Pay of Rs. 4600.

2. The applicants are aggrieved that their pay has become less as compared to the directly recruited Staff Nurses, who were appointed on or after 01.01.2006, when 6<sup>th</sup> CPC recommendations became applicable.

3. Similar anomaly had also occurred in the case of Staff Nurses, who have been working in ESIC. They





have ventilated their grievances by filing their OA No. 3679/2012, wherein the order was pronounced on 07.05.2014. The operative part of this order reads as follows:-

*“10. We have heard the learned counsel for the applicants, Shri Padma Kumar S. and learned counsel for the respondents Ms. Ishita Barua for Shri Gaurang Kanth, in this case. The substantive question for consideration in this case is whether the direct recruits who have been appointed prior to 0.01.2006 can be placed at a lower pay scale than those direct recruits who have been appointed after 01.01.2006. The applicants were in the pre-revised scale of Rs.5000-8000/- and were drawing the basic pay between Rs.5300 to Rs.5900/- as on 31.12.2005. The fixation of pay w.e.f. 01.01.2006 after the acceptance of the 6th Pay Commission was made in terms of the Central Civil Service (Revised) Pay Rules, 2008. The said statutory rule upgraded the pay scale of Rs.5000-8000/- to Rs.7450-11500/- and then brought the Staff Nurses to PB 2 pay scale of Rs.9300-34800 with the grade pay of Rs.4600/-. In between the scales of Rs.5000-8000/- and Rs.7450-11500, there were two more scales in the pre-revised scale, viz., Rs.5500-9000 and Rs.6500-10500/-. As both Rs.5000-8000 and Rs.7450-11500 are the 5th Central Pay Commission scales, the 6th Central Pay Commission cannot give the upgraded pay scale of Rs.7450-11500 to a date prior to 01.01.2006. The upgraded pay scale of Rs.7450-11500 was to happen as on 01.01.2006 and thereafter the conversion to the 6th CPC PB2 scale of Rs.9300-34800/- was to be made. The minimum pay in the pay band for a person even with Rs.7450/- is to get Rs.13860/- as per the said statutory rule. Therefore, there should have been some provision for fixation of pay in the revised pay scale of 6th CPC, when pre-revised pay scale has been upgraded to a level after skipping two intermediate scales, so that the employees who have been serving in the pre-revised scales for years are not falling below at least the corresponding minimum of the 6th CPC revised scales of the upgraded pay scale. However, Revised Pay Rules, 2008 did not contain any such provision for upgradation after skipping two intermediate scales. But at the same time, the said Rules stipulate that all Direct Recruits in the Grade Pay of Rs.4600/- appointed as on 01.01.2006*



or after would get a minimum of pay in the pay band of Rs.12540/- (excluding Grade Pay) (which will make their basic pay including Grade Pay Rs.12540 + 4600 =Rs.17140/-). Admittedly, the applicants have had several years of service as direct recruit Staff Nurses as on 01.01.2006 were granted the pay in the pay band ranging from Rs.9860 to Rs.10980/- excluding Grade Pay as against the direct recruit with the same educational qualification and conditions of service who joins on 01.01.2006 who would get Rs.12540/- (excluding Grade Pay). Therefore, the Applicants are entitled to get at least the minimum of Rs.13860/- (Rs.18460 with Grade Pay) as on 01.01.2006 but in any eventuality not less than Rs.12540/- (Rs.17140/- with Grade Pay) as on 01.01.2006, as the same post when held by a direct recruit who joins on or after 01.01.2006 and one who joined as direct recruit years earlier, cannot be given different pay scales, that too prejudicial to the persons who joined much earlier as it would violate Article 39 (d) of the Constitution of India which has now assumed the level of a Fundamental Right and also Article 14 and 16 of the Constitution being irrational and arbitrary. The settled law is that no rules can be made in violation of the provisions contained in the Constitution of India.

11. In view of the above position, we allow this OA and quash and set aside the impugned speaking order dated 27.08.2012. Further, we 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 Respondent No.1 to treat the Applicants at par with the Direct Recruit Staff Nurses appointed after 01.10.2006 and grant the PB 2 scale of Rs.9300-34800 with the grade of pay 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."

4. Thereafter, this order was challenged by filing the Writ Petition which did not succeed and thereafter, the



SLP was filed in Hon'ble Apex Court which also did not succeed. Following this, the Department of Expenditure, Ministry of Finance has issued the O.M. dated 28.09.2018, wherein the directions were indicated as under:-

*"8. Accordingly, the President is pleased to decide that in respect of those posts where entry pay for direct recruits appointed on or after 1.1.2006, as per Section II of Part A of the First Schedule of CCS(RP) Rules, 2008, becomes applicable by virtue of the provision of the element of direct recruitment in the relevant recruitment rules, the pay of Central government employees who were appointed to such posts prior to 1.1.2006 and whose pay, as fixed in the revised pay structure under Rule 7 thereof as on 1.1.2006 turns out to be lower than the prescribed entry pay for direct recruits of that post, shall not be less than such entry pay w.e.f. 1.1.2006. Likewise, the pay of Central Government employees who were appointed to such posts by way of promotion on or after 1.1.2006 and whose pay, as fixed under Rule 13 of CCS(RP) Rules, 2008, happens to be lower than the said entry pay, shall else not be less than such entry pay from the date of their promotion taking place on or after 1.1.2006."*

5. The applicants are aggrieved that despite above directions, their juniors who were directly recruited like them and who were appointed post 01.01.2006, are now drawing higher basic pay though in the same Grade Pay and the applicants are pleading for stepping up of their pay. This is ventilated by filing the present OA.



6. The respondents have filed their counter reply and it was pleaded that the pay fixation in respect of the applicants was done as per the formula given in the 6th Central Pay Commission wherein their earlier basic pay was multiplied by 1.86 and the resultant figure was rounded off to the next multiple of ten and thereafter, Grade Pay was added. On this basis, there is no anomaly in their pay.

7. The respondents have also attached the Office Order issued by Ministry of Health and Family Welfare dated 31.03.2009, which deals with the subject of stepping up of pay and following which the NDMC, Health Department also issued the Office Order dated 06.12.2013. This Office Order reads as under:-

*“After implementation of the recommendations of 6th CPC, there is an anomaly in the pay of senior ‘A’ Grade Staff Nurses with reference to such of their directly recruited juniors on or after 01.01.2006. The matter has been examined as per provisions contained in the letter of Nursing Section, Ministry of Health & Family Welfare, Government of India vide F.No. Z.28015/2/2009-N dated 31.3.2009 & decided that stepping up of pay the seniors will be permitted with reference to such of their directly recruited juniors who are recruited on or after 01.01.2006 and whose basic pay is more than that of seniors, subject to the following conditions:*

- a. Stepping up the basic pay of seniors under the above provision can be claimed only in the case of those cadres which have an element of direct recruitment and in cases where a directly recruited junior is actually drawing more basic pay than the seniors. In such cases, the basic pay of the seniors will be stepped up with reference to the basic pay of juniors.*



- b. *Under the above provision, Government servants cannot claim stepping up their revised basic pay with reference to entry pay in the revised pay structure for direct recruits appointed on or after 1.1.2006 as laid down in section II of Part A of First Schedule to the CCS (RP) Rules, 2008, if their cadre does not have an element of direct recruitment, or in cases where no junior is drawing basic pay higher than them.*
- c. *Stepping up of pay of the seniors in accordance with the above provisions shall not be applicable in cases where direct recruits have been granted advance increments at the time of recruitment.*

xxx xxx xxx”

It was pleaded that above provisions are not applicable in the case of applicants and since there is no anomaly, the OA is required to be dismissed.

8. The matter has been heard. Sh. Padma Kumar S. with Sh. Krishna Kumar Mishra, learned counsels represented on behalf of the applicants. Sh. Amit Sinha, learned counsel represented on behalf of the respondents.

9. The instant matter has already been dealt with by this Tribunal in OA No. 3679/2012 (para 3 supra). Thereafter, the Ministry of Finance have also issued the O.M. dated 28.09.2018 at the relevant point of time (para 4 supra). Since the anomaly had arisen much earlier, the Ministry of Health have also issued the policy directives on 31.03.2009 (para 7 supra). The pleading by respondents in para 7 supra are rejected





at the outset itself as applicants and their junior who joined after 01.01.2006, are both direct recruits and junior direct recruits were drawing a higher salary and it happened as a result of implementation of 6<sup>th</sup> CPC and not as a result of any advance increment, etc.

10. The controversy has therefore, already been settled. The instant OA needs to be allowed on the same lines as per the decision in OA No. 3679/2012.

11. Accordingly, the respondents are directed to grant the same relief to the applicants as per para 3 above, alongwith all consequential benefits including arrears of pay and allowances with upto date interest at GPF rate, within a period of three months from the date of receipt of a certified copy of this order.

The respondents shall also fix responsibility as to why the instructions in para 7 supra and vide O.M. dated 28.09.2018 by Ministry of Finance (para 4 supra), have not been implemented.

12. There shall be no order as to costs.

**(Pradeep Kumar)**  
**Member (A)**

**(Justice Vijay Lakshmi)**  
**Member (J)**