



**Central Administrative Tribunal
Principal Bench**

O.A. No. 692/2015

This the 4th 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 Sneh Lata
Age 42 years
Staff Nurse
W/o Anil Kumar
R/o Qtr No.1, Ward Female ¾
R.B. TV Hospital, Kingsway Camp

New Delhi -9



13. Mrs Shammi Grover
 Age 40 years
 Staff Nurse
 W/o Vipin Grover
 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. 3rd 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 3rd 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 Shirly 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 Vipan 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, 1st 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 & IIInd 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
 Paschim 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, 1st 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 6th 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 6th 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 6th 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)

/akshaya/