

CENTRAL ADMINISTRATIVE TRIBUNAL

PRINCIPAL BENCH, NEW DELHI

O.A. No.3018/2010

M.A. No.2336/2010

New Delhi, this the 30th day of August, 2011

HONBLE MRS. MEERA CHHIBBER, MEMBER (J)

HONBLE DR. A.K. MISHRA, MEMBER (A)

1. Mahender Singh,  
S/o Shri Hari Singh,  
Aged about 58 years,  
R/o T.T. Place, B.S. Marg,  
New Delhi-1.
2. Ram Avtar Singh,  
S/o Late Shri Harsharan Singh,  
Aged about 49 years,  
R/o B-43, R.S.T. Enclave Kardam Farm,  
Johri Pur near Toll Tax Johripur,  
Delhi-94.
3. Bhushan Lal Gera,  
S/o Late Shri Gurdayal Singh,  
Aged about 49 years,  
R/o A-61, Anand Vihar,  
Old Uttam Nagar,  
Delhi.
4. Rajiv Diwan,  
S/o Shri Suresh Kumar Diwan,  
Aged about 48 years,

R/o H.No.2/141,

Subhash Nagar,

New Delhi.

5. Yogendra Kumar,  
S/o Shri Sita Ram,  
Aged about 49 years,  
R/o 4836, Laddoo Ghati,  
Paharganj, New Delhi.
6. Surender Kumar,  
S/o Late Shri Bhoop Singh,  
Aged about 48 years,  
R/o J-429, Shakarpur,  
Delhi-34.
7. Dharambir Singh,  
S/o Shri Ram Kumar,  
Aged about 57 years,  
Qr.No.34, Telegraph Square,  
New Delhi-1.
8. Ram Narain Paswan,  
S/o Late Shri Jeet Lal,  
Aged about 60 years,  
R/o 19, Type-II, Minto Road,  
New Delhi-02.
9. Sher Singh,  
S/o Late Shri Murli Dhar,  
Aged about 60 years,  
R/o 2439/11, Nalwa Gali,  
Chunna Mandi, Paharganj,

New Delhi-55.

10. Vishnu Dutt,  
S/o Shri Ganeshi Lal,  
Aged about 59 years,  
R/o Qr.No.19,  
Telegraph Place, B.S. Marg,  
New Delhi-2.

11. Ravinder Patra,  
S/o Shri Jai Krishan Patra,  
Aged about 50 years,  
R/o 112, Qr. No.43, Block No.6,  
Lady Harding Staff Quarter,  
New Delhi.

..Applicants

By Advocate: Dr. Ashwani Bhardwaj.

Versus

1. Union of India,  
Through its Secretary,  
Ministry of Health and Family Welfare,  
Nirman Bhawan,  
New Delhi-11.

2. Director General of Health Services,  
Ministry of Health and Family Welfare,

Nirman Bhawan,  
New Delhi-11.

3. Director and Medical Superintendent,  
Lady Harding Medical College and  
Smt. S.K. Hospital,  
New Delhi.

Respondents

By Advocate : Shri Rajinder Nischal.

O R D E R (ORAL)

Mrs. Meera Chhibber, Member (J)

Applicants, who are O.T. Technicians in Lady Harding Medical College and Smt. S.K. Hospital, have challenged order dated 01.06.2010 (page 33) whereby on the basis of decision taken by the Ministry of Finance through the Dte. GHS/Ministry of Health & FW, it was decided that the applicants who are O.T. Technicians cannot be granted higher scale of Rs.5000-8000 w.e.f. 01.01.1996 as they did not have prescribed qualification of B.Sc. They have further sought a direction to implement the recommendations of 6th Central Pay Commission read with the 5th Central Pay Commission recommendations along with all arrears of pay and allowances etc. etc.

2. When the matter was called out today, counsel for the applicants invited our attention to the latest letter issued by the Ministry of Health and Family Welfare on 20.06.2011, which reads as under:

Sub: Representation of the Operation Theatre Technical Staff regarding their scale of pay consequent of implementation of 5th Central Pay Commission.

Sir,

I am directed to say that representation have been received in this Ministry regarding grant of appropriate matching pay scale of OT Technician working in Dr. RML Hospital and Safdarjung Hospitals. The representations have brought out certain inconsistencies with regard to pay scales to OT Technician and Senior OT Technician and Senior OT Technician. The matter has been examined in consultation with IFD, Ministry of Health and Family Welfare. A clarification was issued to above said hospitals.

2. The OT Technician of LHMC and Associated Hospitals have also submitted a letter to this Ministry requesting for the issue of the same direction in respect of the OT Technician working in the LHMC and associated hospitals.

3. Accordingly, a copy of the said clarification issued vide letter number of even number dated 2.6.2011 is enclosed for further action.

along with order dated 02.06.2011, which reads as under:

To

- (i) The Medical Superintendent, Dr. R.M.L. Hospital, New Delhi.
- (ii) The Medical Superintendent, Safdarjung Hospital, New Delhi.

Sub: Representation of the Operation Theater Technical Staff regarding their scale of pay consequent of implementation of 5th Central Pay Commission.

Sir,

I am directed to say that representations have been received in this Ministry regarding grant of appropriate attaching pay scale to OT Technician working in Dr. RML Hospital and Sadarjung Hospitals. The representations have brought out certain inconsistencies with regard to pay scales to OT Technician and Senior OT Technician. The matter has been examined in consultation with IFD, Ministry of Health and Family Welfare.

2. It may be mentioned that as per existing RRs for the post of OT technical staff in both the hospitals, OT Technicians are recruited through 100% promotion failing which direct recruitment. The qualification prescribed for the feeder grade is matriculation or equivalent from a recognized board. The 5th CPC had recommended parity of OT Technician and Lab Technicians at the initial level and also according following grades for the OT Staff in future:

OT Technician Rs.1600-2660 with 2 ACP levels of Rs.1640-2900 and Rs.2000-3200 with minimum B.Sc. plus Diploma/Certificate in the relevant subjects. The existing incumbent in each organization in operation theaters as well as sterilization will be placed in appropriate matching pay scales.

3. It is mentioned that this pertains to future recruitment and not for the existing incumbents. The educational qualification of OT Technician and Senior OT Technician cannot be changed/upgraded to B.Sc. in respect of promotees as they have joined the service without B.Sc. degree at the entry level. It has already mentioned that for prescribing B.Sc. degree, it is to be done even for the feeder grade through amendment of the existing RRs applicable to future recruitment of the cadre of OT Technical Staff.

4. Since the additional qualification cannot be imposed on the existing staff at the time of promotion, linking of the B.Sc. qualification to the OT Technician at the time of promotion is not justified. Moreover, the RRs for the OT staff have not been amended as per the recommendations of the 5th CPC.

5. In view of the above, necessary action may be taken in respect of scale of pay of existing OT Technical staff and amendment of the RRs for future recruitments in pursuance of the relevant recommendations.

6. This issues with the approval of IFD vide SS & FAs Dy. No.201 dated 15.4.2011.

3. It is submitted by the counsel for the applicants that in view of this clarification mentioned in para 3 of letter dated 02.06.2011, Lady Harding Medical College is required to pass appropriate orders, therefore, this OA may be disposed of with a direction to the respondents to pass appropriate orders in terms of letter dated 02.06.2011.

4. Counsel for the respondents, on the other hand, submitted that they are willing to consider the case of applicants in terms of the letter dated 02.06.2011 provided applicants withdraw this O.A. as they cannot take a decision when the matter is subjudiced before the court.

5. We have heard both the counsel and perused the pleadings also.

6. Admittedly, applicants were denied the higher scale of Rs.5000-8000 w.e.f. 01.01.1996 on the ground that they are not B.Sc. During the pendency of this petition, Ministry of Health and Family Welfare has issued letter dated 02.06.2011 wherein it is categorically explained that the educational qualification of O.T. Technicians and Senior O.T. Technicians cannot be changed/upgraded to B.Sc. in respect of promotees as they have joined the service without B.Sc. degree at the entry level and the additional qualification cannot be enforced to the existing staff at the time of promotion.

7. In view of above, we are satisfied that respondents would have to pass appropriate orders keeping in view the letter issued by the Ministry of Health and Family Welfare as mentioned above, therefore, this OA is disposed of with a direction to the respondents to pass appropriate orders in terms of observations made by the Ministry of Health & Family Welfare in their letter dated 02.06.2011 within a period of eight weeks from the date of receipt of copy of this order under intimation to the applicants.

8. O.A. stands disposed of with the above directions. No order as to costs.

(DR. A.K. MISHRA)

MEMBER (A)

(MRS. MEERA CHHIBBER)

MEMBER (J)