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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **W.P.(C) 1630/2016**
GOVERNMENT OF NATIONAL CAPITAL TERRITORY OF
DELHI & ORS Petitioners

Through: Mr.Gautam Narayan, ASC with
Mr.Shatrujit Banerji, Advocate

versus

SHASHANK SINGH TOMAR AND ORS Respondents
Through: Ms.Zubeda Begum and Ms.Sana
Ansari, Advocates for R-1,2,3 & 7.

CORAM:

HON'BLE MR. JUSTICE SANJIV KHANNA

HON'BLE MS. JUSTICE ANU MALHOTRA

ORDER

% **10.04.2017**

Respondent No.17 has not been served. However, we are not inclined to adjourn the matter for the aforesaid reason as the issue is now covered by the decision of the Supreme Court in ***State of Punjab & Ors. v. Jagjit Singh & Ors.***, Civil Appeal No.213/2013 decided on 26th October, 2016.

2. This judgment affirmatively opines that the contractual employees, on the principle of equal pay for equal work, are entitled to minimum of pay-scale of the category to which they belong. The ratio therefore affirms the answer given in the impugned order of the Principal Bench of the Tribunal dated 21.04.2015.

3. Learned counsel for the petitioner, the Government of NCT of Delhi, has drawn our attention to paragraphs No.3 and 76 in ***Jagjit Singh*** (supra) and submits that allowances are not admissible and

payable. The Delhi High Court in WP(C) 8476/2009, **Government of NCT of Delhi & Ors. v. Deepika S. Kumar**, had directed to the contrary and therefore the impugned order to this extent requires modification.

4. The Government of NCT of Delhi have issued the office order dated 19th December, 2012, which reads as under:

*“ GOVT. OF NCT OF DELHI
DEPARTMENT OF HEALTH & FAMILY WELFARE
9TH LEVEL, A-ING, I.P.ESTATE, DELHI SECRETARIATE,
DELHI -110002.*

No.F.1(550)/TRC/H & FW/2012/12026-12061 Dated 19/02/2012

ORDER

Approval of the competent authority is hereby conveyed for payment of the following remuneration to the paramedical staff engaged on contract basis by the Health & Family Welfare Department, Government of NCT of Delhi, with immediate effect:-

- (x) Basic Pay*
- (xi) Grade Pay*
- (xii) Dearness Allowance*
- (xiii) Nursing Allowance (for Nurses)*
- (xiv) Patient Care Allowance (for other than nurses)*
- (xv) Uniform Allowance*
- (xvi) Washing Allowance*
- (xvii) House Rent Allowance*
- (xviii) Transport Allowance.*

Paramedical staff engaged on contract basis will get pay at the minimum of the pay band of the respective/corresponding post. They will not be entitled to increment in pay or promotion or regularization in service.

This issues with the concurrence of the FD vide U.O. No.624/DS-I dated 16.11.2012.

*Sd/-
(SUDHIR KUMAR)
SPECIAL SECRETARY
HEALTH & FAMILY WELFARE”*

4. This office order was referred to in the judgment dated 4th July, 2013 in WP(C) No.3769/2013, ***Rajesh Kumar Sharma & Ors v. Government of NCT of Delhi***. Having issued the aforesaid circular/office order, the Government of NCT of Delhi is bound by the same. Decision in ***Jagjit Singh*** (Supra) does not say that the Government/State cannot give allowances to contractual employees, as are payable to regular employees. This is not the ratio of finding in ***Jagjit Singh*** (Supra).

5. We cannot appreciate the stand of the petitioner that the respondents are not entitled to allowances, once they have issued the circular/office order dated 19.2.2012.

6. Learned counsel for the petitioner submits that the Government of NCT of Delhi can consider and withdraw all these allowances in view of the judgment of ***Jagjit Singh*** (Supra). We express no opinion on the said aspect/question.

The writ petition is dismissed, with no order as to costs.

SANJIV KHANNA, J

ANU MALHOTRA, J

APRIL 10, 2017/sv