



**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH**

(1) **CWP No.18797 of 2014 (O&M)**
Reserved on:11.02.2025
Date of Decision:26.03.2025

Chandigarh Administration and another

.....Petitioners.

Versus

Babloo Kumar and others

.....Respondents.

(2) **CWP No.147 of 2015 (O&M)**

Rajiv Atwal and another

.....Petitioners.

Versus

Babloo Kumar and others

.....Respondents.

(3) **CWP No.16507 of 2015**

Antu

.....Petitioner.

Versus

Union of India and others

.....Respondents.

(4) **CWP No.20360 of 2018**

Chandigarh Administration and another

.....Petitioners.

Versus

Central Administrative Tribunal, Chandigarh and others

.....Respondents.

CORAM: HON'BLE MR. JUSTICE SANJEEV PRAKASH SHARMA
HON'BLE MRS. JUSTICE MEENAKSHI I. MEHTA



Argued by:- Mr. Suman Jain, Advocate and
Mr. Mukesh Mittal, Advocate
for the petitioners in CWP No.18797 of 2014 and
CWP No.20360 of 2018.

Mr. Puneet Gupta, Advocate,
Mr. Pawan Gehlot, Advocate and
Mr. Anil Rana, Advocate
for the petitioners in CWP No.147 of 2015 and
for respondents No.4 and 6 in CWP No.18797 of 2014 and
for respondents No.7 and 8 in CWP No.16507 of 2015.

Mr. Harjit Yadav, Advocate appearing for
Mr. Chanderhas Yadav, Advocate
for the petitioner in CWP No.16507 of 2015 and
respondent No.5 in CWP No.18797 of 2014 and
respondent No.7 in CWP No.147 of 2015.

Ms. Anju Bansal, Advocate appearing for
Mr. Anurag Goyal, Advocate
for respondent No.1 in CWP No.18797 of 2014 and
CWP No.147 of 2015 & respondent No.6 in CWP
No.16507 of 2015.

None for respondent No.3-UOI in CWP No.18797 of 2014.

None for respondent No.2-UOI in CWP No.147 of 2015.

Mr. Maheshinder Singh Sidhu, Addl. Standing Counsel
for respondents No.2 to 4 in CWP No.16507 of 2015.

Ms. Madhu Dayal, Advocate and
Mr. Prince Pushpinder Rana, Advocate
for respondents No.3 to 5-UT in CWP No.147 of 2015.

Mr. Jagjit Singh Lalli, Senior Panel Counsel
for respondent No.1-UOI in CWP No.16507 of 2015.

MEENAKSHI I. MEHTA, J.

By way of this common judgment, we shall be adjudicating all
the four afore-captioned writ-petitions as ***CWP Nos.18797 of 2014 and 147
& 16507 of 2015*** have arisen out of the same order passed by the Central
Administrative Tribunal, Chandigarh Bench (for short ‘the Tribunal’) on



28.01.2014 whereby ***O.A. No.803-CH-2012***, moved by applicant-Babloo Kumar (now arrayed as respondent No.1 in ***CWP Nos.18797 of 2014 and 147 of 2015*** and here-in-after to be referred as ‘the respondent-applicant’), has been allowed and ***CWP No.20360 of 2018*** has been preferred to assail the order rendered by the Tribunal on 29.04.2015 for disposing of ***O.A. No. 060/00437/2014*** (filed by respondents No.3 to 9 in the above-mentioned writ-petition), in terms of the observations as made by it (Tribunal) in its afore-said order dated 28.01.2014 and also to challenge the order passed by it on 21.09.2017 for disposing of ***RA No. 60/20/2017*** by observing that it found no reason to review its order dated 29.04.2015 and thus, identical questions of law and facts are involved in all these writ-petitions.

2. Bereft of the unnecessary details, the facts, culminating in the filing of the instant writ-petitions, are that the above-named respondent-applicant preferred ***O.A. No.803-CH-2012*** for seeking the quashing of the orders dated 16.05.2012 and 01.07.2012, as passed qua the rejection of the representations filed by him with the request to consider him for promotion to the post of Senior Laboratory Technician and to fix his pay in parity with the employees, junior to him in service, with a further prayer for issuing the directions to respondents No.3 and 4 to treat him at par with the Junior Laboratory Technicians (for short ‘the JLTs’) and to quash the Provisional Seniority List of the JLTs, as circulated vide the letter dated 13.09.2001, separating the JLTs (Anaesthesia) from the cadre and also to promote him as the Senior Laboratory Technician from the date when the persons, junior to him, had been so promoted and fix his pay in parity with them. He had



averred in the afore-mentioned O.A. that he had been appointed as the JLT (Anaesthesia) vide letter dated 25.06.1995. Respondent No.3-Government Medical College & Hospital Sector-32, Chandigarh (for short 'the GMCH') had circulated the Provisional Seniority List of JLTs/JLTs (Anaesthesia) on 24.10.1996, showing his name therein at Sr. No.18 and had finalized the above-referred List vide letter dated 26.02.1997. Thereafter, on completion of the service tenure of five (05) years as JLT (Anaesthesia), he made a request to the respondent-GMCH to consider his case for promotion to the next higher post of Senior Laboratory Technician. However, vide the letter dated 13.09.2001, respondent No.3 issued the revised separate Provisional Seniority Lists for JLTs and JLTs (Anaesthesia), segregating the category of JLTs (Anaesthesia) from the cadre of the JLTs and also changed the nomenclature of the post of Junior Laboratory Technician (Anaesthesia) to Junior Technician (Anaesthesia), without passing any office order to this effect and affording him (respondent-applicant) the opportunity of being heard. Though he had moved a representation to respondent No.4-Director Principal, GMCH to seek the redressal of his afore-described grievances but the official respondents had promoted the JLTs named Rajiv Atwal, Antu and Sanjiv Kumar (arrayed as respondents No.4 to 6 in ***CWP No. 18797 of 2014*** and the petitioners in ***CWP Nos.147 and 16507 of 2015***) to the post of Senior Laboratory Technician while ignoring his claim and had also rejected his prayer for granting him the pay-scale in parity with them, despite the fact that the initial pay-scales for the posts of the JLTs and JLTs (Anaesthesia) were the same.



3. Respondents No.1 to 4 in **O.A. No.803-CH-2012** filed their joint written-statement and contested the claim of the respondent-applicant, *inter-alia*, on the grounds that the basic qualifications for the appointment to the posts of the JLTs and the Anaesthesia Technicians {called as JLTs (Anaesthesia)} were different and though both the cadres were mentioned together up to 13.09.2001 but subsequently, some more posts were created for the Department of Anaesthesia, having separate promotional avenues and therefore, the respondent-applicant could not be considered for his promotion to the post of Senior Laboratory Technician from the previous feeder cadre post and now, the nomenclature for the post of JLT has been changed as Medical Laboratory Technician Grade-I. Moreover, the posts of the Anaesthesia Technicians had been created for the Department of Anaesthesia only whereas the posts of JLTs were created for the other Departments of GMCH and hence, the respondent-applicant could not seek parity with the JLTs for his promotion and the pay-scale as well. In his replication, the respondent-applicant reiterated his earlier claim as set-forth in the O.A, besides controverting the assertions, put-forth by respondents No.1 to 4 in their written-statement. After hearing learned counsel for the parties, the Tribunal allowed **O.A. No.803-CH-2012** vide the impugned order dated 28.01.2014.

4. **CWP No.18797 of 2014** has been filed by the Chandigarh Administration and the GMCH and **CWP No.147 of 2015** has been moved by petitioners Rajiv Atwal and Sanjiv Kumar and **CWP No.16507 of 2015** has been preferred by petitioner Antu (arrayed as respondents No.5, 7 and 6



respectively in ***O.A. No.803-CH-2012***) against the above-mentioned order dated 28.01.2014 whereas ***CWP No.20360 of 2018*** has been filed by the petitioners-Chandigarh Administration and GMCH (arrayed as respondents No.2 and 3 in ***O.A. No.060/00437/2014***) to assail the order passed by the Tribunal on 29.04.2015, disposing of ***O.A No.060/00437/2014*** as preferred by the applicants named Anil Sinha, Anil Kumar, Arvind Kumar, Twinkle, Kawalbir Kaur, Chand Lal and Rashmi Kumari (arrayed as respondents No.3 to 9 in ***CWP No.20360 of 2018***), who had been working as the JLTs (Anaesthesia) in GMCH, in view of the observations made by it (Tribunal) in the impugned order dated 28.01.2014 handed down in ***O.A. No.803-CH-2012*** and also to lay challenge to the order passed on 21.09.2017 regarding the disposal of ***Review Application No.60 of 2017*** moved by the petitioner-Chandigarh Administration. The respondent-applicant has submitted his separate Written Replies in ***CWP No.18797 of 2014*** and ***CWP No.147 of 2015*** wherein he has contested the claim of the writ-petitioners on various grounds, while re-asserting his earlier averments as canvassed in ***O.A. No. 803-CH-2012***.

5. We have heard learned respective counsel for the petitioners as well as learned counsel appearing for respondent No.1-applicant in the CWP Nos.18797 of 2014 and 147 of 2015 and learned Additional Standing Counsel for respondents No.2, 3 and 4 in CWP No.16507 of 2015, learned counsel for respondents No.3 to 5-UT in CWP No.147 of 2015 and learned Senior Panel Counsel for the respondent-UOI in CWP No.16507 of 2015 and have also gone through the files carefully.



6. Learned respective counsel for the petitioners have contended that the posts of JLTs and JLTs (Anaesthesia) did not belong to the same/common cadre because the qualifications for the appointment/recruitment to these posts were different from the very beginning and even otherwise, JLT (Anaesthesia) is supposed to perform the duty in the Operation Theatre only whereas the JLTs are required to work in an entirely different arena and moreover, the respondent-applicant had been selected and appointed on the post of JLT (Anaesthesia), as specifically advertised by the competent Authority and in such an eventuality, there could not be any occasion to treat the JLTs and JLTs (Anaesthesia) as the employees of the common/same cadre merely for the reason that their initial pay-scales were same and though JLTs (Anaesthesia) were also included in the Seniority List, which was finalized and circulated vide the letter dated 26.02.1997(for short 'the Combined Seniority List'), but subsequently, the same had been rectified in view of the relevant prevalent Rules and in these circumstances, the afore-named respondent-applicant could not claim parity with the JLTs, even though junior to him in service, for the purpose of his promotion as well as the fixation of pay.

7. Per-contra, learned counsel appearing for the respondent-applicant has argued that in the Combined Seniority List of the JLTs, the JLTs (Anaesthesia) were included and even the initial pay-scales granted to the employees of both the above-referred categories, were also the same but the respondent-Department had wrongly segregated the category of the JLTs (Anaesthesia) from the afore-mentioned Combined Seniority List and



had circulated a separate Seniority List for them {JLTs (Anaesthesia)} which has resulted in the promotion and also the grant of higher pay-scale of the promotional post of Senior Laboratory Technician (now designated as the Senior Medical Laboratory Technician) to the JLTs, who were junior to the respondent-applicant in service and while considering these facts in the correct perspective, the Tribunal has rightly allowed ***O.A.No.803-CH-2012*** and has disposed of ***O.A No.060/00437/2014*** and ***Review Application No.60 of 2017*** accordingly, vide the impugned orders.

8. Admittedly, the respondent-applicant had been appointed on the post of JLT (Anaesthesia) vide letter dated 25.06.1995, in pursuance of an advertisement issued on 04.06.1995 (annexed as A2 and A1 respectively in ***CWP No.18797 of 2014***) for inviting the applications for filling up six (06) posts of JLTs (Anaesthesia) and some other posts as specified therein. It goes undisputed between the parties that at the time of conducting the selection process for the posts of JLTs (Anaesthesia) and appointment of the respondent-applicant on the said post, the Research & Medical Education Punjab Service (Class III Technical) Rules, 1990 (for short 'the Rules of 1990' and annexed at pages 141 to 150 in ***CWP No.18797 of 2014***) were applicable to UT, Chandigarh. A bare perusal of Appendix-A, as attached to the Rules (*ibid*), reveals that the post of Anaesthesia Technician finds mention at Sr. No.46 and the post of Laboratory Technician/Lab. Asstt. Gr-II/Junior Technician is mentioned at Sr. No.50 therein. It has categorically been pleaded in para 4 in ***CWP No18797 of 2014*** that the essential qualifications for the posts of JLTs and JLTs (Anaesthesia) were as under:-



S.	Name of Post	Educational Qualification
1.	Junior Laboratory Technician (Anaesthesia) (Pay Scale Rs.1200-2100)	(i)Matric with Science with certification of Anaesthesia Training and one year experience from any recognized university. (ii) Preference will be given to those having higher qualification.
2.	Junior Laboratory Technician (Pay Scale Rs.1200-2100 subsequently revised of Rs. 1800-3200)	(i) Matric with Science, Diploma in Medical Lab. Technician from any recognized Institute. (ii) Preference will be given to those having higher qualification.

9. Annexure ‘D’ (at pages No.158 and 159 in **CWP No.18797 of 2014**) consists of the copies of the office-notes and a bare reading of the same shows that it has specifically been mentioned therein that the name of one Harmohan Singh had been sponsored by the REE for the post of JLT and his name stood at Sr. No.2 in the Waiting-List and that separate requisition had been sent for six vacancies of JLTs in the Department of Anaesthesiology as the qualification for the said post was different from that of the JLTs for other Departments and the JLTs in the Waiting-List could not be considered for the post of JLT (Anaesthesia) since their roles and qualifications were different. The above-discussed Rules, the contents of Para No.4 in **CWP No.18797 of 2014** and the office-notes unequivocally speak volumes of the fact that the Rules of 1990, as applicable to the UT, Chandigarh at the relevant time, never contemplated for a common cadre for the JLTs and JLTs (Anaesthesia) and it being so, the mere facts that



initially, a Combined Seniority List of the employees of both the afore-said categories was circulated vide letter dated 26.02.1997 and the pay-scales of the above-mentioned posts were same, can, by no stretch of imagination, be construed to be any cogent and valid justification/ground for treating both the afore-referred posts as belonging to same cadre.

10. To add to it, Annexure P-6 (annexed at pages No.135 to 139 in ***CWP No.18797 of 2014***) is the order passed by the Committee headed by the Director Principal of GMCH, wherein it has been mentioned that the promotional post of the Senior Technician (Anaesthesia) was created by the Government of India vide letter dated 26.11.2010 and the Committee had resolved that it would be appropriate to promote the respondent-applicant to the post of Senior Technician (Anaesthesia) in his own cadre, Operation Theatre Staff, w.e.f. 26.11.2010, i.e the date of creation of the said post. These facts make it crystal clear that prior to 26.11.2010, the promotional post of Senior Technician did not exist in the Anaesthesia Department and hence, the respondent-applicant could not have claimed the consideration of his name for promotion to the post of Senior Laboratory Technician as well as the pay-scale prescribed for the same, at par with the JLTs even if junior to him in service.

11. As a sequel to the foregoing discussion, we are of the considered opinion that the impugned order handed down by the Tribunal on 28.01.2014, allowing ***OA No.803-CH-2012*** and the impugned order as rendered by it (Tribunal) on 29.04.2015, disposing of ***O.A. No.060/00437/2014*** on the basis of the observations made by it earlier in the above-said



order dated 28.01.2014 as well as the impugned order passed by it on 21.09.2017 for disposing of ***RA No.60 of 2017***, are not legally sustainable and therefore, the same are liable to be set-aside. We order accordingly and resultantly, all the four Civil Writ Petitions in hand stand allowed.

12. All the pending Miscellaneous Applications also stand disposed of.

(SANJEEV PRAKASH SHARMA)
JUDGE

(MEENAKSHI I. MEHTA)
JUDGE

March 26th, 2025
Yag Dutt/pooja

<i>Whether speaking/reasoned:</i>	<i>Yes</i>
<i>Whether Reportable:</i>	<i>Yes</i>