$~67

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\# **CNR No. DLHC010410112023**

\+ W.P.(C) 13467/2023 & CM APPL. 53156/2023

GOVT OF NCT OF DELHI AND ANR. .....Petitioners

Through: Mrs Avnish Ahlawat SC GNCTD Services, Mr Nitesh Kumar Singh, Advs.

Versus

SUSHIL KUMAR OJHA AND ORS. .....Respondents

Through: Mr. S. N. Gupta and Ms. Yashika Garg, Advs.

CORAM:
HON'BLE MR. JUSTICE C.HARI SHANKAR
HON'BLE MS. JUSTICE NIVEDITA ANIL SHARMA

ORDER (ORAL)

% 27.10.2026

C.HARI SHANKAR, J.

1. The respondents were appointed as Physiotherapists/ Radiographers in Tihar Jail on different dates from 2005 onwards. They continuously discharged their duties, without any blemish or complaint.

2. Certain other identically situated Radiographers/ Physiotherapists approached the Central Administrative Tribunal[1] by way of various Original Applications, seeking regularisation. The Tribunal, by order dated 6 July 2001 in the said OAs, headed by the OA 1479/2000[2], directed as under:

> "I am now left with the consideration of the relief sought by the applicants in these OAs. I find that the relief sought is for a

[1] "the Tribunal" hereinafter

[2] **Subodh Kumar and others v. Union of India and Others**

Signature Not Verified
Signed By:YOGESH KUMAR
Signing Date:31.10.2026 14:42

direction to the respondents to prepare a scheme within a given time frame whereby regular pay scales are made available to the applicants having regard to their qualifications etc. The further relief sought is grant of benefit to the applicants, after the scheme has been framed and the applicants have been regularly employed thereunder, with effect from respective dates from which they have been working as NGO-LTs etc. After a careful consideration of the matter and in view of what has been held by me in the preceding paragraphs, I am inclined to grant the aforesaid relief, sought is grant of benefit to the applicants, after the scheme has been framed and the applicants have been regularly employed thereunder, with effect from the respective dates from which they have been working as NGO-LTs etc. After a small consideration of the matter and in view of what has been held by me in the preceding paragraphs, I am inclined to grant the aforesaid relief. The respondents are accordingly, directed carefully to assess the additional number of posts of LTs etc. required to carry on the work of their organisation efficiently and thereafter to frame a proper scheme within a period of three months from the date of receipt of a copy of this order for absorption/regular employment of the applicants on posts, the duties and responsibilities of which they have been discharging over the years, keeping in view the qualifications possessed and the experience gained by them. Since most of the applicants, having already served for four to five years or even more, are likely to have crossed the maximum age of recruitment to the aforesaid posts, the aforesaid scheme to be framed by the respondents will contain a relaxation clause to enable the applicants to be considered for regular appointment as and when the scheme is framed. If the applicants are found fir to be regularly appointed in accordance with the aforesaid scheme, the respondents will make payments of arrears to them in respect of the past services rendered in accordance with regular pay scales, needless to say, subject to the provisions of the law of limitation.

3. The judgment of the Tribunal in ***Subodh Kumar*** was carried to this Court by means of WP (C) 18442/2004[3], which was disposed of in the following terms:

> "23. Thus, noting the continued employment of many claimants, following the decision of the Supreme Court in ***Uma Devi***[4](supra) directions can be issued to the Government of NCT Delhi, as a onetime measure, to frame a suitable scheme to consider regular

[3] **Subodh Kumar and others v. GNCTD**
[4] **Secretary, State of Karnataka v. Uma Devi, (2006) 4 SCC 1**

Signature Not Verified
Signed By:YOGESH KUMAR
Signing Date:31.10.2026 14:42

recruitment of such applicants of OA No.1479/2000, OA No. 1523/2000, OA No. 1534/2000 and OA No.1560/2000 who are still working at Tihar Jail.

24. As regards wages, we note that the issue of regularization of service and payment of wages has no co-relation. One may not be a regular employee but that would not mean that the State can, exploit its citizens and take benefit of the mismatch between demand and supply in employment. The principle of 'equal pay for equal work' has been recognized even in ***Uma Devi*** (supra) as per which directions can be issued that wages in the minimum of the scale should be paid and not daily wage.

25. We dispose of all the writ petitions directing the Government of NCT Delhi to, as a one-time measure, frame a suitable scheme to consider regular recruitment of such applicants of OA No.1479/2000, OA No.1523/2000, OA No.1534/2000 and OA No.1560/2000 who are still working at Tihar Jail and while so doing give benefit of age relaxation. The scheme would duly take note of the fact that Tihar Jail is under-staffed. Till the scheme is prepared and implemented such daily wage Laboratory Technicians/Radiographers who are working at Tihar Jail would be paid salary in the minimum of the scale in which regularly appointed Laboratory Technicians/ Radiographers are placed. We further direct that such of the applicants of OA No.1479/2000, OA No. 1523/2000, OA No. 1534/2000 and OA No. 1560/2000 who are still working at Tihar Jail and also Subodh Kumar and Naveen Kumar be paid wages in the minimum of the scale applicable from time to time to the post of Laboratory Technician/Radiographer for the past period of service rendered by them reckoned from the date the Tribunal issued directions in their favour i.e. 6.7.2001 and while so doing the daily wage received by them under the label of travelling allowance be adjusted. We clarify that such applicants of OA No.1479/2000, OA No.1523/2000, OA No. 1534/2000 and OA No.1560/2000 who have left employment and are not working (except Subodh Kumar and Naveen Kumar), would not be entitled to the benefit of directions issued by us. An exception needs to be carved out qua Sohan Lal on the issue of wages payable to him. Noting that he is an Ex-Serviceman and receiving pension, while determining back wages payable to him with effect from 6.7.2001, in addition to the daily wage received by him as travelling allowance, pension received by him would also be adjusted.

26. Needful would be done within 6 months from today."

4. The judgment of this Court was further carried by the GNCTD

Signature Not Verified
Signed By:YOGESH KUMAR
Signing Date:31.10.2026 14:42

to the Supreme Court, without success. A review petition, filed for review of the order passed by the Supreme Court, was also dismissed.

5. Following this, in the case of the applicants in ***Subodh Kumar***, the following order passed by the petitioners:

"F.No. 18(859)/CJ/PHQ/Estt/2014/975 Dated 30/04/2015

OFFICE ORDER

In compliance of Hon'ble supreme Court of India order in review SLP (Civil) No. 2172-74 of 2014 titled GNCTD & another Vs. Subodh Kumar & others vide its order dated 14.10.2014 and after approval of Finance Department, GNCT of Delhi vide U.O. No. 09/DS-2/28.04.2015 the following employees are hereby taken on strength w.e.f. 01.01.2015 to the post mentioned against their names;

Sr. No.	Name of the employee	Remarks
1.	Sh. Raghuvinder	Against vacant post of Radiographer at Central Jail Hospital, Tihar
2.	Sh. Rajesh Kumar	Against vacant post of Radiographer at Central Jail Hospital, Tihar
3.	Sh. Naresh Kumar	Against vacant post of Lab. Technician at Central Jail Hospital, Tihar
4.	Sh. Anil Kumar	Against vacant post of Lab. Technician at Mandoli Jails,

The expenditure involved on this account would be debitable to the under mentioned Head of Account for the year 2015-16 under Demand-for-Grant No. – 05.

Head of Account
ALFA Code: - MH-2056(Non-Plan)-A-1(1)(1)(2),-Wages
And
ALFA Code: - MH-2056(Plan)-A-1(1)(1)(2),-Wages

This issue with the concurrence of the finance Department, GNCT of Delhi vide their U.O. No. 09/DS-02/28.04.2015.

Signature Not Verified
Signed By:YOGESH KUMAR
Signing Date:31.10.2026 14:42

-sd-
(JITENDRA KUMAR SINGH)
Dy. Superintendent (Med)
Central Jail Hospital, Tihar"

(We may note that Subodh Kumar's name does not figure in the aforesaid order as it appears that he had resigned in the interregnum.)

6. Further following the aforesaid order, the following order was passed by the Home (General) Department of the GNCTD in respect of the applicants in ***Subodh Kumar***:

"No. F.9/101/2004/HG/3000 Dated; 06-07-2015

To,
The Director General (PRISONS)
Central Jail, Tihar,
New Delhi.

Sub: Regarding implementation of directions issued by the Hon'ble Supreme Court of India in the review SLP (Civil) NO. 2172-74 of 20144.

Sir,

With reference to proposal dated 13.5.2015 on the captioned subject, I am directed to convey the approval of Hon'ble Lt. Governor, Delhi, for relaxation in age and educational qualification, as-per RRs, for appointment of applicants, i.e. Sh. Raghuvinder and Sh. Rajesh Kumar against the vacant post of Radiographer and Sh. Naresh Kumar & Sh. Anil Kumar against the vacant post of Lab Technician in the Pay Scale of Rs.5200-20200+ Grade Pay of Rs.2400/-. The appointment shall be subject to the following conditions:-

(a) The candidates should undergo 3 months training (full time) in Govt. Hospital (Deen Dayal Hospital, in this case being nearest), with certification of skill-level at the end of it, for the one without even diploma, Training would be extended for 06 months followed by certification.

(b) Action regarding fixing of responsibility on erring officials, should be completed in a month and Hon'ble Lt. Governor, Delhi may be apprised accordingly.

Signature Not Verified
Signed By:YOGESH KUMAR
Signing Date:31.10.2026 14:42

File No. F.5/1/RMO/CJH/2014 of Prison Department is returned herewith.

Yours faithfully,

-sd-
DY. SECRETARY HOME (JAIL)"

7. Before the Tribunal, in the present case, the respondent submitted that it was only seeking the same relief as has been granted to the applicants in the ***Subodh Kumar***. Accordingly, the Tribunal has disposed of the OA by extending the relief granted in ***Subodh Kumar*** *mutatis mutandis* to the respondent. Paras 25.1 to 27 of the impugned judgment read thus:

> "25.1 We, therefore, set aside and quash the Impugned Order dated 03.06.2015 (Annexure 1).
>
> 25.2 To put a quietus to the issue, it is deemed appropriate in fitness of the facts of the case by disposing of the present OA with directions as one time measure, the applicants' rights should be considered in realistic and positive manner with similarly situated persons who were afforded the appointment pursuant to the judgment rendered by the Hon'ble High Court in Subodh Kumar (supra) paras 24 and 25, which have already been reproduced above for the sake of brevity.
>
> 26. Needless, to say that the above directions have been passed in peculiar facts and circumstances of the case, as one time measure, and same shall not be construed to be a precedent. On passing appropriate order, the respondents shall issue offer of appointments to the applicants herein, who shall not be entitled to claim seniority and any arrears of salary.
>
> 27. The OA is disposed of with above directions with no order as to the costs."

8. The GNCTD has challenged the aforesaid judgment of the Tribunal before us by means of the present writ petition.

Signature Not Verified
Signed By:YOGESH KUMAR
Signing Date:31.10.2026 14:42

9. We have heard Mr. N.K. Singh, learned Counsel for the petitioners and Mr. Gupta, learned Counsel for the respondent.

10. While defending the petition, Mr. Singh is fairly unable to distinguish the position of the present respondent, vis-à-vis the applicants in ***Subodh Kumar***. He, therefore, submits that, if at all this Court is inclined to grant relief, the relief would have to be limited to that which was extended to applicants in ***Subodh Kumar*** as reflected in the order dated 30 April 2015, extracted *supra*.

11. In the circumstances, we see no error in the decision of the Tribunal to dispose of the OA in the present case following its earlier decision in ***Subodh Kumar,*** which had attained finality upto the Supreme Court.

12. In the circumstances, we dispose of this writ petition by clarifying that the respondent would be entitled to the same benefits as was extended to the applicants in the case of ***Subodh Kumar***, and as reflected in Office Order dated 30 April 2015 *supra* read with second Office Order dated 6 July 2015.

13. The writ petition stands disposed of in the aforesaid terms.

C.HARI SHANKAR, J.

NIVEDITA ANIL SHARMA, J.

OCTOBER 27, 2026/s

Signature Not Verified
Signed By:YOGESH KUMAR
Signing Date:31.10.2026 14:42