

U.O.I & Ors vs Ashok Kumar & Ors

U.O.I & Ors vs Ashok Kumar & Ors

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Court : Delhi

Decided On : Apr-23-2026

Judge : Hon'Ble Mr. Justice C.Hari Shankar,Hon'Ble Mr. Justice Om Prakash Shukla

Appeal No. : W.P.(C)/1821/2008

Appellant : U.O.I & Ors

Respondent : Ashok Kumar & Ors

Advocate for Def. : Mr. Sudarshan Rajan

Advocate for Pet/Ap. : Ms. Prema Priyadarshini, Mr. Priyansh Kanwar, Mr. Vikas Roy, Mr. Jivesh Kumar Tiwari, Ms. Nandini Aggarwal, Ms. Samiksha, Mr. Jivesh Kumar Tiwari, Ms. Nandini Aggarwal, Ms. Samiksha, Mr. Sudarshan Rajan

Judgement :

\$~90 to 92

* IN THE HIGH COURT OF DELHI AT NEW DELHI

+ W.P.(C) 203/2008 UOI THR. SECRETARY MINISTRY OF HEALTH & FAMILY WELFAREPetitioner Through: Ms. Prema Priyadarshini, Mr. Priyansh Kanwar and Mr. Vikas Roy, Advocates CHAHAT RAM & ORS.

.....Respondents + W.P.(C) 1821/2008, CM APPL. 3508/2008 & 3510/2008 U.O.I & ORSPetitioners Through: Mr. Jivesh Kumar Tiwari, CGSC with Ms. Nandini Aggarwal and Ms. Samiksha, Advocates ASHOK KUMAR & ORSRespondents + W.P.(C) 9512/2009 DIRECTOR GENERAL ESIC HEADQUARTER & ORSPetitioners Through: Mr. Jivesh Kumar Tiwari, CGSC with Ms. Nandini Aggarwal and Ms. Samiksha, Advocates ANIL KUMAR KALRA & ORSRespondents Mr. Sudarshan Rajan, Advocate W.P.(C) 203/2008 & connected matters Page 1 of 6

CORAM:

HON'BLE MR. JUSTICE C. HARI SHANKAR

HON'BLE MR. JUSTICE OM PRAKASH SHUKLA

JUDGMENT (ORAL)

% 23.04.2026

C. HARI SHANKAR, J.

1. These three writ petitions assail orders passed by the Central

Administrative Tribunal¹ whereby the respondents, who were Laboratory Assistants in various hospitals were held to be entitled to the pay scale of 4000-6000 with effect from 1 January 1996.

2. In similar writ petitions, being WP (C) Nos. 3136/2006², orders passed by the Tribunal were complied with by the petitioners even while the present writ petitions were pending before this Court.

3. WP (C) Nos. 3136/2006, 4377/2007 and 4668/2008 were disposed of by a Coordinate Bench of this Court by the following

order dated 2 February 2026:

1. Learned counsel representing the Petitioners submits that in compliance of the order passed by the learned Central Administrative Tribunal, the Respondents who were working as Laboratory Assistants have been granted revised pay scale of 4,000-6,000, with effect from 01.01.1996, as per recommendations of Vth Central Pay Commission and the Respondents have already demitted office after attaining the age of superannuation.

2. They submit that while leaving the question of law open,

1 the Tribunal, hereinafter 2 UOI & Ors. v. Kirat Ram & Ors. 3 UOI & Ors. v. Sanjay Kaushik & Ors. 4 UOI & Ors. v. V.S. Dahiya & Ors. W.P.(C) 203/2008 & connected matters Page 2 of 6 the writ petitions may be disposed of as the Petitioners do not wish to make any recovery from the Respondents.

3. Keeping in view the aforesaid position, the present writ petitions along with the pending applications are disposed of while leaving the question of law open.

4. A photocopy of the Order passed today be kept in the connected matters.

4. Thus, in similar matters, as the Union of India made a statement

before this Court that they were not intending to recover the amounts paid to the respondents, this Court disposed of the writ petitions keeping the question of law open.

5. Another batch of writ petitions, being WP (C) 6414/20155,

also disposed of by the following order passed by a Coordinate Bench of this Court on 4 February 2026, following the earlier order dated 2 February 2026 in WP (C) 3136/2006 and connected matters: 1. Learned counsel representing the Petitioners are at ad idem

that these writ petitions may be disposed of in terms of the order

dated 02.02.2026, passed by this Court in W.P.(C) 3136/2006 and connected matters.

2. Learned counsel representing the Petitioners submit that in

compliance of the order passed by the learned Central Administrative Tribunal, the Respondents who were 'working as Laboratory Assistants have been granted revised pay scale of 4,000-6,000, with effect from 01.01.1996, as per recommendations of Central Pay Commission and the Respondents have already demitted office after attaining the age of superannuation.

5 The Director General (ESIC) & Ors. v. Rakesh Saini & Ors. 6 Director General ESI Head Quarter & Anr. v. Anita Yadav & Ors. 7 Director General ESI Corporation & Anr. v. Brham Pal & Ors. 8 The Director General (ESIC) & Ors. v. Kirti Sharma & Ors. 9 Director General (Employees State Insurance Corporation) & Ors. v. Munish Kumar & Ors. 10 Director General (Employees State Insurance Corporation) & Ors. v. Dharambir Singh Ranga &

Ors. W.P.(C) 203/2008 & connected matters Page 3 of 6

3. They submit that while leaving the question of law open, the writ petitions may be disposed of as the Petitioners do not wish to make any recovery from the Respondents.

4. Keeping in view the aforesaid position, the present writ petitions along with the pending applications are disposed of while leaving the question of law open.

5. A photocopy of the Order passed today be kept in the connected matters.

6. Mr. Sudarshan Rajan, learned counsel for the respondents,

submits that while the respondents in the batch of writ petitions headed by WP (C) 3136/2006, which were disposed of on 2 February 2026, were all retired

employees, some of the respondents in WP (C)

7. As such, the statement recorded in para 2 of the order dated 4 February 2026 applies both to serving as well as retired employees.

8. Mr. Tiwari, learned CGSC, who appears for the UOI, in WP

(C) 1821/2008 and 9512/2009, at this point, interjects to submit that the concession, if any, was at the instance of the ESIC and that the Union of India should not be bound by the said concession.

9. Accepting this submission would result in this Court becoming

a party to a clear violation of Articles 14 and 16 of the Constitution of India. Mr. Tiwari is unable to dispute the position that so far as the aspect of recovery is concerned, there is no difference between the Laboratory Assistants who were working in the ESI hospitals and the Laboratory Assistants who were working in the hospitals under the UOI, all of whom are covered by the aforesaid batch of writ petitions, which were heard together. We cannot, therefore, be party to a situation in which no recovery would be made from the Laboratory W.P.(C) 203/2008 & connected matters Page 4 of 6 Assistants of the ESIC hospitals and recovery would still be made from the Laboratory Assistants of hospitals under the UOI.

10. Earlier, there were some disputes as to whether the respondents

in the writ petitions covered by the aforesaid orders dated 2 February 2026 and 4 February 2026 passed by the Coordinate Bench were serving or retired Laboratory Assistants. Subsequently, the petitioners have also confirmed that some of the respondents in WP(C) There is, therefore, no distinction between the serving Laboratory Assistants in WP(C) Nos.6414/2015, 3781/2011, 6423/2015 and respondents in the present case.

11. They would, therefore, be entitled to equal treatment from the Court.

12. Besides the payments, of which recovery is being sought, were

made to the respondents as far back as between 2006 and 2009 i.e., close to two decades prior to today. Mr. Tiwari points out that undertakings were taken from the respondents, to agree to recoveries in the event that the payments were found to be in excess. However, Ms. Priyadarshini points out that similar undertakings were taken from the respondents in the batch of writ petitions disposed of, by the aforesaid two orders. If, despite these undertakings, in the batch of writ petitions covered by the aforesaid two orders, the Union of India and the ESIC made a statement that they were not intending to effect recoveries and on that basis writ petitions were disposed of, a similar fate must visit these writ petitions.

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13. Accordingly, we bind the petitioners to their undertakings in the

aforesaid two batches of writ petitions to the effect that no recoveries would be made from the respondents herein. As no other issue survives for consideration, these writ petitions are also disposed of, leaving the question of law open, in terms similar to the orders passed on 2 February 2026 in WP (C) 3136/2006, 4377/2007 and 4668/2008 and 4 February 2026 in WP (C) 6414/2015, 3781/2011, 18/2015,

C. HARI SHANKAR, J.

OM PRAKASH SHUKLA, J.

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