



**Central Administrative Tribunal
Principal Bench, New Delhi**

OA No. 3452/2015

Today, this the 15th day of December, 2020

Through video conferencing

**Hon'ble Justice L. Narasimha Reddy, Chairman
Hon'ble Mr. Mohd. Jamshed, Member (A)**

1. Subhash Chandra Das, S/o Late S. N. Das,
R/o B-38, A. V. Nagar, New Delhi – 49.
2. Ganga Sarran, S/o Ram Chander,
R/o Vill-Shahabad, Mohammadpur,
New Delhi – 61.
3. George A.P., S/o Paulse,
R/o A-14, A. V. Nagar, New Delhi – 49.
4. Devi Dutt, S/o Parmanand,
R/o 136/1B Lower GF,
Gautam Nagar, New Delhi – 49.
5. Pramod Kumar, S/o Late Ram Singh,
R/o 339/ABC, Vill-Munirka, New Delhi – 67.
6. Sunil Kumar Dhillor,
S/o Sripal, R/o 106/5,
Krishna Nagar, New Delhi – 29.
7. Brije Mohan Sharma,
S/o Ram Kripal Sharma,
R/o Vill-Sadarpur, Dist-Gaziabad (UP).
8. Ram Chander, S/o Sh. Ram Lal,
R/o. I-451, Ansarinagar, New Delhi -29.
9. Pan Singh Negi, S/o Late C. S. Negi,
R/o C-39, Dwarika Vihar,
Najafgarh, New Delhi – 43.
10. Mukut Singh, S/o Ram Prasad,
R/o C-10 EXT New Ashok Nagar, Delhi-96.

(All the applicants are Lift Operators in the O/o the
respondent NO. 3 &4)

..Applicants



(Mr. U. Srivastava, Advocate)

Versus

1. Union of India,
Through the Secretary,
Ministry of Health & Family Welfare,
G.I.O. Nirman Bhawan, New Delhi.
2. The Secretary,
Ministry of Finance, Department of Expenditure,
North Block, New Delhi.
3. All India Institute of Medical Sciences,
Through the Director, AIIMS,
Ansari Nagar, New Delhi.
4. The Superintending Engineer,
Dr. RP Centre, AIIMS,
Ansari Nagar, New Delhi.

..Respondents

(Mr. Gyanendra Singh, Advocate)

Order (Oral)

Mohd. Jamshed, Member (A):-

The applicants are working as Lift Operators in the All India Institute of Medical Sciences (AIIMS), New Delhi. It is stated that the Hon'ble High Court of Delhi vide its judgement/order dated 25.09.2008 passed in CCA No. 07/2001 and CM application No. 6185/2008 titled Director General Works, CPWD Vs. Kendriya Lift Karamchari Sangh (Regd.) directed the CPWD that the Lift Operators, Sewerman, Mates, Cooks, Meter Reader and Gauge Reader of CPWD should be granted selection grade on completion of eight years. This has



been implemented by the CPWD and the Lift Operators were granted the selection grade on completion of eight years. The applicants are seeking extension of similar benefit as granted to CPWD Lift Operators by the Hon'ble High Court.

2. The applicants have been making representations since 2009 that they should also be extended the benefit of selection grade as per the judgment of Hon'ble High Court of Delhi in Director General Works, CPWD Vs. Kendriya Lift Karamchari Sangh (Regd.). The request of the applicants was discussed internally in the meeting of Standing Finance Committee of AIIMS on 24.08.2010 and the same was approved, subject to the concurrence of Ministry of Finance. It is stated that the case of the applicants was also forwarded by the Ministry of Health and Family Welfare for obtaining approval of Ministry of Finance. The Ministry of Health and Family Welfare vide letter dated 08.10.2012 advised Director AIIMS that this matter was referred to Ministry of Finance but the same has not been agreed to. Thereafter, in view of representations made by the applicants, the matter was again referred by the Ministry of Health and Family Welfare to the Ministry of Finance for reconsidering the issue. The matter was reconsidered by the Ministry of Finance and the same was not agreed to as conveyed vide letter dated 26.08.2014. The applicants aggrieved by the



rejection, made further representations to the respondents in 2014 and also in 2015 also.

3. The contention of the applicants is that their service conditions are at par with those of CPWD and, therefore, the benefit of selection grade on completion of eight years as extended to the Lift Operators of CPWD, be also extended to them. By filing the present OA, they are seeking the relief from this Tribunal in terms of quashing and setting aside the rejection orders dated 01.08.2013 and 26.08.2014.

4. Counter affidavit has been filed by the Respondent Nos. 03 and 04, opposing the OA. It is submitted that the applicants are seeking similar benefits as granted to CPWD employees in terms of Judgment dated 25.09.2008 of Hon'ble High Court of Delhi in Director General Works, CPWD Vs. Kendriya Lift Karamchari Sangh (Regd.) which was not only for Lift Operators but also for other category of staff of CPWD only. The representations of the applicants have been considered by the Respondent Nos. 03 and 04 and the same was also referred to Ministry of Health and Family Welfare to seek concurrence of Ministry of Finance. The same was not agreed to by the Department of Expenditure, Ministry of Finance. On the basis of further representations received from the applicants, the case of the applicants was once again referred by the Ministry of Health and Family Welfare to the Ministry of Finance but the



same was again not agreed to even on reconsideration. In view of these developments, the applicants have not been extended the benefit of selection grade on completion of eight years.

5. We heard Mr. U. Srivastava, learned counsel for the applicants and Mr. Gyanendra Singh, learned counsel for the respondents.

6. The applicants have been working as Lift Operators in AIIMS. Subsequently, there has been cadre review in AIIMS and the post of Lift Operators and Operators (E&M) were merged and re-designated as Operators (E&M). The incumbent of the post of Lift Operator did not accept the merger and opted to continue as Lift Operators. They were accordingly permitted to continue as Lift Operators till their superannuation on condition that that they would not be entitled for any later merger with the main cadre of Operators and will also not be entitled for benefits of cadre review, etc.

7. The applicants have also not been able to justify their case by referring to any relevant service rule or the recruitment rules which provide for their promotion/upgradation, specifically grant of selection grade on completion of eight years of service. The judgment dated 25.09.2008 of the Hon'ble High Court of Delhi in Director General Works, CPWD Vs. Kendriya Lift Karamchari Sangh (Regd.) was for CPWD staff and the same was accordingly implemented by the CPWD. The applicants



made various representations seeking similar benefits. Their case was also referred to the Ministry of Finance not once but twice. The same was not agreed to vide letter dated 08.07.2013, which reads as under:-

“Subject:- Grant of Selection grade in respect of Lift Operators on completion of 8 years of service at AIIMS, New Delhi – reg.

Sir,

I am directed to refer to AIIMS letter No. F.20-21/90-Estt.I dated 23/04/2013 on the above subject and to say that the proposal has been examined in consultation with the Finance Division, MoHFW, IFD has observed that since the proposal had not been agreed to by Deptt. Of Expenditure, the same can not be acceded to. In view of this, the proposal has been rejected by IFD of this Ministry.”

8. The representations of the applicants were once again referred to the Ministry of Finance by the respondents through Ministry of Health and Family Welfare. Vide letter dated 26.08.2014, it was advised that the proposal was reconsidered and has not been agreed to by the Department of Expenditure, Ministry of Finance. In view of the above mentioned developments, the claim of the applicants for grant of selection grade on completion of eight years, which is not provided for in any of the recruitment rules or service rules and seeks benefit in terms of the judgment of Hon’ble High Court of Delhi dated 25.09.2008 in Director General Works, CPWD Vs. Kendriya Lift Karamchari Sangh (Regd.) is not tenable in any way. The representations made by the applicants were, however, referred by the respondents not once but twice seeking approval of the



Department of Expenditure, Ministry of Finance and on both the occasions in the year, 2013 and 2014, these have not been agreed to.

9. The case of the applicants is a policy issue. Primarily, they are seeking policy directives for modifications in their service conditions regarding grant of selection grade on completion of eight years of service by filing the present OA. It is settled law that the policy directives cannot be issued by Tribunal and Courts. There has not been any violation of the existing policy or service or recruitment rules. Their representations seeking extension of the benefits in terms of similar benefits having been extended to CPWD staff have been considered by the Competent Authority twice and rejected. We do not find any infirmity with the orders issued by the respondents.

10. We are, therefore, of the view that the present OA is devoid of merit and the same is, accordingly, dismissed. There shall be no order as to costs.

(Mohd. Jamshed)
Member (A)

/ankit/

(Justice L. Narasimha Reddy)
Chairman