

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

OA No.430/2016 and
MA No.1132/2018

New Delhi this the 19th day of March, 2018

**Hon'ble Mr. Justice Permod Kohli, Chairman
Hon'ble Mr. K.N. Shrivastava, Member (A)**

1. Rohtas Kumar, aged 66 years
S/o Sh. Jit Ram
Retired Lift Operator while working
Under GE(U), P&M, Ministry of Defence
Delhi Cantt-10
R/o Vill. & PO Begumpur, Opp. Rohini Sector 22
Delhi-86.
2. Ishwar Singh, aged 70 years
S/o Sh. Swaroop Singh
Retired Lift Operator while working
Under (GE(U), P&M, Ministry of Defence
Delhi Cantt-10, R/o Village Sidipruwa
PO Lowa Kalan, Bhadurgarh(Har)
3. Nafe Singh, aged 63 years
S/o Sh. Gordhar
Retired Lift Operator while working
Under GE(U), P&M, Ministry of Defence
Delhi Cantt-10, R/o H.No.179
Village Matiala, New Delhi-59.
4. Chatter Singh, aged 63 years
S/o Sh. Rishal Singh
Retired Lift Operator while working
Under GE(U), P&M, Ministry of Defence
Delhi Cantt-10
R/o Vill. &PO Badesara, Distt. Bhiwani(Har)
5. Ram Singh, aged 71 years
S/o Sh. Dharam Singh
Retired Lift Operator while working
Under GE(U), P&M, Ministry of Defence
Delhi Cantt-10
R/o H. No.E-97, Pratap Vihar Phase-III
Kirari Sulaman Nagar, Delhi-86.Applicants

(By Advocate: Shri Yogesh Sharma)

Versus

1. Union of India through the Secretary
Ministry of Defence, Govt. of Delhi
South Block, New Delhi.
2. The Engineer-in-Chief
MES, Army Head Quarters
Kashmir House, New Delhi.
3. The Commander Works Engineer(Utility)
Ministry of Defence, Delhi Cantt-10
4. The Garrison Engineer(U)P&M
Ministry of Defence
Delhi Cantt-10.Respondents

(By Advocate: Shri Vijay Kumar Sharma)

ORDER (ORAL)

Justice Permod Kohli:

MA No.1132/2018

This MA has been filed seeking disposal of the main OA in the light of the judgment of this Tribunal dated 23.12.2014 passed in OA 2235/2013 upheld by Hon'ble High Court of Delhi in WP(C) No.11578/2015 decided on 22.04.2016.

OA No.430/2016

2. We have heard the learned counsel for the parties. In the OA following relief has been sought:-

"(i) That the Hon'ble Tribunal may graciously be pleased to pass an order of quashing the impugned order dated 19.1.2016 (Annex.A/1) and also impugned order dated 18.7.14(A/2) only to the extend "This sanction will be applicable in the instant case only and will not be treated as a precedent case" declaring to the effect that same is illegal, arbitrary, against the rules and

discriminatory and consequently pass an order directing the respondents to grant the 1st financial upgradation to the applicants in the pay scale of Rs.4000-6000 and 2nd Financial upgradation to the applicants in the scale of Rs.5000-8000 from due dates with all the consequential benefits including the arrears of difference of pay and allowances with interest and with revision of retirement benefits by way of extending the benefit of Hon'ble Tribunal judgment dated 1.11.2010 in OA No.1129/2010."

3. The prayer is two fold, (i) to grant the 1st financial upgradation in pay scale of Rs.4000-6000, and (ii) 2nd financial upgradation in the pay scale of Rs.5000-8000.

The claim of the applicants was, however, rejected vide impugned order dated 19.01.2016. This Tribunal vide its order dated 12.05.2015 in OA No.1512/2015, filed by these applicants, issued following directions:-

"There is no appearance on behalf of the respondents even on the revised call. Though the prayer made in the OA is for issuance of direction to the respondents to grant the applicants financial upgradation in the pay scale of Rs.4000-6000 and Rs.5000-8000/-, the learned counsel for the applicants submitted that he would be satisfied if the respondents give reply to their Legal Notice served upon them on 02.03.2015 (Annexure-A/6), keeping in view the orders passed by this Tribunal in OA No.1129/2010 and Hon'ble High Court in WP(C) No.692/2012 dated 08.07.2012 upholding the order passed by the Tribunal in OA No.1129/2010 and Hon'ble Supreme Court in SLP (C) No.13016/2014 dismissing the same vide judgment dated 05.05.2014 and upholding the orders of this Tribunal dated 01.11.2010. In the circumstances, the OA is disposed of with a direction to the respondents to give response to the Legal Notice (ibid) within eight weeks from today, keeping in view the aforementioned judicial pronouncements."

4. In consideration of the legal notice pursuant to the direction of this Tribunal, the respondents have referred to the Govt. Policy of ACP and MACP and also earlier decision of this Tribunal, particularly in OA No.1129/2010 decided on 01.11.2010, which was upheld by the Hon'ble High Court and Hon'ble Supreme Court. In para (f) of the impugned order dated 19.01.2016 reference is made to OA No.2235/2013 in case of Vijay Kumar Vs. UOI, which is sought to be relied upon by the applicant. It is stated that a Writ Petition has been filed before the Hon'ble High Court of Delhi and stay has been obtained on the judgment of the Tribunal dated 23.12.2014 passed in the said OA.

5. By virtue of MA No.1809/2017 the applicant has placed on record Order dated 22.04.2016 passed in Writ Petition(C) No.11578/2015 in case of **Union of India and Ors. Vs. Vijay Kumar and Ors.** The Writ Petition filed by the respondents stands dismissed, meaning thereby that the judgment passed by this Tribunal in **Vijay Kumar's** case(supra) has been upheld. While dismissing the Writ Petition, the Hon'ble High Court has referred to an earlier decision of the Tribunal which has been upheld by the Hon'ble Supreme Court in Special Leave Petition(C) No.1720/2014 titled **Jatadhar Singh and Ors.**, as also an earlier order of the Hon'ble High Court in the WP(C) No.1811/2015, titled

Hira Singh & Ors. Vs. Union of India & Ors. decided on 04.12.2015 dismissing the Writ Petition.

6. In view of the above circumstances, the sole ground in the impugned order that the matter is pending before the Hon'ble High Court and there is stay in operation, does not exist as on date.

7. In this view of the matter, this OA is disposed of in terms of the order dated 01.11.2010 passed in OA No.1129/2010. In the aforesaid OA, the following directions were issued:-

"8. Resultantly, OA is allowed. Impugned order is set aside. Respondents are directed to accord to the applicants the pay scale of 5000-8000 as second financial upgradation from the date of completion of 20 years of service, with all arrears. This shall be done within a period of two months from the date of receipt of a copy of this order. No costs."

8. The above directions shall *mutatis mutandis* apply to the case of the applicants. The case of the applicants be considered within a period of two months from the date of receipt of a copy of this order.

(K.N. Shrivastava)
Member (A)

(Justice Permod Kohli)
Chairman

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