

.1.

**CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH**

**Original Application Nos.180/00097/2015  
& M.A 180/00984/2017**

Monday, this the 25th day of February, 2019

**Hon'ble Mr. E.K. Bharat Bhushan, Administrative Member  
Hon'ble Mr. Ashish Kalia, Judicial Member**

1. P.C.Satheesh, aged 46 years  
S/o.M.C.Chennan  
MES/109988, Lift Operator, AGE E/M No.III  
GE (NS) Kochi, Naval Base (PO)  
Kochi – 682 004
  
2. T.M.Abdul Kareem, aged 50 years  
S/o.Meedhyan  
MES No.109899  
Lift Operator, AGE E/M No.III  
GE(NS) Kochi, Naval Base(PO)  
Kochi – 682 004

..... **Applicant**

**(By Advocate – Mr.S.Sharan)**

**V e r s u s**

1. Union of India, Rep. by the Secretary to Government  
Ministry of Defence, Government of India  
New Delhi -110 003
  
2. Southern Command HQ Chief Engineer  
Pune -411 001
  
3. HQ Chief Engineer (NW)  
Kochi -4
  
4. Command Works Engineers(NW)  
Kochi -682 004
  
5. Garrison Engineer (I) MES E/M (NW), Kataribagh  
Kochi – 682 004
  
6. Engineer -in-Chief, Army Headquarters  
DHQ P.O, New Delhi – 110 011

7. Deputy Director (Personnel/CSCC,  
Engineer-in-Chief's Branch Integrated HQ of MoD (Army)  
Kashmir House,Rajaji Marg,  
New Delhi – 110 011 .... **Respondents**

**(By Advocate – Mr.N.Anilkumar,SCGSC)**

This Original Application having been heard and reserved for orders on 5.2.2019, the Tribunal on 25.2.2019 delivered the following:

**O R D E R**

**Per: Mr.Ashish Kalia, Judicial Member**

Original Application No.180/00097/2015 is filed by Shri.P.C.Satheesh and Mr.T.M.Abdul Kareem, Lift Operators against Annexure A-III order rejecting the claim for upgradation under MACP. He seeks the following reliefs: -

- “a) Call for the records connected with the case
- b) Set aside Annexure A III order dated 6.10.2013 of the 7<sup>th</sup> respondent rejecting the claim for upgradation under MACP.
- c) Direct the respondents to reconsider the grade pay in 2<sup>nd</sup> ACP level under MACP and the consideration of salary from Rs.2400/- to Rs.2800/- as given in other categories.
- d) Direct the respondents for re-structuring of Lift Operator category by clubbing the category with any other industrial category as it was done in other categories.
- e) Grant such other relief, which this Tribunal may deem fit and proper in the circumstances of the case.”

2. The brief facts of the case are as under:

.3.

The applicants were initially appointed as Lift Operators in the year 1988. First ACP was granted in the year 2001 on completion of 12 years of service. As per Revised Pay Rules, 2006, the pay scale of Rs.5200-20200 (PB-I) with grade pay Rs.2000/- was granted with effect from 1.1.2006. On completion of 20 years of service, 2<sup>nd</sup> ACP (under MACP) was granted with effect from 2009 with Grade Pay of Rs.2400/-. It is further submitted by the applicants that they are not getting the same benefits given to the other similarly situated persons in the Department. For all other skilled categories 2<sup>nd</sup> ACP under MACP has been granted with grade pay of Rs.2800/-. Whereas Lift Operator is the only category for which grade pay fixed as Rs.2400 granted in 2<sup>nd</sup> ACP. In the circumstances, 2<sup>nd</sup> applicant made representation on 18.4.2013 to respondent no.6 in order to redress his grievances. Stating therein that it is a clear discrimination in granting Grade Pay to the Lift Operator category in comparison to the other skilled categories of the department and all the categories in the department are brought under the four grade structure such as SK, HS II, HS I and MCM except the category of Lift Operator.

3 The applicants are deprived of the promotion scope due to the non-clubbing of the category of Lift Operators. Hence they are entitled to get grade pay in 2<sup>nd</sup> ACP under MACP by raising the salary from Rs.2400 to Rs.2800 as the same is given to all other categories. Without considering the entire facts and circumstance, the 7<sup>th</sup> respondent has rejected the claim of the applicants and same was communicated vide Annexure A III. Aggrieved by this, applicants have approached this Tribunal.

4. Notices were issued and the respondents put their appearance through their counsel and filed reply statement. The contentions made by the applicants are contested by the respondents since Mates who are eligible and granted 1<sup>st</sup> and 2<sup>nd</sup> ACP on completion of 12 and 24 years service are only eligible for upgradation to 3<sup>rd</sup> MACP with grade pay of Rs.2800/- (1<sup>st</sup> ACP with grade pay of Rs.1900/-, 2<sup>nd</sup> ACP with grade pay of Rs.2400/- and 3<sup>rd</sup> MACP with grade pay of Rs.2800/-). Further those Mates eligible for 1<sup>st</sup> ACP with grade pay of Rs.1900/-, IIInd MACP with grade pay of Rs.2000/- and 3<sup>rd</sup> MACP with grade pay of Rs.2400/- (i.e, first financial upgradation under ACP after completion of 12 years, 2<sup>nd</sup> MACP on completion of 20 years and 3<sup>rd</sup> MACP on completion of 30 years.

5 Whereas in the applicants cases they are eligible only for 1<sup>st</sup> financial upgradation under ACP on completion of 12 years with grade pay of Rs.2000, 2<sup>nd</sup> MACP on completion of 20 years with grade pay of Rs.2400/- and 3<sup>rd</sup> MACP with grade pay of Rs.2800/- in terms of E-in-C's Branch letter No.85610/47/ACP/IND/(3)/Scheme/CSCC/79 dated 12.9.2014 (Annexure R1(b).

6. Further, it is brought to our notice that the category of Lift Operators does not come under the four grade structure (i.e,SK, HS Grade I and II and MCM) and are considered and eligible for financial upgradation only being isolated category of MES like Safaiwala, Chowkidar and Mali who are also eligible only financial upgradation and the applicants will be eligible finally

.5.

for 3<sup>rd</sup> MACP on completion of 30 years of service with grade pay of Rs.2800/-in terms of existing rules in vogue since the Lift Operators, Safaiwala, Chowkidars and Malis are isolated categories with no line of promotion existing.

7. Heard Mr.S Sharan, learned counsel for the applicant and Mrs.Thanuja representing Mr.N.Anilkumar,SCGSC, learned counsel for the respondents. Perused the records.

8. The question raised by the applicants before this Tribunal is whether applicants can be merged with the categories of SK, HS Grade I and II and MCM by considering the posts of applicants in skilled category and granting the benefit under MACP with grade pay from Rs.2400/- to Rs.2800/-.

9. The stand taken by the respondents is that the applicants are given the benefits of the scheme as applicable to the post i.e, Lift Operator by the respondents as observed by Government of India, Ministry of Finance, (Department of Expenditure Implementation Cell) O.M No.19(3)/IC/90 dated 2.4.1992 published vide GE E/M (NW) Cochin Part II Order No.33/68 & 69/92 dated17.8.1992. Applicants were given financial upgradation under Ist ACP after 12 years in the pre-revised scale Rs.3200-85-4900 with Grade Pay of Rs.2000/-. As per Revised Pay Rules, 2008 subsequently granted 2<sup>nd</sup> MACP with Grade Pay Rs.2400/- as per the hierarchy of next immediate Grade Pay on completion of 20 years service. It

.6.

is submitted that the Lift Operator does not come under the 4 grade structure as enumerated by the applicant and as being an isolated category of MES like Safaiwala, Chowkidar and Mali who are also eligible for only financial upgradation and the applicants will be eligible finally for 3<sup>rd</sup> MACP on completion of 30 years of service with grade pay of Rs.2800/- in terms of existing rules in vogue. Applicant will be eligible finally for 3<sup>rd</sup> MACP on completion of 30 years of service with GradePay of Rs.2800/- in terms of existing rules in vogue since the Lift Operators, Safaiwala, Chowkidars and Malis are isolated categories with no line of promotion existing. On their request for restructuring the category of Lift Operator with promotion avenue has been considered by the Director General of (Pers) and rejected the same stating that the Lift Operators are not doing any skilled job. Thus the benefit cannot be extended to them and this meant only for skilled categories.

10. After considering the rival contentions, we are of the view that there is no merit on the side of the applicants as they are being an isolated post of Lift Operator. Whether they falls under skilled category or not, it is the domain of the executives alone, we cannot interfere in that area. However, as per scheme envisaged pursuant to the order passed by the Apex Court, they would be granted 3 financial upgradations under MACP schemes. Thus, present application fails to convince us and is accordingly dismissed. No costs.

.7.

11. In view of the order in O.A, M.A 180/00984/2017 has become infructuous and it is also closed.

**(ASHISH KALIA)**  
**JUDICIAL MEMBER**

**(E.K.BHARAT BHUSHAN)**  
**ADMINISTRATIVE MEMBER**

sv

**List of Annexures**

Annexure A-1 - A true copy of the appointment order dated 6.10.89 in the name of the 1<sup>st</sup> applicant by the 4<sup>th</sup> respondent

Annexure A-II - A true copy of the representation dated 18.4.2013 filed by the 2<sup>nd</sup> applicant before the 6<sup>th</sup> respondent

Annexure A-III - A true copy of the Order No.B.78001/Jt.DG (Pers)/124/RTI/CSCC dated 6.10.2013 issued by the 7<sup>th</sup> respondent to the applicants

Annexure A-IV - A true copy of the Communication dated 12.9.2014 of the 2<sup>nd</sup> respondent

Annexure R1(a) - True copy of the Order No.33/68 & 69/92 dated 17 Aug 1992

Annexure R1(b) - True copy of the letter No.85610/47/ACP/IND/(3)/Scheme/CSCC/79 dated 12.9.2014

Annexure R1(c) - True copy of the letter No.B/78001/Jt.DG (Pers) 124/RTI/CSCC dated 6.10.2013

Annexure A-V - A true copy of the Minutes of the meeting held with All India Defence Employees Federation on 31.10.2005

Annexure A-V(a) - A true copy of the Office Memorandum dated 29.4.2011 issued by Government of India, Directorate General, Central Public Works Department

Annexure A-VI - A true copy of the Order dated 23.6.2012 issued by Government of India, Directorate General, Central Public Works Department

Annexure R1(d) - True copy of the comparison chart indicating the recruitment rules for Lift Operators of MES and CPWD.

. . .