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**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**

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

Per: Mr.Ashish Kalia, Judicial Member

“a) Call for the records connected with the case

c) Direct the respondents to reconsider the grade pay in 2nd ACP level under MACP and the consideration of salary from Rs.2400/- to Rs.2800/- as given 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:

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, 2nd 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 2nd 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 2nd ACP. In the circumstances, 2nd 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 2nd 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 7th 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 1st and 2nd ACP on completion of 12 and 24 years service are only eligible for upgradation to 3rd MACP with grade pay of Rs.2800/- (1st ACP with grade pay of Rs.1900/-, 2nd ACP with grade pay of Rs.2400/- and 3rd MACP with grade pay of Rs.2800/-). Further those Mates eligible for 1st ACP with grade pay of Rs.1900/-, IInd MACP with grade pay of Rs.2000/- and 3rd MACP with grade pay of Rs.2400/- (i.e, first financial upgradation under ACP after completion of 12 years, 2nd MACP on completion of 20 years and 3rd MACP on completion of 30 years).

5 Whereas in the applicants cases they are eligible only for 1st financial upgradation under ACP on completion of 12 years with grade pay of Rs.2000, 2nd MACP on completion of 20 years with grade pay of Rs.2400/- and 3rd 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

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for 3rd 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 dated 17.8.1992. 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 2nd MACP with Grade Pay Rs.2400/- as per the hierarchy of next immediate Grade Pay on completion of 20 years service. It

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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 3rd 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 3rd 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.

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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

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List of Annexures

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

Annexure A-II - A true copy of the representation dated 18.4.2013 filed by the 2nd applicant before the 6th 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 7th respondent to the applicants

Annexure A-IV - A true copy of the Communication dated 12.9.2014 of the 2nd 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.

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