

**Central Administrative Tribunal
Principal Bench**

OA No.1615/2014

New Delhi, this the 17th day of September, 2019

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

1. Jaidev Sharma, Junior Engineer
S/o Sh. R.D. Sharma, 41 years
C-13/114, Sector-3
Rohini, Delhi-110085.
2. S.K. Chaudhary, Junior Engineer
S/o Sh. Ramrup Chaudhary
46 years, B-3/141, Sector-6
Rohini, Delhi-110085.
3. Surender Kumar, Junior Engineer
45 years, S/o Sh. Ram Kumar
316, Village P.O. Kutub Garh
Delhi-39.
4. Gopi Ram, Junior Engineer, 40 years
S/o Sh. Parshuram
14, Mukund Pur Village &
P.O. Samaypur Badli
Delhi.
5. Ajay Aggarwal, Junior Engineer, 44 years
S/o Sh. R.P. Aggarwal
RV-221, Pitampura
Near Power House
Delhi-110088.
6. Rakesh Nain, Junior Engineer, 40 years
S/o Late Sh. Attar Singh
Village & P.O. Jat Khor
Delhi-110039.
7. Naresh Kumar, Junior Engineer, 42 years
S/o Late Sh. Om Prakash
62, Type-III, Ambedkar Hospital
Rohini, Sector-6

Delhi-110085.

8. Surjeet Singh, Junior Engineer, 40 years
S/o Sh. Samey Singh
B-37, Majlish Park
Adarsh Nagar, New Delhi-33.
9. Subhash Sharma, Junior Engineer, 49 years
S/o Sh. Suresh Chandra
1208, Panna Paposiya
Narela, Delhi.
10. Vineet Gaur, Junior Engineer, 41 years
S/o Sh. Babu Ram Gaur
178, Nathu Ram Building
Ghondli, Krishan Nagar
Delhi-51.
11. Atul Sharma, Junior Engineer, 44 years
S/o Sh. R.N. Sharma
A-173, Meera Bagh
New Delhi.
12. Ishwar Chand, Junior Engineer, 42 years
S/o Late Sh. Sarna Mal
A-1/13, Netaji Subash Marg
East Babar Pur, Shahdara
Delhi-32.
13. Vipin Sharma, Junior Engineer, 36 years
S/o Sh. R.D. Sharma
C-10/35, Yamuna Vihar
Delhi-53.
14. Krishan Sharma, Junior Engineer, 44 years
S/o Sh. S.L. Sharma
10340, Gali No.1
West Gorakh Park
Shahdara, Delhi-32.
15. Dhirender Kumar, Junior Engineer, 43 years
S/o Sh. Sahab Singh
97, Vaishali, Pitampura
Delhi-88.
16. Vikas Sharma, Junior Engineer, 40 years

S/o Sh. P.N. Sharma
 27/78, Gali No.8
 Viswas Nagar
 Shahdara, Delhi-32.

17. Ravinder Sirohi, Junior Engineer, 41 years
 S/o Sh. Deshpal
 25, Block-A, Village Rajpur Khurd
 Colony, Mehrauli, P.O. Maidan Garhi
 Near Chatarpur Mandir
 Delhi.
18. Dinesh Chand, Junior Engineer, 47 years
 S/o Late Sh. B.P. Sharma
 C-79-A, Jitar Nagar
 New Pirwana Road
 Delhi-51.

....Applicants

(By Advocate: Ms. Rashmi Chopra)

Vs.

1. Govt. of NCT of Delhi
 Through Chief Secretary
 Delhi Secretariat, I.P. Estate
 New Delhi-110002.
2. Delhi State Industrial Development Corporation(DSIDC)
 Through its Managing Director
 N-36, Bombay Life Building
 Connaught Circus
 New Delhi-110001.Respondents

(By Advocates: Ms. Aarti Mahto and Ms. Priya Baruah
 for Shri Gaurang Kanth)

ORDER (ORAL)

Justice L. Narasimha Reddy:-

This OA discloses the manner in which the Delhi State Industrial Development Corporation, the second

respondent herein has conducted itself, in the context of making appointments even to important posts. In a way, it did not stand in any manner different from the similar corporations of other States where hardly any consistency or clarity, if not efficiency exists, in conducting their affairs.

2. The applicants joined the service of the second respondent as Work Assistants on contractual basis between 1995-1997. However, on 04.10.2010 the Work Charge employees were appointed as Junior Engineers, on a consolidated salary of Rs.8,400/-. That figure, in turn, was divided into various components such as basis pay, HRA and DA. The applicants contend that though they were put into the basic structure of the pay in the year 2000, there was no revision of DA and HRA, ever since then and they are put to serious financial hardship. This OA is filed with a prayer to direct the respondents to grant the stipulated rate of DA, as applicable from time to time, and to pay the arrears. As of now they are being paid @ Rs.28,000/-p.m. on consolidated basis. The applicants placed reliance upon certain incidences as well as

circulars issued by the Delhi Govt. in respect of the said category of employees.

3. The respondents filed counter affidavit opposing the OA. It is stated that the induction of the applicants as Junior Engineer, was only on contractual basis making it amply clear that they do not have any right to be paid regular emoluments or claim regularization and that the claim of the applicants is without any basis. They too have relied upon certain judgments rendered by the Hon'ble Supreme Court.

4. We heard Ms. Rashmi Chopra, learned counsel for the applicants and Ms. Aarti Mahto and Ms. Priya Baruah for Shri Gaurang Kant, learned counsel for the respondents.

5. The circumstances under which the applicants herein were inducted as Work Assistants are not immediately before us. Assuming that the same was regular in nature, at the most there would have been an occasion, to pursue the remedies with reference to that post. What is a bit extraordinary is that the work charge employees were straight away appointed as

Junior Engineers through order dated 04.10.2000. Neither any advertisement was issued nor any selection process was undertaken. It is not as if there was dearth of qualified engineers. It only shows the manner in which the second respondent, stationed in the capital of the country, has conducted itself.

6. The pay of the applicants, on being appointed as Junior Engineer on contractual basis was stipulated as Rs.8,400/-. That was given the break up as basis pay at Rs.5,000/-, HRA 30% i.e. 1500/- + DA @ 30% 1900/- aggregating. It is stated that the amount of Rs.8,400/- consist of basis pay, TA, HRA at the applicable percentages. The emoluments of the applicants were also enhanced from time to time but not on par with the regular employees.

7. The second respondent has taken up the process of subjecting the contractual Junior Engineers to the selection process. Out of the 18 applicants, 14 were successful and remaining 4 are being continued on contractual basis.

8. It is no doubt true that the applicants were appointed on contractual basis and it was clearly

mentioned that they would not be entitled for any regular scale of pay. The fact, however, remains that in various cases the Hon'ble Supreme Court examined the issue pertaining to the emoluments to be paid to the employees appointed on contractual basis.

9. The Hon'ble Supreme Court in ***State of Punjab and Ors. v. Jagjit Singh*** AIR 2016 SC 5176, and in number of other cases held that the employees of this nature are entitled for certain basic emoluments, representing various heads of the salary, which are otherwise payable to a regular employee. Recently, on 07.03.2017, the Hon'ble Delhi High Court passed an Order in WP (C) No.1201/2016 in ***Vedwanti and Ors. v. Chief Secretary, Govt. of NCT of Delhi & Anr.,*** wherein the following was observed:-

"Learned counsel for the petitioners has also drawn our attention to the decision of this Court dated 6.11.2013 in WP(C) No.6798/2002, *Sonia Gandhi & Ors. v. GNCT of Delhi & Ors.*, wherein the contractual employees, it was held, were entitled to minimum of pay, i.e., the basic pay at the induction stage, in addition to allowances, including HRA and TA. Reference is also made to the judgment dated 1.11.2013 passed in WP(C) No.2915/2013, *Chief Secretary, GNCT of Delhi & Anr. v. Satish Kumar & Ors.*, wherein the contractual employees were

held to be entitled to benefits like DA and HRA. The question of maternity benefit has also been examined in this case. The recent decision of the Supreme Court in *State of Punjab v. Jagjit Singh, AIR 2016 SC 5176*, settles the issue and affirms the principle of "equal pay for equal work". We also find that the issue is covered and settled by the decisions of the Delhi High Court in *Victoria Massey versus GNCT of Delhi*, W.P.(C) No.8764/2008, decided on 22nd May, 2009, *Rajesh Kumar Sharma and Others versus GNCT of Delhi and Others*, W.P(C) No. 3769/2013, decided on 4th July, 2013, *NCT of Delhi and Others versus Pramod Kumar and Others*, W.P. (C) No. 3676/2011, decided on 1st March, 2013, *Deen Dayal Upadhyaya Hospital represented by its Medical Superintendent and Others versus Mahesh Bhardwaj and Others*, W.P. (C) No. 4863/2012, decided on 15th February, 2013, *Dr. Baba Sahib Ambedkar Hospital represented by its Medical Superintendent and Others versus Swastika Bhakat and Others*, W.P. (C) No. 424/2013 with connected petition, decided on 24th May, 2013.

3. In view of the aforesaid legal position, we hold that the petitioners herein would be entitled to minimum of basic pay + grade pay+DA+HRA and TA. Learned counsel for the petitioners states that the other contractual employees are also being given advantage or benefit of Earned Leave. She relies on the order dated 1.10.2015 passed by the GNCTD whereby two additional benefits, i.e. 15 days Earned Leave in each case and maternity leave as applicable to regular employees has been granted. The respondents having passed the said orders will be bound by the same.

4. The writ petition is accordingly allowed, to the extent indicated above. The

aforesaid payments would be effective from the date OA No.2558/2014 was filed. Petitioner No.7, namely, Manoj Dabas, during the pendency of the present writ petition, had resigned from the post of Worksheet Instructor in CBPEC. He would be paid arrears only upto the date he had worked. Compliance would be made within a period of 8 weeks from the date a copy of this order is received. In case payments are delayed beyond eight weeks, the petitioners will be entitled to interest @ 8% p.a. from the date of this order till payments are made.”

10. Similar orders were passed in several other cases. We are of the view that the applicants stand on the same footing.

11. We accordingly allow the OA and direct that the applicants herein shall be entitled to be paid the difference of emoluments as indicated by the Hon'ble High Court in WP(C) No.1201/2016 from the date of filing of this OA till the date on which they were regularized. The four applicants who were not regularized shall be entitled to be paid the same, together with arrears, from the date of filing of the OA.

12. We, however, make it clear that it shall be open to the respondents to take a decision, in accordance with

law, whether or not to continue the four applicants who were not regularized.

There shall be no order as to costs.

(Mohd. Jamshed)
Member(A)

(Justice L. Narasimha Reddy)
Chairman

/vb/