

**Central Administrative Tribunal
Principal Bench**

**OA No.2281/2019
MA No.2470/2019**

New Delhi, this the 02nd day of August, 2019

**Hon'ble Justice L. Narasimha Reddy, Chairman
Hon'ble Ms. Aradhana Johri, Member (A)**

1. Hitesh Kumar, Swimming Live Guard Contractual
S/o Late Sh. Brahamanad
R/o 47/1, Jia Sarai
Hauz Khas, Delhi-110016.
2. Santosh Kumar, Swimming Life Guard Contractual
S/o Sh. Dinesh Chander
R/o 1237/1, Gali No.35-B
Village Burari
New Delhi-110084.
3. Sanjay, Swimming Life Guard Contractual
S/o Late Sh. Jai Kishan
R/o WZ-5A/96, Nasir Pur Colony
New Delhi-110045.
4. Robin, Swimming Life Guard Contractual
S/o Late Sh. Ram Narain
R/o 9/3129, Gali No.4
Dharam Pura, Gandhi Nagar
Delhi-110031.
5. Bhaskar, Swimming Life Guard Contractual
S/o Sh. Dinesh Chander
R/o H. No.3, Type-I
Gulabi Bagh, New Delhi.
6. Surender Kumar, Swimming Life Guard
Contractual, S/o Late Sh. Jai Kishan
R/o A-10, Nasir Pur Colony
Gali No.9, Harijan Basti
New Delhi-110045.
7. Bablu Halder, Swimming Life Guard Contractual
S/o Sh. G.C. Halder

R/o F-6, First Floor
Malka Ganj, Delhi-110007.

8. Ashok Kr. Goswami, Swimming Life Guard
Contractual, Sh. K.K. Goswami
R/o 9/6393, Mukherjee ST No.2
Gandhni Nagar, Delhi-110031.
9. Mukesh Kumar, Swimming Life Guard
Contractual, S/o Sh. Bhola Nath
R/o G-25A, Street No.1A
Vishwas Park, Uttam Nagar
New Delhi-110059.
10. Subhash Tokas, Swimming Life Guard
Contractual, S/o Sh. Pratap Singh Tokas
R/o 291-B, Munirka Village
New Delhi-110067.
11. Shananu Kundu, Swimming Life Guard
Contractual, S/o Late Sh. Surender Kundu
R/o B-28-G, Delhi Police Society
Vijeta Vihar, Sector-13
Rohini, Delhi-10085.
12. Prateek Tokas, Swimming Life Guard
Contractual, S/o Sh. Azad Tokas
R/o 138 B/1, Azad Mansion House
Mohammad Pur, Bhikaji Cama Place
Delhi.
13. Sulakshna Mehalwal, Swimming Life Guard
Contractual, W/o Sh. Tarun Mehalwal
R/o H.No.2, MadanGiri village
New Delhi-110062.
14. Bhaskar Kaushik, Swimming Life Guards
Contractual, S/o Sh. Jaipal Sharma
R/o H. No.G-154, New Seemapur
New Delhi-110053.
15. Salman Khan, Swimming Life Guard Contractual
S/o Sh. Sher Mohd. Khan
R/o 87-A, Near Dear Park
Hauz Khas, Delhi-110016.

16. Anil Kumar, Swimming Life Guard Contractual
S/o Late Sh. Mangal San Sharma
R/o H.No.2164, Ram Mandir
Jamna Bazar, Delhi-110006.
17. Rakesh Dalal, Swimming Life Guard Contractual
S/o Mahender Dalal
R/o Nimbran Patti
Naguran, Jind
Haryana-126125
18. Devender Khokhar, Swimming Life Guard
Contractual, S/o Satyawan Khokhar
R/o WZ-403, Raj Nagar Part-02
Palam Colony, Delhi-110045. ...Applicants

(By Advocate: Shri M.D. Jangra)

Vs

1. Govt. of NCT of Delhi
Through its Chief Secretary
Govt. of NCT of Delhi
New Secretariat, IP Estate
New Delhi.
2. Delhi Subordinate Service Selection Board
Through its Chairman
FC-18, Institutional Area, Karkardooma
Delhi.
3. The Director, Directorate of Education
Govt. of NCT of Delhi
Old Secretariat, Delhi. ...Respondents

ORDER(ORAL)

Justice L. Narasimha Reddy:

The applicants states that they are working as Swimming Life Guard under the Govt. of NCT of Delhi on contract basis for the past several years. The Delhi

Subordinate Services Selection Board (DSSSB), the 2nd respondent issued a notification dated 20.07.2019 proposing to select candidates for various posts including the post of Swimming Life Guard with post Code No.205/14, for seven vacancies. This OA is filed with a prayer to set aside the advertisement and to direct the respondents to hold the cadre review and make recruitment to the post of Swimming Life Guard. Another relief is to declare the action of the respondents in proposing to fill up the post as per the existing Recruitment Rules as illegal and to further direct them to fill the post after the new Recruitment Rules are framed.

2. The applicants contend that they are working as Swimming Life Guard for the past several years and though there are 15 swimming pools, the cadre strength is only 9 and the same needs to be expanded further. It is also stated that the efforts are being made by them to get their services regularised.

3. We heard Shri M.D. Jangra, learned counsel for the applicants, at length, at the stage of admission.

4. The applicants challenge the advertisement issued by the respondents for selection of the candidates to fill the post of Swimming Life Guard. The reason mentioned therefor is that the recruitment must take place after the cadre review.

5. From the arguments advanced by the learned counsel for the applicants it is clear that by the expression "cadre review", they meant the increase in the existing number of Swimming Life Guards. That is always in the discretion of the concerned Government. Further, even if a case is made out for increasing the number of posts, it just cannot be a factor to stall the process to fill the existing vacancies.

6. Another ground pleaded by the applicants is that the appointments cannot be made according to the existing Recruitment Rules and it should be done only after the new Rules are framed. There again, the applicants have no case at all. They are not clear as to what is the defect in the present Recruitment Rules. A person, not in service, cannot claim relief of this nature.

7. Reliance is also placed upon the judgments of the Hon'ble Delhi High Court regarding regularisation of the contractual employees. There is nothing which prevents the applicants to submit the applications in response to the advertisement and then to claim the benefit under law, as it stands now. We do not find any merit in this OA. It is accordingly dismissed.

There shall be no order as to costs.

All the pending MAs shall stand disposed of.

(Aradhana Johri)
Member(A)

(Justice L. Narasimha Reddy)
Chairman

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