

**Central Administrative Tribunal
Principal Bench**

OA No.3637/2014

MA No.3128/2014

MA No.3129/2014

MA No.484/2016



New Delhi, this the 4th day of December, 2019

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

1. All India CPWD Office Staff Association (Regd),
Through General Secretary,
Sh. R.K. Srivastava,
C Wing, Ground Floor,
Near Generator Room,
I.P. Bhawan,
New Delhi-110002.
2. Sh. Surinder Kumar Seth,
Aged about 51 years,
S/o Sh. Raj Kumar Seth,
R/o C-90, Karampura,
New Delhi-110015
(Working as LDC)
3. Sh. Lal Chand,
Aged about 50 years,
S/o Late Rosan Lal,
R/o 306, DA Flats,
Nimri Colony, Ashok Vihar,
Phase-IV, Delhi-110052
(Working as LDC)
4. Sh. Ram Awadh,
Aged about 55 years,
S/o Late Salig Ram,
R/o 998, Gali No.40/3
Molar Band Ext.,
Badarpur, New Delhi-110044
(Working as LDC)
5. Shri Ajit Singh,
Aged about 51 years,
S/o Sh. Ram Prasad,
Presently working as Horticulture
Division, CPWD, Delhi,
Village Dairy Maccha,
PO Dhumanipur, Distt. G.B. Nagar,



Noida
(Working as LDC).

6. Sh. Arun Kumar,
Aged about 51 years,
S/o Sh. Om Prakash,
R/o G-48, Nand Ram Park,
Uttam Nagar, New Delhi-110059
(Working as LDC)
7. Sh. Harpal Singh,
Aged about 53 years,
S/o Sh. Bishan Singh,
R/o 274, Indra Vihar,
1st Floor, Delhi-110009,
(Working as LDC)
8. Sh. Hari Ram Sharma,
Aged about 48 years,
S/o Sh. Bal Kishan Sharma,
R/o 132, Hosiyarpur,
Sector-51, Noida (UP) 201304
(Working as MTS).
9. Sh. Hukum Singh Bhandari,
Aged about 55 years,
S/o Sh. Ram Singh Bhandari,
R/o 60F, Pocket A-I,
Mayur Vihar, Phase-III,
Delhi-110096
(Working as MTS)
10. Sh. Suresh Chand,
Aged about 45 years,
S/o Late Chet Ram,
R/o Quarter No.172, Sector-5,
R.K. Puram, New Delhi
(Working as MTS)
11. Sh. Mahipal Singh,
Aged about 52 years,
S/o Sh. Likhi Ram,
Village & Post Office-Jawli,
Ghaziabad (UP)
(Working as LDC in the office of CPWD, Delhi)



12. Sh. Braham Prakash,
Aged about 57 years,
S/o Sh. Banwari Lal,
R/o 562A, Brij Vihar, Post Office,
Dakkhana Chandan Nagar,
Ghaziabad (UP) 201010
(Working as LDC)

...Applicants

(By Advocate : Shri S.K. Gupta)

Versus

Union of India through

1. Secretary,
Ministry of Urban Development,
Nirman Bhawan, New Delhi
2. Director General,
Central Public Works Department,
M/o Urban Development,
Nirman Bhawan, New Delhi.

...Respondents

(By Advocate : Shri Rajinder Nischal)

ORDER (ORAL)

Justice L. Narasimha Reddy, Chairman :-

The first applicant is an Association and applicants No.2 to 12 are said to be its Members.

2. It is stated that the applicants joined the service of CPWD as Peons long back. On completion of their 12 years of service, they were granted the benefit of first ACP between the years 1999 and 2001. Thereafter, they are said to have been promoted to the post of LDC in the year



2006. The grievance of the applicants is that though the pay scale attached to the post of LDC is Rs.3050-4590, the first ACP was given to them only in the pay scale of Rs.2610-4000. They contend that the first ACP ought to have been given to them in the pay scale of Rs.3050-4590. A representation was made by the first applicant in the year 2013 and the grievance of the applicants is that no action has been taken thereon. This OA is filed with a prayer to direct the respondents to extend the benefit of pay scale of Rs.3050-4590 in the form of first ACP. The applicants placed reliance upon the judgment rendered by the Hon'ble High Court of Delhi in WP(C) No.21860/2005 dated 18.09.2007.

3. The respondents filed counter affidavit opposing the OA. It is stated that for the post of LDC, 90% of the vacancies are to be filled through direct recruitment, 5% through LDCE and remaining 5% by promotion from eligible candidates, who possess the requisite qualifications. It is also stated that at the relevant point of time, promotion from the post of Peon was to the post of Safaiwala and accordingly, the first ACP was extended in the form of the pay scale attached to that post.



4. We heard Shri S.K. Gupta, learned counsel for applicant and Shri Rajinder Nischal, learned counsel for respondents.

5. The relief claimed in this OA is in the form of first ACP to the applicants No.2 to 12 and other Members of the first applicant, in the pay scale of Rs.3050-4590. It is not in dispute that the benefit of ACP or for that matter MACP is individual to the concerned employees and hardly any general principles can be laid in that behalf. The policy is free of any ambiguity and in the implementation, much would depend upon the service particulars of the concerned employees.

6. The applicants No.2 to 12 were extended the benefit of first ACP between 1999 and 2001. If they had any grievance about it, they were expected to pursue the remedies at that point of time. The representation, that too, by the first applicant was made in the year 2013. Beyond any pale of doubt the entire claim is barred by limitation and latches. The principle of acquiescence also comes into play. Even when the applicants were promoted to the post of LDC, they did not raise the claim in respect of the first ACP.



7. Assuming that the claim is otherwise within time, we find it difficult to grant the relief. The reason is that the promotion at the relevant point of time from the post of Peon was to the post of Daftry. The pay scale attached to the post of Daftry is Rs.2610-4000 and that was the financial upgradation extended to the applicants in the form of first ACP.

8. In WP(C) No. No.21860/2005, the Hon'ble High Court of Delhi directed that the first ACP to Peon shall be in the form of pay scale attached to the post of Daftry, and to the Safaiwala, it should be pay scale attached to the post of Sewerman. It is a different matter that the pay scale attached to the post of Sewerman is equivalent to the post of LDC.

9. Reliance is also placed upon the judgments of the Hon'ble High Court of Delhi in the matters of **Sh. Sanjeev Kumar And Ors.Vs. Government of NCT of Delhi and Ors.** WP(C)7873/2007 and **R.K. Kapoor Versus Union of India** WP(C) No.3992/201. We do not find any immediate relevance of those judgments, to the facts of this case.

10. We do not find any merit in the OA and the same is, accordingly, dismissed.

There shall be no orders as to costs.

(Mohd. Jamshed)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

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