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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 1811/2015

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Judgment dated 4th December, 2015

HIRA SINGH & ORS

..... Petitioners

Through : Mr.Prashant Sivarajan, Adv. for
Mr.Ankur Chhibber, Adv.

versus

UNION OF INDIA & ORS

..... Respondents

Through : Mr.Abhay Prakash Sahay, Adv. for
respondent/UOI.

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL

G.S.SISTANI, J (ORAL)

1. Challenge in this writ petition is to the order dated 31.3.2011 passed by the Central Administrative Tribunal (hereinafter referred to as the 'Tribunal') by which the O.A. filed by the petitioners herein has been dismissed and the petitioners were denied the benefit of first financial upgradation in the scale of Rs.4000-6000 and second financial upgradation in the scale of Rs.5000-8000, as was granted to similarly situated persons.
2. With the consent of counsel for the parties, present writ petition is set down for final hearing and disposal.
3. By the present petition, the petitioners had sought a direction to the respondents to grant benefit of first and second financial upgradation under the ACP Scheme. The petitioners relied upon the order passed in O.A.No.303/2005 passed in the case of similarly situated persons.
4. In this case, the petitioners were initially appointed as lift operators and they continue to work on the same post in the pay scale of Rs.260-400/950-1500/3050-4590 (old pay scales) under the Control of

Commander Works Engineer (CWE), New Delhi.

5. Learned counsel for the petitioners submits that in an identical matter, pertaining to lift operators, the Tribunal had allowed the Original Application, being O.A.No.1129/2010 vide Order dated 1.11.2010, which order was upheld by a Division Bench of this Court vide order dated 8.7.2013 rendered in the case of ***UOI And Ors. v. Jatadhar Singh And Ors.***, W.P.(C) 692/2012. Counsel has relied upon para 10 of W.P.(C) 692/2012, which reads as under:

“10. The position therefore boils down to this. Lift Attendants, re-designated as Lift Operators have to be treated as skilled workmen and had to be placed in the pay scale Rs.260-400 and not Rs.210-290 and correspondingly as and when pay revisions were effected were entitled to be placed in the replacement scale Rs.950-1500 which replaced the pay scale Rs.260-400 and the pay scale Rs.3050-4500 which replaced the pay scale Rs.950-1500. The post of Fitter General Mechanic being the promotional post in the pay scale Rs.4000-6000 the first ACP benefit had to be in the said pay scale and on completion 24 years service the next above pay scale (non-hierarchical) Rs.5000-8000 had to be granted to them.”

6. Counsel further submits that a Special Leave Petition filed against the aforesaid order also stands dismissed. Counsel, thus, prays for identical orders with regard to the present petitioners.
7. Learned counsel for the respondents very fairly submits that the case of the petitioners would be fully covered by the Order dated 1.11.2010 passed by the Tribunal in O.A.No.1129/2010, which was upheld by the Division Bench in W.P.(C)No.692/2012 on 8.7.2013, however, the present petition is barred by delay and laches, as the impugned order was challenged by the petitioner after a gap of approximately four years and even after one year the Supreme Court of India had dismissed the Special Leave Petition filed by the Union of India.

8. Learned counsel for the petitioners submits that the petitioners are not educated people and on account of financial constraint, they did not take immediate remedies. Counsel further submits that petitioners would not claim any interest if the benefit of the first and second financial upgradations and consequent benefit are granted to them and, thus, the respondents would not suffer on account of delay in approaching this Court.
9. We have heard learned counsel for the parties and considered their rival submissions and the stand taken by counsel for the parties. Having regard to the submissions made by counsel for the parties and in view of the decision rendered by the Tribunal in O.A.No.1129/2010, which was upheld by a Division Bench of this Court in W.P.(C)No.692/2012 and the fact that the SLP was dismissed, the present writ petition is allowed. The petitioners would be granted a similar relief as was granted in O.A.No.1129/2010 and the order passed by the Division Bench dated 8.7.2013 in W.P.(C)No.692/2012 within ten weeks from today. We make it clear that the petitioners would be bound by the statement made by their counsel that they would not claim any interest over the benefit given to them pursuant to the first and second financial upgradations.
10. Writ petition stands disposed of.

G.S.SISTANI, J

SANGITA DHINGRA SEHGAL, J

DECEMBER 04, 2015

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