



W.P.No.32752 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

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Reserved on	20.12.2023
Pronounced on	030824

CORAM

**THE HONOURABLE MR.JUSTICE D.KRISHNAKUMAR
AND
THE HONOURABLE MR.JUSTICE P.DHANABAL**

W.P.No.32752 of 2019

1. R.Lakshmanan
2. R.Raman

Both are employed as Lift Operators,
In the Office of the Garrison Engineer, (NAS)
INS Rajali,
Arakonam – 631 006,
Tamil Nadu.

... Petitioners

vs.

- 1.The Central Administrative Tribunal (CAT)
Chennai Bench,
High Court of Madras Campus,
Chennai – 600 104.
2. Union of India,
Represented by its Secretary,
Ministry of Defence,
South Block,
New Delhi – 110 001.



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3.The Engineer-in-Chief's,
Army HQ,
Kashmir House, DHO PO,
New Delhi – 110 011.

4. The Garrison Engineer (NAS),
INS Rajali,
Arakonam – 631 006,
Tamil Nadu.

... Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India, for issuance of a Writ of Certiorari, calling for the entire records in pursuant to the impugned order in O.A.No.9 of 2019 passed by the first respondent and quash the same and to direct the fourth respondent to grant the all due benefits to the writ petitioners herein on par with counterpart Lift Operators in Central Public Works Department (CPWD) as prayed in O.A.No.9 of 2019.

For Petitioners	: Mr.A.Deivasigamani
For R2 to R4	: Mr.N.Ramesh
	Senior Panel Counsel
For R1	: Tribunal

ORDER

P.DHANABAL, J.

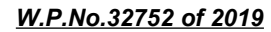


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This Writ Petition has been filed by the petitioners for issuance of a Writ of Certiorari, calling for the entire records pursuant to the impugned order in O.A.No.9 of 2019 passed by the first respondent and quash the same and also to direct the fourth respondent to grant the all due benefits to the writ petitioners herein on par with counterpart Lift Operators in Central Public Works Department (CPWD).

2. According to the petitioners, all are working as Lift Operators in the office of the Garrison Engineer, (INS) INS Rajali, Arakonam, Tamil Nadu. The petitioners were appointed as Lift Operators on different dates in the office of the Garrison Engineer and till date, they were working under the same office. The Lift Operators working in Central Public Works Department (CPWD) have been granted revised pay scale. Since the petitioners are similarly placed employees engaged in similar nature of work as Lift Operators in Military Engineering Services (MES), they claimed the same revised pay scale which were conferred to the Lift Operators working in CPWD.



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2.2. But the Central Administrative Tribunal passed an order dated 01.02.2018, directing the fourth respondent herein to consider their representation dated 19.02.2016 and to pass a reasoned and speaking orders within a period of 12 weeks. Based on the above order, the fourth respondent has passed the order dated 20.06.2018 by rejecting their claim. Hence, they filed an Original Application in O.A.No.9 of 2019 and the same was dismissed by the Tribunal.

3. The fourth respondent has filed a counter stating that the writ petition is not maintainable and the same is liable to be dismissed. The Service Conditions and Recruitment Rules of Lift Operators of Military Engineering Services are different from those of CPWD. Recruitment Rules for Lift Operators of Military Engineering Services are for non-selection post as notified in SRO 215, dated 03.07.1971 and SRO -5, dated 10.01.1991 and is strikingly different from the Recruitment Rules for the Lift Operators in CPWD. The pay scale granted to Lift Operators of CPWD which is being a different Department is not applicable to the facts of the case. The service condition as well as Recruitment Rules of



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Lift Operators of MES and CPWD are governed by different set of Rules.

As per Recruitment Rules SRO 215, dated 03.07.1971, Lift Attendants are having promotional hierarchy as Lift Mechanic. Lift Attendants have been re-designated as "Lift Operator" vide SRO 05 of 1990. In the post of Lift Mechanic, existing incumbents only were re-designated as 'Fitter General Mechanic' vide Government of India, Ministry of Defence letter, dated 06.07.1994.

3.1. Therefore, the Lift Operators, in the present writ petitioners were not similarly placed as claimed by them. The Selection Grade was granted to Lift Operator of CPWD on completion of 8 years in the grade (Rs.260-400/-) from 01.01.1973 after adjudication through Arbitration. Thereafter, the High Court in W.P(C) No.2792 of 1988 filed by Direct General Works, Central Public Works Department Department CPWD Vs- Kendriya Lift KaramchariSangh directed to implement the Arbitral Award, dated 31.01.1988.

3.2. The Lift Operators of Military Engineering Services are given



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next standard pay scales which are Rs.3200-4900/- and Rs.4000- 6000/- for ACP purposes as per Government of India orders. This finding has attained finality to Military Engineering Services (MES) by virtue of Central Administrative Tribunal (CAT) Principal Bench Delhi Judgment, dated 31.03.2011 in O.A.No.2149/2000 filed by Shri.Hira Singh, Lift Operator Vs-Union of India and others. As per the ACP Scheme, the petitioners were granted ACPS and MACP. Whenever they are eligible as per the CPWD, the Lift Operators were alone granted Selection Grade on completion of 8 years of service in pre-revised Scale of Rs.4,600/- in implementation of the arbitration award and they cannot be withdrawn by them by any of the instructions issued by the Government of India that is Assured Career Progression Scheme. The contention of the petitioners that the Selection Grade pay has given to counterpart CPWD is consequential upon having granted pay scale on par with the CPWD, is legally unsustainable. Therefore, the petitioners are not entitled to any relief and the petition is liable to be dismissed.

4. The learned counsel appearing for the petitioners would contend



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that the petitioners are working as Lift Operators and similarly placed persons working in Central Public Works Department (CPWD) have been granted revised pay scale and the petitioners also given a representation for grant of Selection Grade in the pay scale of Rs.4,600/- after completion of 8 years and against the financial upgradation and also to grant revised second financial upgradation under the M.A.C.P Scheme in grade pay of Rs.2,800/- and to grant third financial upgradation under the M.A.C.P.Scheme in the grade pay of Rs.4,200/- in the payment of Scheme on completion of 30 years and the same has not been considered and thereby, they filed Original Application before the Central Administrative Tribunal, by the Tribunal erroneously dismissed the application.

4.1. The learned counsel appearing for the petitioners further contended that the Tribunal has failed to note that already the Hon'ble Supreme Court granted revised pay scale on par with the Counter-part Lift Operators in CPWD and now, the Selection Grade was also conferred on them based on the order passed by the Supreme Court.



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Further, the Tribunal failed to note that both the Military Engineering Services and CPWD are the Departments of the Central Government.

Hence, the benefits which are granted to the Lift Operators in CPWD shall also be extended to the counterpart Lift Operators working in MACPS. The Tribunal failed to note the petitioners are working for more than 30 years as Lift Operators and they are entitled to claim the benefits. Therefore, the order passed by the Tribunal is liable to be set aside by allowing this petition.

5. The learned counsel appearing for the respondents 2 to 4 would contend that the Service Conditions and Recruitment Rules of Lift Operators of Military Engineering Services are different from those of CPWD the pay scale granted to Lift Operators of CPWD which is being a different Department. As such, the reference to CPWD is not applicable to this case. The Lift Operators of MACP's is governed by different set of Rules and having different promotional hierarchy from the age limit and qualification also different.



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5.1. The Selection Grade was granted to Lift Operators of CPWD on completion of 8 years. Thereafter, CPWD to approach the obtained Arbitral Award and the same was executed through order of the High Court. The Lift Operators of MACP's are given next standard pay scales which are Rs.3200 – 4900/- and Rs.4000-6000/- for ACP purposes. This decision has attained finality to Military Engineering Services by virtue of order passed by the Principal Bench Delhi, the Central Administrative Tribunal, dated 31.03.2011 in O.A.No.2149 of 2000, wherein, it was held that the Lift Operators of Military Engineering Services are not governed by Original Application and these are applicable only to the Lift Operators of CPWD and have been issued after Arbitration and the approval of the Department specifically for Lift Operators of CPWD. The Service Conditions and the Recruitment Rules are totally different. Further, the MACP Scheme was against them. The petitioners for the Central Government Employees and these petitioners are governed by the MACP Rules. The CPWD comes under the Ministry of Housing and Urban Affairs, Government of India and not under the Ministry of Defence. Therefore, after considering the above said aspects, the



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Tribunal has dismissed the petition and thereby, the present writ petition is liable to be dismissed.

6. This Court heard both sides and perused the materials on record.

7. In this case, the main contention of the writ petitioners is that they have been working as Lift Operators under the Military Engineering Services and similarly placed persons working under the Central Public Works Department (CPWD) were given revised scale of pay. Therefore, the petitioners have sent a representation before the fourth respondent and the same was rejected. Thereby, they filed the Original Application and the same was also dismissed by the Central Administrative Tribunal. Hence, they filed present writ petition.

8. According to the respondents, the Lift Operators of Central Public Works Department and the Military Engineering Schemes are governed by the different Service Rules and promotion hierarchy is also different. Both the Lift Operators coming under the separate Ministry.



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Therefore, already the petitioners were granted benefits of ACP Scheme.

Further, the CPWD Lift Operators got revised scale through Arbitral Award. Therefore, these petitioners are not entitled to pay scale on par with the CPWD Lift Operators.

9. On perusal of the records, it is also seen that the petitioners are Lift Operators under the Military Engineering Services which comes under the Ministry of Defence. The CPWD comes under the Ministry of Housing and Urban Affairs, Government of India. The post for Lift Operators in Military Engineering Services are different from those Lift Operators of CPWD. Therefore, the Service Conditions and Recruitment Rules are different and the educational qualification, promotional hierarchy are also different. Therefore, the petitioners cannot be treated on par with the Lift Operators of CPWD. The learned Tribunal also passed the order by holding that the request of the petitioners rejected on the ground that the applicant came under different Ministry and were governed by different Recruitment Rules and the Lift Operators of CPWD have been granted certain benefits in terms of Arbitration and



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direction of the Court. The applicability of such case to the Lift Operators Military Engineering Services, that the decision to grant pay scales Rs.3200 –4900/- and Rs.4000- 6000/- for ACP purposes, as per the departmental letter, dated 09.08.1999 had attained finality in terms of the order passed by the Principal Bench of Tribunal in O.A.No.2149 of 2000, dated 31.03.2011. Therefore, the order passed by the Tribunal is well reasoned order and there is no infirmity or perversity in the order passed by the Tribunal warranting no interference.

10. Further, the learned counsel appearing for the respondents has relied upon the judgement of the Hon'ble Supreme Court reported in ***Union of India Vs. India Navy Civilian Design Officers Association and another (2023) SCC Online SC 173***, wherein, the Hon'ble Supreme Court held in Paragraph Nos. 14 and 15 as follows:

“14. In view of the afore-stated legal position, it clearly emerges that though the doctrine “equal pay for equal work” is not an abstract doctrine and is capable of being enforced in a Court of Law, the equal pay must be for equal work of equal value. The equation of posts and determination of pay scales is



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the primary function of the Executive and not of the Judiciary. The Courts therefore should not enter upon the task of job evaluation which is generally left to the expert bodies like the Pay Commissions which undertake rigorous exercise for job evaluation after taking into consideration several factors like the nature of work, the duties, accountability and responsibilities attached to the posts, the extent of powers conferred on the persons holding a particular post, the promotional avenues, the Statutory rules governing the conditions of service, the horizontal and vertical relativities with similar jobs etc. It may be true that the nature of work involved in two posts may sometimes appear to be more or less similar, however, if the classification of posts and determination of pay scale have reasonable nexus with the objective or purpose sought to be achieved, namely, the efficiency in the administration, the Pay Commissions would be justified in recommending and the State would be justified in prescribing different pay scales for the seemingly similar posts. A higher pay scale to avoid stagnation or resultant frustration for lack of promotional avenues or frustration due to longer duration of promotional avenues is also an acceptable reason for pay differentiation. It is also a well-accepted position that there could be more than



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one grade in a particular service. The classification of posts and the determination of pay structure, thus falls within the exclusive domain of the Executive, and the Courts or Tribunals cannot sit in appeal over the wisdom of the Executive in prescribing certain pay structure and grade in a particular service.

15. So far as the facts of the present case are concerned, it is not disputed that the Recruitment Rules governing the JDOs are as per the SRO 367 dated 08.12.1996, as amended by SRO 246 dated 21.11.2002, whereas the Recruitment Rules governing the CTOs (Design) are as per the SRO 132 dated 12.05.1982. The probation period in case of CTOs is longer than that of JDOs. The duties and responsibilities of both the posts are different and the promotional avenues also have different duration and different criteria. There was not a single error, much less grave error pointed out by learned Senior Advocate. Mr. Khurshid, in the fixation of the pay scales for the JDOs and CTOs, which would have justified the interference of the Tribunal.”

11. On careful perusal of the above said judgment, it is clear that the powers of judicial review in the matters involving financial implications are very limited. The wisdom and admissibility of the



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Courts in the matters concerning the finance are ordinarily not amenable to judicial review unless the gross case of arbitrariness or unfairness is established by the aggrieved party. And also, it is clear that the classification of posts and the determination of pay structure, thus falls within the exclusive domain of the executive and the Courts or Tribunals cannot sit in appeal over the wisdom of the Executive in prescribing certain pay structure and grade in a particular service.

12. In the case on hand also, the petitioners are Lift Operators and they are seeking revision of pay scale on par with counterpart Lift Operators working in another Department. The petitioners cannot be treated on par with the CPWD Lift Operators, because the Recruitment Rules are different and the promotional avenues are also different. In view of the above said discussions and the said judgment, this Writ Petition has no merit and it deserves to be dismissed.

13. In the result, this Writ Petition is dismissed and the order passed by the Central Administrative Tribunal in O.A.No.09 of 2019,



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dated 07.01.2019 is confirmed. There shall be no order as to costs.

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[D.K.K.J.] & [P.D.B.J.]

08.03.2024

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NCC :Yes/No

Index :Yes/No

Internet :Yes

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To

1.The Central Administrative Tribunal (CAT)
Chennai Bench,

17/19



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High Court of Madras Campus,
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D.KRISHNAKUMAR, J.
AND
P.DHANABAL, J.

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Order made in
W.P.No.32752 of 2019

Dated:
08.03.2024
(2/2)