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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% ***Date of Decision: 09th September, 2026***# **CNR No. DLHC010699462006**+ **W.P.(C) 1617/2006**

RAM BHAWAN SINGHPetitioner

Through: Ms. Aditi Anup, Adv.

versus

NATIONAL BUILDING CONSTRUCTIONRespondent

Through: Mr. Mukesh Kr. Sharma, Adv.

CORAM:**HON'BLE MR. JUSTICE AMIT MAHAJAN****AMIT MAHAJAN, J. (Oral)**

1. The present petition is filed under Articles 226/227 of the Constitution of India, assailing the award dated 27.10.2005 (hereinafter referred to as the “**Impugned Award**”) passed in I.D. No. 56/2003, whereby the Learned Labour Court held that the workman was regularised *vide* appointment letter (Ex.WW1/4), and there is no evidence to prove that the workman was promoted from *Crane Operator to Senior Crane Operator*.

2. Briefly stated, the workman/Petitioner was employed on 18.03.1986 and, by appointment letter, was regularised for the post of *Senior Crane Operator* w.e.f 02.04.1992, on the implementation of the new IDA-based revised scale of pay as applicable to the equivalent post in the respective grade.

3. It is the case of the workman that he is educated up to the 9th standard, holds a valid driving licence for heavy goods vehicles, and



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has old experience in crane operation. It is his case that he was regularised w.e.f 02.04.1992, in the pay scale of Rs.1205-34-1545-38-1811. He submits that, in terms of the management's own circular dated 21.12.1993, he ought to have been paid the pay scale of Rs.1370-41-1790-45-2015-15 applicable to a Crane Operator or in accordance with the appointment letter, Rs.1410-50-1910-60-2330-17 applicable to a Senior Crane Operator. However, the Respondent continued to pay him at the pay scale of Rs.1205/- up to the year 1996, without any justification.

4. The workman sent demand notices dated 04.07.2001 and 09.07.2001.

5. Thereafter, the workman raised an Industrial Dispute against the Respondent. Pursuant to the failure of the conciliation proceedings, the dispute was referred to the learned Tribunal, and at terms of adjudication of reference are as:

“Whether Sh. Ram Bhavan Singh, S/o Sh. Sarjoo Singh, Sr. Crane Operator is entitled to pay scale of Rs. 1410-50-1910-60-2330, and if so, to what relief is he entitled and what directions are necessary in this respect?”

6. The learned Labour Court framed issues, which are as follows:

“1) Whether Central Government and not the Delhi Government is the appropriate government? If so, its effect.

2) As per terms of reference.”

7. The learned Labour Court, *vide* its impugned Award dated 27.10.2005, held that the workman failed to adduce evidence that he was promoted from crane operator to Senior crane operator, and the principle of equal pay for equal work will not be applicable as the



other workmen promoted are senior to the workman and have been working before the workman

8. Aggrieved thereby, the present petition has been filed.

9. The learned counsel for the Petitioner submits that the workman was regularised as a *Senior Crane Operator*, as is evident from the appointment letter (Ex. WW1/4). However, despite regularisation, the workman was continued to be paid lower than the pay scale applicable to even a *Crane Operator*. She submits that the Respondent has created three distinct categories/designations, each carrying a separate pay scale, which are as follows:

- “i) Regular Establishment*
- ii) Work Establishment*
- iii) Nominal Muster Roll (NMR) ”*

10. She submits that the Respondent, *vide* circular dated 21.12.1993, placed the pay scale of *Crane Operator* at ***Rs.1370-41-1790-45-2015-15*** applicable to a and ***Rs.1410-50-1910-60-2330-17*** for Senior Crane Operator, but the workman has been paid even lower than the *Crane Operator*.

11. She submits that the categorical distinction drawn by the Respondent between a regularised workman and a directly recruited workman holding the same designation cannot be sustained in law, as the pay scale must follow the post held and not the mode of entry into service. In support of her submissions, she places reliance upon the judgment of ***Kamlakar and Ors. v. Union of India and Ors***, MANU/SC/0374/1999.

12. *Per contra*, the learned counsel for the Respondent submits that the workman was earlier engaged as a Nominal Muster Roll (NMR)



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employee and was thereafter regularised and not promoted, pursuant to a settlement arrived at, with the Union, and not by way of direct recruitment against the post of *Senior Crane Operator* under the Respondent's Recruitment Rules. He further submits that the designation of "*Senior Crane Operator*" came to be *inadvertently* mentioned in the appointment letter issued to the workman.

13. He further submits that there exists a clear and legally sustainable distinction between a Crane Operator who is directly recruited and thereafter promoted to the post of Senior Crane Operator, and the workman, having secured regularisation only on the strength of the settlement with the Union and not based on promotion. In support of his submissions, he places reliance upon the judgment of ***Union of India & Anr. v. Narendra Singh, Civil Appeal No. 5865 of 2007***

14. I have heard both the parties and perused the material placed on record.

15. It is the case of the workman that he was employed on 18.03.1986 *vide* Employee Code No. 5595 and was thereafter regularised as a *Senior Crane Operator* w.e.f 02.04.1992 in the regular establishment. Since then, he has been paid a pay scale lower than the one applicable to his designation. Aggrieved thereby, the workman raised an industrial dispute, and *vide* award dated 27.10.2005 passed in I.D. No.56/2003, the learned Industrial Tribunal held that the workman was not entitled to any relief, and that his case could not be compared to that of crane operators P.K. Sinha and S.K. Ravindran, as they were already senior workmen.



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16. The learned Labour Court, while dealing with *Issue No.1*, held that the reference made by the Secretary (Labour), Government of NCT of Delhi, was maintainable, and that the said authority, being an instrumentality validly acting pursuant to delegation by the Central Government, was competent to refer to the Respondent being an instrumentality of the Central Government. Insofar as *Issue No.2* is concerned, the learned Labour Court held that although the workman was appointed/regularised to the post of *Senior Crane Operator*, the pay scale paid to him, even after such regularisation, was not commensurate with the said designation. However, the learned Labour Court proceeded to hold that the workman could not claim parity with P.K. Sinha and S.K. Ravindran, as the said workmen were promoted 2 years before the Petitioner/workman; it does not emphasise the point that the workman is being given pay lower than that of a *Crane Operator*.

17. It remains undisputed that the Petitioner was regularised by an appointment letter dated 17.08.1992 and the post mentioned in the letter of regularisation was Senior Crane Operator. Even though the argument that the designation of Senior Crane Operator was inadvertently mentioned in the appointment letter was not taken before the learned Labour Court and has been urged before this Court in the present petition, the same in the opinion of this Court has some merit. The post of Senior Crane Operator is a promotion post from the feeder post of *Crane Operator* from employees who join the department as a *Crane Operator* either through direct recruitment or by way of regularisation as has been done in the case of Petitioner.



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18. Petitioner does not dispute that he was employed initially on a nominal muster roll and was thereafter regularised by appointment letter dated 17.08.1992. The said regularisation, therefore, could have only been to the post of *Crane Operator* and not to a promotional post of Senior Crane Operator.

19. It is also not the case of the Petitioner that at any time he was promoted to the post of Senior Crane Operator and, thus, in the absence of any material to that effect, the Petitioner cannot seek entitlement to the pay scale applicable to Senior Crane Operator. Therefore, even though the appointment letter refers the designation as Senior Crane Operator, the same, in the opinion of this Court has been wrongly mentioned and does not confer the said post to the Petitioner without him being subjected to the process of promotion.

20. It is not the case of the Petitioner that a workman could have been directly recruited or regularised to the post of Senior Crane Operator in the absence of policy in that regard. At the same time, the argument advanced by the Respondent that different pay scale even for the post of *Crane Operator* would be payable to the employees who have been taken on the roll through different modes is also not merited.

21. The Petitioner in that regard has rightly placed reliance upon the judgment passed by the Hon'ble Apex Court in case of ***Kamlakar and Ors. (supra)***. The Hon'ble Apex Court categorically held that once employee belongs to the same cadre, the distinction between direct recruits and promotes ceases to be relevant for equal treatment in the matter of pay scale within that cadre.



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22. The Respondent, therefore, cannot be allowed to discriminate and provide different pay scales to the *Crane Operators* despite holding the same post and belonging to the same cadre and also discharging the same duties only because some are direct recruits and some joined through regularisation.

23. In view of the facts and circumstances, and considering the submissions advanced on behalf of the Respondent that the post of Senior Crane Operator is a promotional designation, and that the mention thereof in the appointment letter dated 17.08.1992 was an *inadvertent error*, this Court is of the considered view that the workman, in the absence of any evidence on record showing his actual promotion to the post of Senior Crane Operator, cannot be held entitled to the pay scale applicable to that post. However, since it is not in dispute that the workman has, at all material times, functioned and continues to function as a *Crane Operator*, he is entitled to be paid the pay scale applicable to the post of Crane Operator, that is, *Rs.1370-41-1790-45-2015-15*, as prescribed under the circular dated 21.12.1993, and not the lower pay scale of *Rs.1205-34-1545-38-1811*.

24. In view of the above, the present petition is partly allowed and the impugned award dated 27.10.2005 is set aside with the consequential reliefs in the aforesaid terms.

AMIT MAHAJAN, J

SEPTEMBER 9, 2026

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