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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

O.A. No.1427 of 1995

New Delhi the 10th of October, 1995

Hon'ble Shri A.V.Haridasan Vice Chairman (J)

Hon'ble Shri R.K.Ahooja, Member (A)

Chander Bhan

Motor Licensing Officer

Sarai Kale Khan

New Delhi

R/o RZ-11, Raghu Nagar

New Delhi - 110 045.

...Applicant

(By Advocate: Mr H.B.Mishra)

vs.

Versus

1. Government of NCT of Delhi through
the Lieutenant Governor
Delhi.
 2. The Chief Secretary
Govt. of NCT of Delhi
5, Shyam Nath Marg
Delhi.
 3. Transport Department
Govt. of NCT of Delhi
through Commissioner cum Secretary
5/9 Under Hill, Delhi.
 4. N.R.Sharma
Food & Supply Officer
through the Commissioner
Food & Supplies
NCT of Delhi
 5. The Commissioner
Labour
Govt. of NCT of Delhi
 6. The Commissioner
Food & Supplies
Govt. of NCT of Delhi
Delhi.
- Respondents

(By Advocate: Shri Jog Singh)

O R D E R (Oral)

Hon'ble Shri A.V.Haridasan, Vice Chairman (J)

The applicant who was appointed as Motor Vehicle Inspector on 9.5.1989 was promoted on ad-hoc basis as Motor Licensing Officer (MOL) in the Transport Department of the Delhi Administration with effect from

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14th July 1994. His grievance is that against the rules and much without his consent, he has been by order dated 4.8.95 transferred as Assistant Labour Officer (Administrative Officer) and has been by order of the same date relieved from the post of MLO to take charge of the post of Assistant Labour Officer (Administrative Officer). The applicant has alleged that the qualifications required for appointment as Motor Vehicle Inspector and Motor Licensing Officer and the nature of duties of the posts are totally different from the recruitment qualifications for the post of the Labour Officer and the duties and responsibilities attached to that post and therefore the applicant who has no knowledge, training or expertise to perform as Labour Officer/Administrative Officer cannot be transferred without his consent from out of his cadre to the post of Labour Officer. Therefore, the applicant has prayed that the impugned orders (Annexure A-1 & A-2) may be quashed and the respondents be directed to continue the applicant as Motor Licensing Officer.

2. The respondents seek to justify the impugned order on the ground that the post of MLO and that of ALO being in General Civil Service, Group B, Gazatted no prejudice is caused to the applicant by the transfer which was made in the exigencies of service. The respondent contended that the application is liable to be dismissed.

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3. When the application was heard in part we directed the respondents to make available the rule or instructions which permits MLO being transferred as Assistant Labour Officer or to show the combined seniority list of officers of the two categories and the case was adjourned to facilitate the learned counsel for the respondents to get the above materials from the respondents. When the application came up for further hearing today, he produced for our perusal a letter from the Joint Secretary (Services) of the Delhi Administration addressed to the Additional Director, Transport which reads as follows:

"I am directed to refer to letter No.9(59)/Admn./Tpt./95 dated 5.10./95 on the subject cited above and to say that the posts of MLOs in Transport Department were filled by treating them as ex-cadre posts. As such, there is no question of common seniority list in respect of such posts in Transport, Labour and Food & Supplies Department. Any details relating to service cadres, seniority list in respect of Transport, Food & Supplies and Labour Department can be obtained from respective departments. As regards documents from S.No.1 to 3 these may be obtained from GAD directly."

4. A reading of the above letter makes it clear that Motor Vehicles Department, Labour Department and Food & Supplies Department have separate gradation list of officers and separate hierarchy of services. It is evident that the Motor Vehicles Inspector and MLO belong to a separate department and separate cadre and the Labour Officers belong to an entirely different department and also to different cadre. There is nothing in common between the nature of duties and

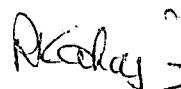
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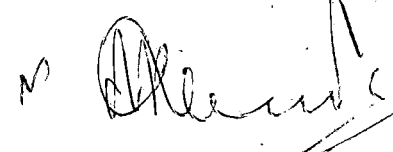
responsibilities of officers of the Motor Vehicle Department and Labour Department. Motor Vehicle Inspector and Motor Licensing Officer have necessarily to have specialised education, training and expertise in that field. It is with that end in view that degree or diploma in the automobile engineering is prescribed as qualifications for appointment as Motor Vehicle Inspector. With the background of automobile engineering, it is not known how a person who has all along been working as Motor Vehicle Inspector and Motor Licensing Officer can perform the duties effectively in a totally foreign subject of labour. It is also not known how the fourth respondent who has been working as Assistant Labour Officer without the knowledge and experience in Motor Vehicle and Licensing can perform the duties of Motor Licensing Officer. It is strange logic that posting of a Motor Licensing Officer with knowledge, experience and expertise in automobile engineering and licensing as an Assistant Labour Officer in a field totally strange to him, and that of a Assistant Labour Officer or an officer of the Food and Supplies Department who has no knowledge, experience or expertise in automobile engineering or licensing as Motor Licensing ^{Officer} is characterised as made in public interest. Such a posting evidently will not serve the public interest at all. We are therefore, of the considered view that the transfer of the applicant as Assistant Labour Officer cannot be in public interest and is therefore unsustainable. Under these circumstances, we are left with no alternative but to strike down the impugned orders in so far as the transfer of applicant is concerned. In the result, the

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application is allowed in part. That part of the impugned order dated 4.8.95 by which the applicant is transferred against the post of ALO (AO) and the order (Annexure-2) of the same date relieving the applicant from the post of MLO(SKK) are set aside and the respondents are directed to allow the applicant to continue as MLO in the Department on ad-hoc basis. The period during which the applicant was kept out of service shall be treated by the respondents as period spent on duty as MLO for all purposes including pay and allowances. There is no order as to costs.


(R.K. Ahooja)
Member (A)


(A.V. Haridasan)
Vice Chairman (J)