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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

O.A. NO. 1688/92

DECIDED ON : 31.8.1992

S. Khan

... Applicant

Vs.

Union of India

... Respondents

CORAM : THE HON'BLE MR. T. S. OBEROI, MEMBER (J)
THE HON'BLE MR. P. C. JAIN, MEMBER (A)

Applicant through Shri B. K. Aggarwal, Counsel
Shri Jog Singh, Counsel for the Respondents

J U D G M E N T (ORAL)

By Hon'ble Shri P. C. Jain, Member (A) :

In this O.A. under Section 19 of the Administrative Tribunals Act, 1985, the applicant is aggrieved by order dated 29.5.1992 by which he was relieved of his duties with effect from the afternoon of that date for undergoing a training programme with the Mail Motor Service Workshop, Naraina w.e.f. 1.6.1992. He has prayed for declaring the aforesaid impugned order as arbitrary, illegal ^{and} discriminatory in violation of Articles 14 and 16 of the Constitution. As an interim relief, the applicant has prayed for a direction to the respondents to take him on duty and sanction him leave (medical or otherwise) and allow him to perform his duty.

2. As the pleadings in this case were complete, it was decided with the consent of both the parties, to dispose of this case finally at the admission stage itself. Accordingly, we have perused the material on record and also heard the learned counsel for the parties.

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3. Briefly stated, the relevant facts are that the applicant was initially recruited as Peon in the erstwhile Department of Posts and Telegraphs. By order dated 24.10.1988 (Annexure A-2 to the O.A.) he was assigned the duties of Staff Car Driver purely as a stop gap arrangement and against the leave vacancies w.e.f. 5.3.1988 and this arrangement was not to confer on him the right to claim the regular post of Staff Car Driver unless he was selected as such for that post. He was allowed honorarium of Rs.4/- per day in addition to his pay and allowances for performing duties of Staff Car Driver. By another order dated 1.5.1989, he was appointed as Staff Car Driver on temporary basis w.e.f. 24.4.1989 on probation for a period of two years. According to the applicant, though he had completed the aforesaid period of probation, he has not been informed of his confirmation on the post of Staff Car Driver.

4. The case of the applicant against being deputed for the training which was initially ordered to be for a period of one year but immediately thereafter reduced to a period of three months, is that this was a device to transfer him to the Delhi Postal Circle; that in his appointment order as a Staff Car Driver no condition had been imposed that he would be subjected to any sort of training; that no general instructions or circular has been issued by the Department prescribing any training for the Staff Car Drivers; that it has not been clarified as to what type of training has to be given to him and as to whether his post is being converted to that of a Mechanic or he is being sent to Mail Motor Organisation; that neither his juniors nor his seniors have been sent for such a training; and that when employees are sent for training their leave and salaries are sanctioned by their department and not by the office where they go for training.

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training, but in his case, the applicant's request in these regards is required to be forwarded through the head of the Workshop to which he has been deputed for training. Some of these issues have since been clarified inasmuch as the type of training which to be imparted has been laid down and it has also been clarified that during the period of training he will get his pay and allowances from the same source from which he was drawing before being deputed to the training. It has also been clarified that after completion of training, he will come back as a Staff Car Driver in the organisation in which he was so posted before being sent out for training. The only question which is left and which has been strongly urged before us by the learned counsel for the applicant is that the Department of Posts is not competent to prescribe a training course for a member of the Service to which the applicant belongs; that the type of training which is sought to be imparted covers areas which do not normally fall into day-to-day working of the assignment of the applicant; and that in the absence of any general instructions or circular on this subject, the applicant is being discriminated.

5. The case of the respondents is that the post held by the applicant is a part of General Central Service Class-III Non-Gazetted and Non-Ministerial and not the Central Secretariat Service with respect to members of which the Department of Personnel and Training is otherwise competent to issue instructions; in the case of the Service to which the applicant belongs the Department concerned is fully competent to prescribe any training course in the public interest and for the efficient discharge of the duties. It is further their case that in accordance with the relevant C.A.

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rules for appointment to the post of Staff Car Drivers in the Department of Posts, knowledge of motor mechanics is an essential qualification and it is in this background that the training sought to be imparted to the applicant has to be seen. It is further stated in their reply that the question of discrimination does not arise as all other Drivers similarly placed shall also be deputed for such training in a phased manner depending on the availability in public interest.

6. We have carefully considered the rival contentions of both the parties and we are of the considered view that any step taken by the employer to improve the capabilities and the efficient discharge of duties is and has to be considered in the public interest. The applicant is neither being deprived of the post to which he was appointed nor his pay and allowances are being adversely affected; in fact, during the period of training he is being allowed full pay and allowances. There can be a difference of perception in regard to the nature and content of the training inasmuch as the applicant might have a feeling that what is sought to be taught to him is much more than what he actually requires for the discharge of his duties as a Staff Car Driver. Here it must be stated that perception of the employee alone is not enough and basically it is for the employer to equip his employees in the manner which is considered best. The training sought to be imparted to the applicant is primarily related to the job assigned to him in consequence of the post to which he is appointed. It cannot be said to be unrelated or irrelevant to his duties. In fact, the applicant should have, in our opinion, welcomed such a course of action. We do hope that, as stated by the respondents in their reply, *Qe.*

similar action will be taken by them in regard to other Staff Car Drivers under the Department of Posts.

7. It appears from the pleadings before us as also from the submissions made in the course of oral hearing that the applicant has chosen not to join the training so far. It appears that his interim prayer for sanction of leave (medical or otherwise) is in that background. Needless to say that we cannot give any direction in regard to what is the entitlement of the applicant to leave of any type; this task has to be performed by the competent authority in accordance with the rules. We do, however, hope that in view of the strong reservations which the applicant has had so far in the matter of his being required to attend the training, the applicant's request for sanction of leave shall be considered in accordance with the rules sympathetically.

8. In the light of the foregoing discussion, the O.A. is dismissed being devoid of merit leaving the parties to bear their own costs.

(P. C. JAIN)
MEMBER (A)

(T. S. OBEROI)
MEMBER (J)