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CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.NO. 210/2009

Tuesday, dated, this the 6th day of July, 2010.

CORAM:

**HON'BLE Mr JUSTICE K.THANKAPPAN, JUDICIAL MEMBER
HON'BLE Ms K.NOORJEHAN, ADMINISTRATIVE MEMBER**

A.C.Attakoya,
Motor Vehicle Inspector,
O/o the Director, road Transport,
U.T. Of Lakshadweep,
Kavaratti. .. Applicant

By Advocate Mr M.R.Rajendran Nair, Senior with Mr M.R.Hariraj

v.

1. Union of India represented by the Secretary to Government of India, Department of Surface Transport, New Delhi.
2. Administrator, Union Territory of Lakshadweep, Kavaratti.
3. Director of Road Transports, U.T of Lakshadweep, Kavaratti. - Respondents

By Advocate Mr S Radhakrishnan

The application having been heard on 1.7.2010, the Tribunal on 6.7.2010 delivered the following:-

ORDER

HON'BLE Mr JUSTICE K.THANKAPPAN, JUDICIAL MEMBER

The applicant filed this O.A for a direction to the respondents to consider him for regular absorption as Motor Vehicle Inspector in the Motor Vehicles Department of Lakshadweep Administration under the respondents.

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2. The bare facts of the case are that the applicant while working in the Electricity Department applied for the post of Motor Vehicle Inspector (MVI for short) on deputation basis for six months. On appointment, the applicant was sent for MVI training for six months and he completed the said training for the post and thereafter the deputation period of the applicant was extended and while continuing on deputation as MVI, the respondents have taken steps to repatriate him to his parent Department on completion of the deputation period. Hence the applicant made representations for his absorption in the M.V Department as MVI on regular basis or to appoint him as MVI on regular basis, the one are Annexure A-18 and A-19 dated 26.12.2008 and 9.3.2009 respectively. But these representations are not answered by the Department. Hence the applicant has filed this O.A.

3. While the O.A came up for admission, this Tribunal passed an interim order to maintain status quo and allowed the applicant to continue in the post of MVI. On the basis of the interim order, the applicant is still continuing as MVI in the Department. On receipt of the notice issued from this Tribunal, respondents have filed reply statements contending that as the applicant was appointed on deputation basis he is to be repatriated to his parent department on completion of the deputation period. Further, it is stated that as per the Recruitment Rules, the applicant cannot be continued beyond the deputation period and he is to be repatriated to his parent department and that as per the Recruitment Rules, the method of filling up of the post is only by promotion or by transfer on deputation. Hence, as the applicant was appointed on transfer on deputation, he has no right to continue beyond the period of deputation.

A handwritten signature in black ink, appearing to be a stylized 'D' or 'B'.

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4. We have heard Shri M.R.Rajendran Nair, Learned Senior Counsel appearing for the applicant and Shri S Radhakrishnan, learned counsel appearing for the respondents. Learned Senior Counsel submits that as per Annexure A-2 Recruitment Rule the post of MVI has to be filled up either by promotion from qualified feeder category or by transfer on deputation. As the rule permits a method of filling of the post by transfer on deputation, the deputation of the applicant has to be considered as a regular filling up of the post and it cannot be considered as ordinary deputation as contemplated in the general rule on deputation. The further contention of the applicant is that the applicant is a well qualified hand for the post and as he has already undergone the training and on completion of training he was allowed to continue till then, it is only just and proper that the respondents are regularised his appointment as MVI as the recruitment rules also provide for such appointment. Yet another contention of the applicant is that it is only proper for the respondents to consider the representation of the applicant for regularization in service with the concurrence of the UPSC or the authorities competent to permit the department to appoint the applicant. Lastly, the learned counsel for the applicant submits that this Tribunal may direct the respondents to consider the representations of the applicant at Annexure A-18 and A-19 dated 26.12.2008 and 9.3.2009 respectively within a reasonable time and till a final decision is taken by the Department on these representations, he may be permitted to continue in the said post. To the above arguments of the learned Senior Counsel, Shri S Radhakrishnan, learned counsel for respondents, relying on the reply statement, submits that as the appointment of the applicant was on deputation basis the applicant cannot be continued beyond the deputation period. As per normal rule of deputation, when the deputation is over, the deputationist has to be repatriated to his parent department without waiting to fill up the post. Learned counsel further submits that the Annexure A-2 Recruitment Rules itself



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would show that the "period of deputation including the period of deputation in another ex-cadre post held immediately preceding this appointment in the same or some other organization/Department of Central Government shall ordinarily not exceed 3 years". As stated in Annexure A-3 circular issued by the Administration of Lakshadweep, Regional Transport Office, Kavaratt, the claim of the applicant to continue in the MV Department is not permissible and it cannot be on continued deputation basis also. In the light of the above circular and as per the Recruitment Rules, the post can be filled up by promotion from the feeder category or on transfer on deputation basis. As the case of the applicant is coming under the second category, the applicant has to quit the office immediately on completion of the deputation period.

5. On considering the stands taken by the learned counsel appearing for the parties and on going through the documents produced before this Tribunal, the question to be considered is whether the applicant is entitled for absorption/regular appointment as MVI or not. It is an admitted case that the applicant was on deputation and the deputation was for a definite period. Though the applicant was sent for the training for MVI, it cannot be construed as a right to continue in the service. In this context, we may consider the points raised by the Senior counsel appearing for the applicant that there are no eligible candidates available in the feeder category for promotion and the post is a substantive one. If so, the question now raised by the applicant has to be considered by the respondents in that context. As far as the applicant is concerned, he is appointed on transfer on deputation basis and he has to quit the office on completion of the deputation period. However, we feel that the question



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whether the applicant could be appointed afresh as MVI or to be absorbed in the post under the circumstances that there was no candidate available in the feeder category for promotion and the post being a substantive one, can be considered only by the authorities. In view of the above, without going into the merits of the case, we direct the respondents to consider the representations submitted by the applicant at Annexure A-18 and A-19 dated 26.12.2008 and 9.3.2009 respectively and to pass appropriate orders therein within a reasonable time, at any rate, within 45 days of the receipt of copy of this order. We further direct that the applicant may be allowed to continue in his present post until final orders are passed on these representation as stated above. With the above direction, the O.A stands disposed of without any order as to costs.

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K.NOORJEHAN
ADMINISTRATIVE MEMBER

12-9-2009
JUSTICE K.THANKAPPAN
JUDICIAL MEMBER

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