

**Central Administrative Tribunal
Principal Bench, New Delhi**

OA No.2363/2015

New Delhi, this the 5th day of September, 2016

**Hon'ble Mr. P.K. Basu, Member (A)
Hon'ble Dr. Brahm Avtar Agrawal, Member (J)**

1. Sh. Mukesh Kumar Sharma
Aged about 44 years
S/o Shri Dori Lal Sharma
R/o C C-110, Suraj Mal Vihar
New Delhi -110092.

Presently working as:
Assistant Electrical Inspector
Labour Department
Government of NCT of Delhi.

2. Sh. Jogender Singh Lather
Aged about 33 years
S/o Late Shri Kartar Singh
R/o A-111, Vijay Vihar Phase-II,
Delhi-110085.

Presently working as :
Assistant Electrical Inspector,
Labour Department,
Government of NCT of Delhi. Applicants

(By Advocate : Mr.D.S. Chaudhary, Mr. Mahinder Singh , Mathew D)

Versus

1. The Govt. of NCT of Delhi
Through the Principal Secretary
Department of Power
8th Level, 'B'Wing
Delhi Secretariat, New Delhi-110002.
2. The Labour Commissioner, Department of Labour
5, Shamnath Marg,
Delhi-110054. Respondents

(By advocate: Mr.Vijay Pandita with Mr. N.K.Rohatgi
Mr. M.K. Bhardwaj)

ORDER (ORAL)

Hon'ble Mr. P.K. Basu, Member (A)

The grievance of the applicants, who are Assistant Electrical Inspectors, is that vide notification dated 26.07.2012 in respect of applicant No.1 and notification dated 08.01.2013 in respect of applicant No.2, they were appointed as Electrical Inspector, they

have been paid their pay and allowance meant for Assistant Electrical Inspector and not for the post of Electrical Inspector.

2. Learned counsel for the respondents states that in the impugned order dated 26.07.2012 and 08.01.2013 it had been clarified that they will hold the post of Electrical Inspector without any extra remuneration and therefore, the applicants cannot claim extra remuneration now. Secondly, it is stated that both the applicants as per their qualification are not eligible for promotion as Electrical Inspector. It is argued that on these two grounds the OA deserves to be dismissed.

3. We find from the para-5 of the reply filed by the respondent No.1 that on the recommendation of Labour Department and with the approval of Hon'ble L.G., Department of Power, Govt.of NCT of Delhi, appointed the applicants Shri Mukesh Kumar Sharma and Sh. Joginder Singh Lather, Assistant Electrical Inspectors as Electrical Inspectors. Further they have been assigned the Districts for holding the charge of Electrical Inspector by Labour Department vide order No. F1/2(3)/96-C/Estdt./Vol.II/4867 dated 24.01.2013 (Annexure R-3). Further in the referred to notifications dated 26.07.2012 and 08.01.2013, it is stated that

"the Lt. Governor of the National Capital of Territory of Delhi, is pleased to **appoint** Sh. Mukesh Kumar Sharma/ Sh. Jogender Singh Lather, Assistant Electrical Inspector as Electrical Inspector" . This language does not suggest that the applicants had been assigned to look after charge as has been claimed by the respondents during the arguments. From the above, it is clear that there was conscious decision on the part of the Govt. of NCT of Delhi to appoint the applicants as Electrical Inspector to discharge the functions of Electrical Inspector. Therefore, in the light of the judgments of Hon'ble Supreme Court, both the applicants are entitled to pay and allowances attached to the post of Electrical Inspector till such time they discharged the duties of Electrical Inspector. The relevant judgments of the Hon'ble Supreme Court are the following:-

(1) **Selva Raj Vs. Lt. Governor of Island, Port Blair and Others, AIR 1999 SC 838.**

(2) **Dwarika Prasad Tiwari Vs. M.P. State of Road Transport Corporation and another, 2002 SCC(L&S) 9**

(3) **Secretary-cum-Chief Engineer, Chandigarh Vs. Hari Om Sharma and Ors., AIR 1998 SC 2909.**

4. MA No. 3927/2015 & MA No.22/2016 have been filed by Mr. Gurpreet Singh seeking intervention as respondents on the

ground that in case the OA is allowed, it would adversely affect his promotion as Electrical Inspector.

5. At this stage, the learned counsel for the applicant stated that the applicants would like to restrict the reliefs sought by them to the following prayer in clause (a):-

"The words "without any extra remuneration" occurring in the notification dated 26.07.2012 and 8th January, 2013, appointing the applicants as 'Electrical Inspector' be quashed"

with liberty to re-agitate the latter part of prayer in a separate OA.

6. The OA is, therefore, allowed with a direction to the respondents to pay the pay and allowances attached to the post of Electrical Inspector to the applicants for the period for which they actually discharged the duties of Electrical Inspector as due to them. We fix a time frame for implementation of our order as 90 days from the date of receipt of a certified copy of this order.

(Dr. Brahm Avtar Agrawal)
Member (J)

(P.K. Basu)
Member A)

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