

**Central Administrative Tribunal  
Principal Bench**

**TA No.59/2013  
MA No.3611/2018**

New Delhi, this the 15<sup>th</sup> day of October, 2019

**Hon'ble Mr. Justice L. Narasimha Reddy, Chairman  
Hon'ble Mr. Mohd. Jamshed, Member (A)**

Sumeet Pawar,  
S/o Bijender Kumar Pawar,  
R/o Village & PO Ghitorni,  
New Delhi-110030.

...Applicant

(By Advocate : Shri Sanjeet Singh )

**Versus**

1. Union of India,  
Through its Chief Secretary,  
Ministry of Transport, Road and Highway,
2. Govt. of NCT of Delhi,  
Through Chief Secretary,  
New Delhi.
3. Delhi Subordinate Service Selection Board,  
FC-18, Institutional Area,  
Karkardooma,  
Delhi-92.

...Respondents

(By Advocate : Shri Siddarth Panda )

**ORDER (ORAL)****Justice L. Narasimha Reddy, Chairman :-**

The Delhi Administration intended to appoint Motor Vehicle Inspectors (MVI). The selection was entrusted to the Delhi Subordinate Service Selection Board (DSSSB). An advertisement was issued in April, 2012. The qualifications stipulated for the post are : (i) pass in Xth standard, (ii) diploma in Automobile Engg.(3 years course); (iii) experience of five years in a workshop where heavy goods vehicles and heavy passenger vehicles fitted with diesel or petrol engines are repaired; and (iv) holding of a driving license. The applicant did not have the five years experience, as mentioned in the advertisement. He filed this OA challenging the very advertisement, by placing reliance upon Section 213 of Motor Vehicles Act, 1988 (for short, the Act) and the standards stipulated thereunder. According to him, Section 213 (4) confers the powers on the Central Government to stipulate the qualification for appointment to the post of MVI and through S.O.443 dated 12.06.1989, the Central Government stipulated the experience to be the one of minimum one year.

2. The applicant contends that stipulation of any experience exceeding one year, runs contrary to the very letter and spirit of the Section 213 and S.O.443.

3. The respondents filed counter affidavit opposing the OA. It is stated that the qualifications stipulated under Sub Section 4 of Section 213 and the corresponding S.O. are minimum, and there is no prohibition against the States, for stipulating higher qualification. It is also stated that the Recruitment Rules for the post of MVI were amended in the year 1999, in exercise of power under proviso to Article 309 of the Constitution of India, by stipulating five years of experience in the Workshop, for appointment in the post of MVI. Various contentions urged by the applicant are opposed.

4. We heard Shri Sanjeet Singh, learned counsel for applicant and Shri Siddarth Panda, learned counsel for respondents.

5. The subject matter of the OA is the notification issued by the DSSSB, insofar as it relates to the post of MVI. The qualifications stipulated for the post have already been mentioned in the preceding paragraph. It is

also contended that the stipulation of five years is contrary to the provisions of the Act and notification issued therein. Sub-Section 4 of the Section 213 of the Act, reads as under :-

**“213. Appointment of motor vehicles officers .—(1)** The State Government may, for the purpose of carrying into effect the provisions of this Act, establish a Motor Vehicles Department and appoint as officers thereof such persons as it thinks fit.

xxx                   xxx                   xxx                   xxx

(4) The Central Government may, having regard to the objects of the Act, by notification in the Official Gazette, prescribe the minimum qualifications which the said officers or any class thereof shall possess for being appointed as such.”

6. In exercise of powers conferred under Sub-Section (4) of Section 213, the Central Government issued S.O. 443(E) dated 12.06.1989. Four conditions are stipulated as qualification for the post of MVI. They read as under:-

“S.O.443(E), dated 12-6-1989.- In exercise of the powers conferred by sub-section 213 of the Motor Vehicles Act, 1988 (59 of 1988), the Central Government hereby prescribes that the minimum qualification for the class of officers consisting of the category of Inspector of Motor Vehicles or Assistant Inspector of Motor Vehicles (by whatever names called) shall be as under :-

*Qualification:-*

- (1) Minimum general educational qualification of a pass in X standard; and
- (2) a diploma in Automobile Engineering (3 years course) or a diploma in Mechanical Engineering awarded by the State Board of Technical Education (3 years course); and
- (3) working experience of at least one year in a reputed automobile workshop which undertakes repairs of both light motor vehicles, heavy goods vehicles and heavy passenger motor vehicles fitted with petrol and diesel engine; and
- (4) must hold a driving licence authorising him to drive motor cycle, heavy goods vehicles and heavy passenger motor vehicles.

2. Nothing contained in the notification shall apply to an officer appointed to such post before the first day of July, 1989 and to an officer appointed to discharge function of a non-technical nature.

3. This notification shall come into force on the first day of July, 1989.”

7. From a perusal of the notification, it becomes clear that what is mentioned therein, are the minimum qualifications. As regards the experience, it was clearly mentioned that it is “at least one year”. It is different from saying the experience must be only of one year.

8. The appointments to the post of MVI are made by the respective State Governments. The notification controls the appointments only to the extent of insisting that the qualifications shall not be less than what are mentioned in the S.O.443. The liberty of the States to stipulate higher qualifications, very much exists.

9. It hardly needs any mention that the appointment to the post of MVI is governed by the respective Recruitment Rules. A combined reading of the Recruitment Rules on the one hand and the S.O.443 on the other, indicates that under no circumstances, the qualifications shall be less than what are contained in the S.O. On its part, the Delhi Administration has amended the RRs for the post of MVI in such a way that the experience in the workshop is of five years. This in no way would conflict with the Section 213 of the Act or notification issued thereunder.

10. Reliance is placed upon a judgment of Hon'ble Supreme Court in ***A.B. Krishna & Ors. Vs. The State of Karnataka & Ors.*** The purport of the rules made in exercise of proviso to Article 309 of the Constitution on

the one hand, and by the legislature on the other, was dealt with. It was held that once the field is occupied by the act of legislature, rules cease to be operative. It is not the case of the applicant that the Delhi State Legislature has made any Act, governing the service conditions of the MVI, so that the rules framed or amendments caused by the Lt. Governor would become inoperative.

11. Viewed from any angle, we do not find any merit in the OA and the same is accordingly, dismissed .

Pending MAs, if any, stand disposed of.

There shall be no orders as to costs.

(Mohd. Jamshed)  
Member (A)

(Justice L. Narasimha Reddy)  
Chairman

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