

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

PRINCIPAL BENCH: NEW DELHI

OA NO.1681/91

DATE OF DECISION: 25.9.1991

SHRI VIJAY SINGH

...APPLICANT

VERSUS

UNION OF INDIA & OTHERS

...RESPONDENTS

CORAM:

THE HON'BLE JUSTICE MR. RAM PAL SINGH, VICE CHAIRMAN

THE HON'BLE MR. I.K. RASGOTRA, MEMBER (A)

FOR THE APPLICANT

SHRI K.L. BHATIA, COUNSEL

FOR THE RESPONDENTS

SHRI A.K. BEHRA, COUNSEL  
WITH SHRI P.H. RAMCHANDANI,  
SENIOR COUNSEL.

(JUDGEMENT OF THE BENCH DELIVERED BY HON'BLE  
MR. I.K. RASGOTRA, MEMBER (A))

Constable Vijay Singh of SSB Bn. Srinagar (UP) has filed this Original Application under Section 19 of the Administrative Tribunals Act, 1985 challenging the order of the respondents No5/FBD/Estt/81(1) dated 15.3.1991 purporting to revert him to the post of Constable in Group Central Srinagar from the post of Field Assistant (G) (FA (G) for short) where he has worked for the last 10 years.

Before the merits of the case could be delved into the respondents raised the preliminary objection that the applicant Shri Vijay Singh belongs to the Armed Force of the Union as he is a confirmed Constable of the SSB Group Centre Srinagar (UP). He was transferred as Security Guard vide order dated 28.2.1981 (Annexure R-3) "on lien basis for a period of three years vide SSB Directorate order No.42/SSB/ A1/79 (5) dated 6.2.91" with the direction to report for duty to the Commandant W.T. Training Centre,

Faridabad. According to paragraph 4 of the said order the inter-se seniority of the applicant continues to be maintained by the Group Centre S.S.B., Srinagar (Garhwal) and, therefore, the applicant continues to remain a member of the Central Reserve Police Force (CRPF), which is an Armed Force of the Union. Accordingly, the matter is outside the jurisdiction of the Tribunal.

The learned counsel for the applicant, Shri K.L. Bhatia referred to his averment in paragraph 4.4. of the application where he has stated that "in 1984 the applicant was informed that he has been finally and formally merged at F.A.(G) in the civil set up at Training Centre, Faridabad." The learned counsel also submitted that the name of the Constable Bijai Singh appeared at serial No.63 of the seniority list of F.A.(G) (Annexure-2). Accordingly, the applicant is no longer a member of the CRPF and consequently the matter falls within the jurisdiction of the Tribunal. The learned counsel submitted that in fact the applicant was working as Messenger in the present office on a non-combatant civil post.

Shri A.K. Behra, the learned counsel appearing for Shri P.H. Ramchandani, Senior Counsel for the respondents drew our attention to the documentary evidence enclosed with the counter-reply filed by the respondents. The learned counsel submitted that vide Special Force order dated 26.3.1977 the applicant viz. No.73405 Constable Bijai Singh "was confirmed against the permanent post of Constable w.e.f. 1.5.1976 in the pay scale of Rs.210-270 in the Group Centre, Srinagar (III (UP) SSB Bn. (Annexure R-2). He was transferred to W.T. Training Centre, Faridabad "on lien basis" for a period of three years and his inter-se seniority continues to be maintained in the Group Centre, SSB Srinagar (Garhwal) (Annexure R-III). The learned counsel further drew our attention to the

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application dated 12.6.1991, addressed by the applicant to Directorate General of Security requesting that " I may kindly be merged as F.A. (G)....." (Annexure R-5) and averred that this application itself proves that the applicant is a member of the SSB and is not absorbed as FA (G) in the Training Centre. He further stated that vide memorandum dated 24.7.81 (Annexure R-8) the Commandant, W.T. Training Centre, Faridabad was advised by the Assistant Director, S.S.B. that:-

"2.....Shri Bijai Singh is being retained unauthorisedly and there is no merit in his representation for further retention.

3. He may therefore be repatriated to Group Centre, Srinagar, Garhwal without any delay and compliance sent to this Directorate.

4. This has the approval of Deputy Inspector General (EA)."

Lastly the learned counsel referred to Annexure R-10 which indicates that Shri Bijai Singh refused to accept the order repatriating him to his parent department on 1.5.1991, he was not found at his house on 3.8.1991 and finally an envelope was sent to him at his residence through registered post on 5.8.1991.

We have heard the learned counsel for both the parties and considered the rival view points and contentions. We are of the view that in face of the uncontroverted evidence produced by the respondents we do not find any merit in the case of the applicant that he holds the post of F.A. (G) in civilian capacity in the Training Centre at Faridabad. S.S.B. undisputedly is an Armed Force of the Union (C.A. No.152 of 1989 OA 573 of 1989 decided on 31.7.1989 by the Calcutta Bench of the Tribunal).

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In the facts of the case, we are of the view that the Tribunal has no jurisdiction in the matter. The Registry is directed to return the OA-1681/91 alongwith its enclosures to the applicant to pursue the matter, if so advised, in the proper forum.

*I.K. Rasgotra*  
(I.K. RASGOTRA)  
25/5/91  
MEMBER (A)

*Ram Pal Singh*  
(RAM PAL SINGH)  
VICE CHAIRMAN

'SKK'