

(Open Court)

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH, ALLAHABAD

Allahabad this the 30th day of October, 2001.

C O R A M :- Hon'ble Mr. Justice R.R.K. Trivedi, V.C.  
Hon'ble Mr. C.S. Chadha , Member- A.

Orginal Application No. 1205 of 2001.

Om Prakash Yadav S/o Shri Dukhi Ram Yadav  
a/a 52 years R/o Military Farm  
Mawana Road, Meerut.

.....Applicant

Counsel for the applicant :- Sri K.P. Singh

V E R S U S

1. Union of India through the Secretary,  
Ministry of Defence, Scuth Blick, New Delhi.
2. Quarter Master General, Army Head Quarter,  
Sena Bhawan, New Delhi.
3. Dy. Director General, Military Farm,  
Army HQs, Quarter Master General's Branch,  
West Block III, R.K. Puram, New Delhi.
4. Sri V.P. Singh. Deputy Director General,  
Military Farm, New Delhi.
5. Officer Incharge, Military Farm Records,  
Delhi Cantt.
6. Officer Incharge, Military Farm,  
Meerut Cantt.

.....Respondents

Counsel For the respondents :- Sri R.C. Joshi

O R D E R (Oral)

(By Hon'ble Mr. Justice R.R.K. Trivedi,V.C.)

By this application under section 19 of the  
Administrative Tribunals Act, 1985, applicant has

challanged the impugned order dated 09.10.2001 by which representation of the applicant has been rejected. The facts giving rise to this application are that applicant was serving as Foreman at Military Farm, Meerut. He was given a notice saying that he has been rendered surplus and he ~~has been~~ <sup>was</sup> asked to join the alternative job. <sup>dt. 11.09.2000</sup> This notice was challanged in Orginal Application No. 1317/2000 which was decided finally on 02.08.2001 with the following direction :-

" We have heard learned counsels and we feel that it would be appropriate if we permit the applicant two week's time to reply to the impugned notice to the respondents and respondents may thereafter take action based on the reply submitted by the applicant. Till then, the position of the applicant may not be disturbed. With this, the O.A stands disposed of. The status of the applicant as on date may be maintained. "

2. In pursuance of the aforesaid order, applicant filed representation dt. 16.08.2001 which has been annexed as annexure - 13. This representation of the applicant ~~has been~~ rejected, Hence, this second O.A has been filed. The submission of learned counsel for the applicant is that though the applicant was within the surplus staff being between Sl. 9 to 18 in the seniority list, on account of certain changes which had occurred during this period, applicant's ~~status~~ <sup>position</sup> in seniority list is at Sl.8 and as <sup>The</sup> strength of the Foreman ~~is~~ Sl. No.8 is being maintained up to 31.05.2003, he is entitled to continue and can not be compelled to join the alternative job. In other words, the applicant is not surplus.

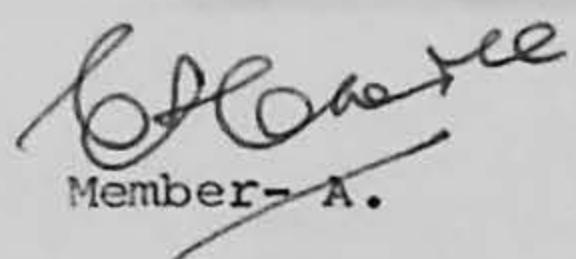
3. We have considered the submission of learned counsel for the applicant. There is not much dispute about facts. The earlier strength of Foreman was reduced ~~to~~ <sup>from 4</sup> 32 to 08 and this strength is effective from 01.06.1999 to 31.05.2003. On the date when order was passed, applicant was surplus, which ~~fact~~ is not disputed and accordingly, he was served the notice dated 11.09.2000. The position of the applicant ~~has~~ <sup>to</sup> be seen on that date. He can not say that he was not surplus on that date. Several other persons identically situated were also given notice. They either opted for alternative job or they ~~were~~ <sup>were</sup> compulsorily retired. The applicant can not claim the benefit of <sup>the</sup> situation. There is clear stipulation in the order that action has already been initiated to abolish the category of Foreman altogether upto 31.05.2003 and seniors have either got lower post or compulsorily retired due to non-availability of similar post of Foreman. In these circumstances, we do not find any illegality in the order.

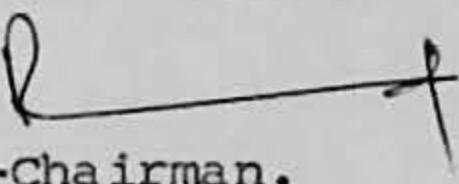
4. Learned counsel for the applicant then has submitted that the applicant was serving as Foreman and now he has been ~~being~~ <sup>now</sup> asked to serve as Tractor Driver which is a lower post. Learned counsel has submitted that applicant should have been offered the equivalent post in other section for which prayer may be made by the applicant. On perusal of the representation, we do not find any such submission made by the applicant before the authorities. In the circumstances, it could not be said that order suffers <sup>in part</sup> from any illegality. However, if the applicant so advised, he may approach the authorities by making

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a fresh representation confined to change the alternative job, <sup>shall be a</sup> ~~and can~~ considered and decided by a reasoned order within a month. During the period of pendency of representation, applicant shall not be compulsorily retired. Subject to aforesaid, this O.A is dismissed.

5. There will be no order as to costs.

  
Member-A.

  
Vice-Chairman.

Dt.30.10.2001.

/Anand/