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THE CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH
ALLAHABAD

Original Application No. 64 of 1988

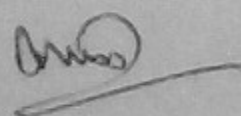
S P SinghApplicant
	versus	
Administrative Officer, Central Avian Research Institute & others		..Respondents

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HON'BLE MR MAHARAJDIN, MEMBER-J

This is an application under Section 19 of Administrative Tribunal Act 1985 in which the relief has been sought to quash the order dated 09 10 87 passed by the respondent No.1 and direct the respondents not to take work of Mazdoor from the applicant.

The relevant facts giving rise to this application are that the applicant is the Ex-Army Man, who retired from Military Service in the year 1979. He was appointed as S S Grade-I (Security) on 24 02 83 in Central Avian Research Institute affiliated with Indian Council of Agricultural Research Institute, New Delhi. The applicant joined as Security Guard. The applicant, by the impugned order dated 09 10 87 has been transferred from Security Guard to Mazdoor. The post on which the applicant has been transferred is a post of labourer where every type of manual work has to be done by him. The applicant has alleged that order dated 09 10 87 is the order of punishment which is illegal and arbitrary.



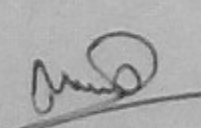
The respondents filed Counter Affidavit and resisted the claim of the applicant on the ground that the post of S S Grade-I (Security) and S S Grade-I(Mazdoor) are of equal cadre and interchangeable.

None appeared on behalf of the respondent. I, however, heard learned counsel for the applicant and perused the record.

The applicant was appointed as S S Grade-I(Security) purely on temporary basis on the terms and conditions contained in office memo dated 16 02 83 which the applicant had accepted before joining the duties. The relevant portion of the office memo dated 16 02 83 (Annexure-VI) is reproduced as under :-

" On behalf of the Director, Central Avian Research Institute the undersigned is directed to offer a temporary post of Gr.I.(security) to Shri Sadar Pal Singh on the following terms and conditions:-

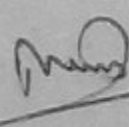
1. The post is temporary and carries the pay scale of Rs. 196-3-220-EB-3-232 on appointment he/she will draw pay at the initial stage of Rs.196.00.....P.M.in the above tige scale. He/she will be entitled to draw such allowances(dearness allowance and house rent allowance etc.) as are admissible to other staff of corresponding grade and status under the Indian Council of Agricultural Research.
- The post carries the following duties which he/she shall have to discharge at all times.



To perform general watch and ward duties during day and night for the Institute. Any other duties assigned by the Competent Authority. The post is interchangeable with S.S.Gr.I.(Mazdoor)."

The applicant has filed the copy of the appointment letter dated 23/24-02-83 in which it has been reiterated that the appointment of the applicant on the post of S.S.Grade-I(Security) is made on the terms and conditions contained in office memorandum dated 16 02 83. The post of S.S.Grade-I(Security) and S.S.Grade-I(Mazdoor) are of equal grade and are interchangeable according to the terms and conditions as also accepted by the applicant before joining the duties. The applicant before joining the duties knew that both the posts are interchangeable so after joining the duties the applicant cannot be permitted to challenge the terms and conditions of the service which he had already accepted. If the terms and conditions as provided in the office memorandum were not acceptable to the applicant, it was open to him to refuse or join the service.

The respondent has right to transfer its employee from one post to another which cannot be questioned by an employee after joining the duties. The transfer of the applicant from one post to other is neither punishment nor violative of any legal right.



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The applicant in the application has stated that he discharged his duties honestly and sincerely while posted as S.S. Grade-I (Security). But these facts are challenged by the respondents who have stated that the applicant has not been behaving in a normal manner. He used to make allegations against other members of the staff regarding pilferage and theft and was lacking discipline. He was not abiding the orders of seniors and was misbehaving with them. He was not observing the responsible duties as Security Guard. The respondents in support of their assertions have filed Annexure C.A.1 by which the applicant has given unconditional undertaking that in future he will improve his behaviour and he will not displease any of his superior by his conduct and behaviour. Similarly vide Annexure C.A.III the applicant submitted his explanation that he was not drunk while performing his duties. These facts go to show that the applicant was not performing his duties properly as Security Guard, therefore, he has been transferred and posted as S.S. Grade-I (Mazdoor). Posting of the applicant as S.S. Grade-I (Mazdoor) is not violative of any rules rather the rule permits that both the posts are interchangeable, as referred to above.

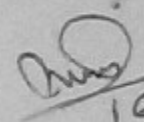
The applicant has been relieved from the post of S.S. Grade-I (Security) as would appear from Annexure CA-6



on 09 10 87, and he has joined as S.S. Grade-I (Mazdoor)
on 28 10 87 vide Annexure C.A.-VII.

Thus in view of the discussions made above
I find that the application of the applicant is devoid
of merit which is hereby dismissed with no order as to
cost.

Dated: Allahabad
April 19th, 1993.


19.4.93
MEMBER-J

(VKS)