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RESERVED.

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD.

Registration (O.A.) No. 1123 of 1988

Vijay Bahadur & 4 others Applicants.

Versus

Union of India & 2 others Respondents.

Connected with

Registration (O.A.) No. 1124 of 1988

Sibbal & 8 others Applicants.

Versus

Union of India & 2 others Respondents.

Connected with

Registration (O.A.) No. 1125 of 1988

Ganga Ram & 9 others Applicants.

Versus

Union of India & 2 others Respondents.

Hon'ble D.S. Misra, A.M.
Hon'ble G.S. Sharma, J.M.

(Delivered by Hon. G.S. Sharma, J.M.)

The applicants in the three original applications (hereinafter referred to as petitions) of similar nature, filed under Section 19 of the Administrative Tribunals Act, 1985, were working as Majdoors (class IV employees) in the Inspectorate of General Stores, Shahjahanpur for different periods ranging from 3 to 24 years, as stated in the petitions, and had acquired the status of permanent or quasi-permanent Majdoors. It is alleged that vide order dated 19.2.1987 issued by the Director General of Inspection Department of Defence Production, Ministry of Defence, New Delhi, respondent no.2 in these cases, the applicants were declared surplus and on 20.2.1987 the Inspectorate of General Stores, Shahjahanpur, respondent no.3, issued the daily order declaring the applicants surplus and

liable to be transferred out of the Inspectorate of General Stores, Shahjahanpur. These petitions were initially filed by the applicants in the Principal Bench of the Tribunal at New Delhi for their absorption in the Inspectorate General of Stores (for short IGS), Shahjahanpur, for issuing a direction to the respondents to follow some principle ^{the staff is} for declaring surplus and for the preparation of fresh seniority list on the basis of the date of joining to the post of class IV employees. Under the orders dated 5.9.1988 of the Hon'ble Chairman these cases were transferred to this Bench as IGS, Shahjahanpur lies under the jurisdiction of this Bench.

2. The case of the applicants, in short, is that respondent no.3 did not evolve any method of declaring the surplus staff and many Majdoors junior to the applicants were retained while the applicants were declared surplus in contravention of the provisions of Articles 14 and 16 of the Constitution of India. It was also alleged that after declaring the applicants 'surplus', respondent no.3 appointed 15 Majdoors on regular basis and 25 as casual labour and in view of the vacancies, ~~as~~ existing in IGS, Shahjahanpur, the applicants should not have been declared surplus and as they have been declared surplus 2/3 times in the past causing a loss of seniority to them, the orders dated 19.2.1987 and 20.2.1987 are illegal, void and discriminated. The applicants have further alleged that out of 1107 Majdoors declared surplus ~~out of which~~ 108 pertained to IGS, Shahjahanpur and with the exception of 46 Majdoors the remaining Majdoors declared surplus have been absorbed and the order dated 20.3.1987 treating the 46 Majdoors differently is also bad in law.

3. The respondents have contested these petitions and in the replies filed on their behalf it has been stated that in 1985 a decision was taken by the Government to re-examine the requirements of man-power and to effect economy in non-plan expenditure. On the basis of the directive issued in accordance with the said decision the man-power strength was examined by the Director

General, Quality Assurance in consultation with the respective Technical Director-in-Charge of the various Disciplines. As a result of the detailed review, a total of 1107 posts out of an authorised strength of 22,256 were considered to be feasible for surrender. Having identified the number of posts, a study was carried out to adjust the staff identified as surplus with minimum movement. Modality of effecting reduction in the authorised strength of DQA Organisation was finalised in HQ after discussion with the Staff Side of Joint Consultative Machinery to reduce the personal hardship to the individuals to the minimum extent. An assurance was given to the affected employees that they would be retained and no-body would be retrenched. Out of 1107 posts declared surplus in DQA Organisation, 108 individuals were from QAE(GS), Shahjahanpur. They have been adjusted, as detailed in para 4 of the reply. 50 of them have been transferred to out-stations. Adequate notice was given to all the employees declared surplus to indicate their choice for a particular station and they were also asked to volunteer for re-categorisation, if they wanted to be retained in the same establishment against categories where vacancies existed. In this way only in exceptional cases the adjustment by way of transfer has been made. The respondents have denied the allegation of the applicants that there have been any fresh appointments of regular Majdoors or casual labours after ^{the} ~~the~~ passing of the impugned orders declaring them surplus and the respondents have strictly followed the principle of seniority in declaring the surplus staff and only junior-most Majdoors have been declared surplus and the allegations of the applicants to the contrary are not correct.

4. In the rejoinder affidavits, filed by the applicants, they have reiterated the allegations made in the petitions and stated that their seniority has to be counted from the dates of their joining and they are entitled to be absorbed at Shahjahanpur.

5. One Hargovind Singh appointed as Lower Division Clerk on ~~compationate~~^{ss} ground in the Contollerate of Inspection and General Stores, Kanpur was also declared 'surplus' under the 5 percent reduction in non-plan expenditure and was ordered to be absorbed at Madras. He had filed O.A.No. 185 of 1987 before this Bench challenging the order and had prayed that the respondents be directed to adjust him at Kanpur itself against an available vacancy. He had challenged the order of declaring him surplus, inter alia, on the grounds that there is discrimination against Group 'C' & 'D' employees by reducing only their posts and not applying the same principle for Group 'A' & 'B' employees and as some juniors to him were allowed to continue at Kanpur the orders of his absorption in Madras Establishment were discriminatory. This Bench by its order dated 30.3.1987 had held ^{that} ~~the~~ the policy of 5 percent reduction in non-plan expenditure could not be challenged on the ground stated above and there was no discrimination against the applicant as none of the persons retained at Kanpur ~~was~~ junior to him. His petition was accordingly dismissed. The respondents have pleaded in their replies that in view of our decision in the said case these petitions are also liable to be dismissed.

6. We have very carefully considered the various contentions raised in these petitions and are of the view that the respondents have categorically stated in their replies that they have strictly followed the principle of seniority in identifying the surplus staff and the procedure for identifying the surplus staff was evolved after due consultation of the Staff Side of Joint Consultative Machinery. They have also denied the allegations of the applicants that any fresh appointment either on regular basis or otherwise was made in IGS, Shahjahanpur after declaring the applicants surplus. The applicants have not been able to produce any material before us to establish their contention in this respect. The applicants have not challenged the validity of the decision of the Government reducing the surplus staff, but have simply challenged the method of

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implementing the same and in our opinion the allegations made by them in this connection, as will appear from the facts stated above, have not been substantiated by any material, as such we are unable to uphold their contention that either the persons junior to them have been retained at Shahjahanpur or any fresh appointments have been made in their place ~~there~~after declaring them surplus. The respondents have not retrenched the applicants and all of them have been ordered to be adjusted at different places. The applicants, therefore, cannot claim their absorption at Shahjahanpur as of right and the impugned orders having been passed after evolving a method least inconvenient to the surplus staff, they are not entitled to any relief in these petitions.

7. The petitions are accordingly dismissed without any order as to costs.

S. Sharma

MEMBER (J).

(J. Sharma)

MEMBER (A).

Dated: May 19, 1989.

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