

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH

THIS THE 16TH DAY OF MAY, 2002

Original Application No.603 of 1994

CORAM:

HON.MR.JUSTICE R.R.K.TRIVEDI,V.C.

HON.MR.C.S.CHADHA, MEMBER(A)

Balwant Singh, son of
Shri Ram Singh, resident of
Military Farm, Allahabad

... Applicant

(By Adv: Shri K.P.Singh)

Versus

1. Union of India through the
Secretary, Ministry of Defence
(Civ)'Raksha Bahawan'
New Delhi.
2. Deputy Director of Military
Farms, Army Headquarters
Central Command, Lucknow.
3. The Officer Incharge
Military Farm, Allahabad.

... Respondents


(By Adv: shri G.R.Gupta)

O R D E R(Oral)

JUSTICE R.R.K.TRIVEDI,V.C

By this OA u/s 19 of A.T.Act 1985 applicant has prayed for a direction to the respondents to pay salary of the applicant for the months of 1.6.1993 to 31./8.1993 and from 1.1.1994 to 5.3.1995 i.e. total 17 months and 5 days plus bonus and other benefits. He has also prayed to award compensation for losses, mental agony and harassment. he has further prayed that a direction may be given to pay 18% interest on the salary.

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The facts in short giving rise to this application are that applicant was appointed as Farm Hand(Tractor Cleaner) vide order dated 15.3.1975. The applicant continued to serve on the said post. He was granted promotion as Assistant Tractor driver and posted at Jabalpur. A copy of the order of promotion dated 23.9.1982 has been filed as (Annexure 4). It appears that applicant was not inclined to go to Jabalpur. He ~~was~~^{was} requesting ~~ing~~^{to} respondents, to be accommodated at Allahabad, ~~which~~^{which} not acceded to. As the applicant did not go to promotion post ~~and~~^{and} order was passed on 6.4.1989 directing that there is no post ~~that~~^{and} the applicant is not tractor cleaner. There is no sanction of tractor cleaner in the initial PE of this Farm. It was further directed that from today onward he is placed as Security Chowkidar from 2200 hrs to 0600 hrs. His duty will be moving from staff quarter near main gate to 20'D' quarters of office, dhobi line, Group 'C' and group 'D' staff quarters and 20'D' quarters. He must reach within half an hour from one point to another point of bell and ring the half hourly bell as per the time starting from 2200 hrs. The applicant did not join this work of Security Chowkidar.

The counsel for the applicant has submitted that as per direction of Army Headquarters dated 26.6.1968 the cadre of the employee could not be changed. The relevant part of the paragraph which has been relied ^{on} is being reproduced below:-

" I would request you to ensure that there are no cases of victimization. No employee will be changed from his present job to another unless there are reasons of any efficiency malpracticem, subversive activities or becoming surplus in the grade or exigency of service. In the event of a default before ordering change of job the Farm Hand will be given warning



to rectify his defaults and if he still doesnot improve only then the job will be changed. Copy of reasons for change of job would be given by the Officer Incharge, Military Farm concerned. If recognised for he will be provided with the copy of the same."

Relying on the aforesaid order dated 26.6.1968, learned counsel for the applicant has submitted that the job of the applicant could not be changed from Farm Hand(Tractor cleaner) to the Security Chowkidar and there was justifiable reason on the part of the applicant not to work as Security Chowkidar.

Shri G.R.Gupta learned counsel for the respondents, on the other hand, submitted that applicant absented from duty. He was even advised to work as Farm Hand but he refused to work and filed claim petition before the Labour court and disobeyed all the orders^u. It is submitted that he is not entitled for any relief.

We have carefully considered the submissions of learned counsel for the parties. From perusal of the order dated 26.6.1968^u(Annexure 2) it is clear that job of an employee could be changed on certain circumstances narrated in the order. The circumstances were, in-efficiency, mal-practice, subversive activities or becoming surplus in the grade or exigency of service. Unfortunately, in the order dated 6.4.1989(Annexure3) no reasons were recorded why the change of job of the applicant became necessary. In the circumstances, the order cannot be termed to be legal. However, the next question arises whether the applicant could refuse to work on the post until the aforesaid order was set aside by the court or annulled by the superior authorities. In our opinion, applicant could not refuse to

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perform duty, even if the order was not fully in consonance with the order dated 26.6.1968. ~~In the circumstances,~~ ^u There are documents on the record which show that the applicant was advised from time to time to work as Farm Hand but he refused to work. From over all consideration of the fact and circumstances of the case we find that the authorities were also not very fair towards applicant and harassing ~~the~~ ^u orders like 6.4.1989 were passed. In these circumstances, in our opinion, the ends of justice will be served if the applicant is directed to be paid part of the salary and with the direction that his services for the said period shall stand regularised.

For the reasons stated above, we dispose of this OA with the direction to the respondents to pay 50% of the salary for the period of 17 months namely from 1.6.1993 to 31.8.1993 and from 1.1.1994 to 5.3.1995(i.e. total 17 months and 5 days). For this period applicant shall be treated in service and shall be entitled for other benefits. There will be no order as to costs.


MEMBER(A)


VICE CHAIRMAN

Dated: May 16th, 2002

Uv/