

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH

THIS THE 7TH DAY OF JANUARY, 2004

Civil Contempt Application No. 91 of 2002

CORAM:

HON.MR.JUSTICE S.R.SINGH,V.C.

HON.MR.D.R.TIWARI, MEMBER(A)

Ravinder Singh

.. Applicant

Versus

1. P.V.yadav, officer Incharge
Military farm, Bareilly
2. Jagroop Singh, Asstt. Supervisor
Military Farm, Bareilly
3. B.B.Biswas, Director
Military farm, headquarter
Central Command, Lucknow.
4. V.P.Singh DDG MF
Army Headquarter, R.K.Puram
New Delhi
5. K.P.Singh(Lt.Gen) QMG
QMG's Branch Sena Bhawan,
New Delhi.

.. Respondents

Along with OA No. 1343 of 2000

Ravinder Singh,a/a 41 years
S/o Shri Laxman Chand
R/o Military Farm Bareilly Cantt.

.. Applicant

(By Adv: shri K.P.Singh)

Versus

1. Union of India through
Secretary Ministry of Defence
New Delhi.
2. Quarter Master General
QMG's Branch, Sena Bhawan
New Delhi.

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3. Deputy Director General
Military Farm, West Block
3, R.K.Puram, new Delhi.
4. Officer Incharge
Military Farm, Bareilly.

.. Respondents

(By Adv: shri Rajeev Sharma)

O R D E R (Oral)

JUSTICE S.R.SINGH, V.C.

The applicant was working as Mechanical Truck Driver (in short M.T.Driver) under the control of the Officer Incharge, Military Farm, Bareilly. It appears that as a result of reduction of permanent Establishment of M.T.Drivers the applicant became surplus where upon a notice dated 29.8.00 was issued calling upon him to give his choice station for posting in any other department of the Army. The applicant gave his choice by means of letter dated 25.9.00(Annexure 4) on the basis of which he was posted at JLA, Bareilly, another unit of Army. Subsequently the applicant filed the instant OA on 23.11.00 challenging the notice dated 29.8.00. The Tribunal by its order dated 28.11.00 directed that status quo would be maintained till the next date fixed in the case. The civil contempt petition 91/00 has been instituted with the allegation that despite the order of the status quo, the applicant was relieved and posted at JLA, Bareilly.

We have heard counsel for the parties and perused the pleadings. The applicant became surplus as a result of reduction of permanent establishment of MT drivers at Military Farm, Bareilly and since he was a permanent staff, he was called upon by means of the impugned notice

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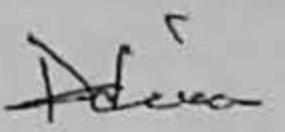
to indicate the station of his choice for posting in any other department of the Army. It cannot be gainsaid that declaration of employees as surplus as a result of strength reduction being an executive function, no exception can be taken to it except when such declaration suffers from malafide or is otherwise contrary to any statutory rules. The material on record do not make out a case of malafide nor do they make out a case of violation of any statutory rule with regard to the reduction of permanent establishment of MT drivers of Bareilly. That apart the applicant gave his option and accordingly he was adjusted at JLA, Bareilly, therefore it is not open to him to challenge the validity of the notice whereby he was called upon to give the station of his choice for posting. In any case the impugned notice has out lived its utility after the applicant was adjusted in another unit of the Army. We find no ground for interference with the impugned notice nor do we find any ground to proceed with the contempt application. It is well settled that contempt is a matter between the court and the contemner and the party concerned cannot claim, as of right, that the authority concerned must be hauled up for contempt. Since we find no merit in the original application we do not consider it necessary to pursue further in the contempt petition which does not disclose any willful disobedience of the order passed on the Tribunal.

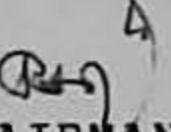
At this stage Shri K.P.Singh submitted that the salary of the applicant has not been fixed in accordance with the Recommendation of the Vth Central Pay Commission. If that is so the applicant shall have the

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liberty to represent his case before the Competent Authority and in case any representation is filed, the Competent Authority shall consider it and pass appropriate order within a reasonable period.

Accordingluy the OA as well as the contempt petition are dismissed with no order as to costs.


MEMBER(A)


VICE CHAIRMAN

Dated: 7th Jan:2004

Uv/