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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD.

O.A.No.882/91.

Date of Judgment 5.12.1991.

1. V.K.Ramadas
2. D.Mahender
3. B.Chalapathy Raju
4. M.Devadas

.. Applicants

Vs.

1. The Commandant,
Military College of
Electronics & Mechanical
Engineering,
Trimulgherry,
Secunderabad-500015.
 2. Adjutant General,
(Org.4 (Civ) (b) Army HQrs.,
Defence HQrs.,
New Delhi-110011.
 3. The Director-General of E.M.E.,
Army Hqrs.,
Defence Hqrs.,
New Delhi-110011.
- .. Respondents

Counsel for the Applicants : Mr. P.N.Venkatachari for
Mrs.Tripurasundari

Counsel for the Respondents : Mr. M.Jagan Mohan Reddy,
Addl. CGSC

CORAM:

Hon'ble Mr. R.Balasubramanian : Member(A)

Hon'ble Mr. T.Chandrasekhar Reddy : Member(J)

[Judgment as per Hon'ble Mr. R.Balasubramanian, Member(A)]

This application has been filed by Shri V.K.Ramadas and 3 others under section 19 of the Administrative Tribunals Act, 1985 against the Commandant, Military College of Electronics & Mechanical Engineering (MCEME for short), Trimulgherry, Secunderabad-500015 and 2 others, praying for quashing of the order No.20928/Est(Civ) dated 16.8.91 and thereby continuing them in the existing posts at Hyderabad.

2. The applicants have all been appointed as Temporary Safaiwalas in the MCEME, Trimulgherry, Secunderabad from 9.7.88. In May, 1991 some posts of Safaiwalas were considered

surplus and the 1st respondent reported the matter to the 2nd respondent. Before the 2nd respondent could plan absorption of these personnel in accordance with the rules the Appointing Authority vide memos dated 11.7.91 and 12.7.91 accommodated the applicants against the existing vacancies from 1.7.91 forenoon. While so, vide orders dated 16.8.91 of the 2nd respondent (the impugned letter) the applicants were all transferred and posted elsewhere. It is against this that the applicants have approached this Tribunal with the above prayer.

3. The respondents have filed a counter affidavit and oppose the application. It is stated that the strength in the cadre of Safaiwalas keeps on changing depending upon the strength of the College. When certain personnel became surplus, Respondent No.1 reported the matter to Respondent No.2 as required under SAO-8/S/76 for their posting out/adjustment as the case may be. Because there was some delay in getting the orders of the 2nd respondent the applicants were accommodated in vacancies at Hyderabad itself. When the final orders were received from the 2nd respondent the applicants were posted out. It is also their case that the applicants know and have given it in writing that they are transferable all over the country and no principles of natural justice are violated.

4. We have examined the case and heard the learned counsels for the applicants and the respondents. The fact is that when certain posts had to be reduced the applicants had to be accommodated in other posts, if needed, elsewhere. Soon after reporting the surplus, the respondents at Hyderabad could ~~manage to~~ accommodate the applicants here itself. When such is the case, they ought to have immediately reported the matter to the 2nd respondent who, in such a case, would not have taken a decision to shift them out of Hyderabad. We have seen the SAO-8/S/76 on which both the applicants and respondents rely. Para 5 of the Special Army Order

To

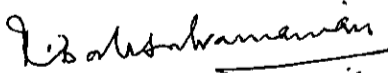
1. The Commandant, Military College of Electronics & Mechanical Engineering, Trimulghery, Secunderabad-500 015.
2. The Adjutant General, (Org.4(Civ) (b) Army HQrs., Defence HQrs. New Delhi-11.
3. The Director General of E.M.E., Army HQrs., Defence HQrs., New Delhi -11.
4. One copy to Mrs. Tripurasundari, Advocate, CAT.Hyd.Bench.
5. One copy to Mr.M.Jaganmohan Reddy, Addl. CGSC. CAT.Hyd.
6. One spare copy.

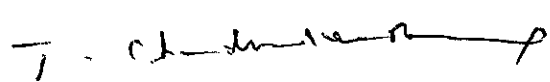
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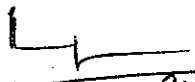
"An individual rendered surplus in a unit/establishment will first be considered by the Officer Commanding for absorption in the same unit/establishment against an equivalent or lower appointment for which he possesses the requisite qualifications and is found suitable in all respects."

Thus, it would mean that an attempt is first to be made to accommodate the surplus personnel in the same grade in the same unit/establishment. Only when this is not ~~the position~~ possible they have to be considered for posting in other units, establishments and, if need be, in a lower post of course with their concurrence. This being the position, the respondents have not convincingly made out a case that the applicants have to be shifted out for want of posts. If there were no posts, how were they accommodated initially by the orders dated 11.7.91 and 12.7.91? These orders stated that on being rendered surplus the abovementioned Safaiwalas have been adjusted against the existing alternate appointment under SAO-8/S/76 w.e.f. 1.7.91. After complying with the provisions of the Special Army Order SAO-8/S/76 where was the necessity to shift them? We are not convinced with the action of the respondents and, therefore, quash the order dated 16.8.91 directing the respondents to keep these applicants in Hyderabad in the various units/establishments so long as the vacancies are available. There is no order as to costs.


(R. Balasubramanian)
Member(A).


(T. Chandrasekhar Reddy)
Member(J).

Dated 5th December, 1991.


Deputy Registrar (J)

noted for
21.12.91

(w)

RM
6/12/91

TYPED BY

COMPARED BY

CHECKED BY

APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR.

V.G

AND

THE HON'BLE MR.

M(J)

AND

THE HON'BLE MR. R. BALASUBRAMANTAN: M(A)

AND

THE HON'BLE MR. T. Chandrasekharaiah: M(J)

DATED: 5 - 12 - 1991 ✓

ORDER/JUDGMENT:

~~M.A./R.A./C.A. No.~~

O.A.No. 882/91 ✓

T.A.No.

(W.P.No.)

Admitted and Interim directions
Issued.

Allowed. ✓

Disposed of with directions

Dismissed.

Dismissed as withdrawn.

Dismissed for Default.

M.A. Ordered/Rejected

No order as to costs.

Central Administrative Tribunal
DESPATCH
9/12/91
HYDERABAD BENCH.

9/12/91

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