

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH**

...

ORIGINAL APPLICATION No. 060/00591/2014

**Date of filing: 14.07.2014
Order reserved on: 11.04.2016**

Chandigarh, this the 28th day of April, 2016

...

**CORAM: HON'BLE MR. JUSTICE L.N. MITTAL, MEMBER (J) &
HON'BLE SMT. RAJWANT SANDHU, MEMBER (A)**

...

Surinder Singh son of Shri Raghbir Singh, working as Electrician Highly Skilled Grade- I in the office of 268, Field Workshop Company, EME BN, Ambala.

....APPLICANT

BY ADVOCATE: SHRI K.B. SHARMA

VERSUS

1. Union of India through Secretary, Ministry of Defence, South Block, New Delhi.
2. Additional Director General Manpower (Policy & Planning), MP-4 (Civ) (b), Adjutant General Branch, IHQm MoD (Army), Wing-II, West Block-III, R.K. Puram, New Delhi.
3. Director General of EME (Coord) MGO's Branch IHQ of MoD (Army), DHO PO, New Delhi-110 011.
4. Commanding Officer, Station Workshop, EME, Chandimandir.

....RESPONDENTS

BY ADVOCATE: SHRI RAM LAL GUPTA

ORDER

...

HON'BLE MR. JUSTICE L.N. MITTAL, MEMBER(J):-

Applicant Surinder Singh has filed this O.A. under Section 19 of the Administrative Tribunals Act, 1985 seeking the following relief:

"ii) That impugned letter dated 30.8.2013 (Annexure A-1) qua applicant be quashed and set aside.

ii) That the action of the respondents declaring the applicant as surplus employee be declared illegal and arbitrary and against the policy/peace establishment.

iii) That the respondents be directed to consider the case of the applicant for posting under respondent no. 4."

2. Case of the applicant is that he joined Army as Electrician (Sepoy) on 17.04.1987 and retired on 30.04.2007 and immediately thereafter joined the respondents on 01.05.2007 as Electrician (Civ.) Highly Skilled (HS). On restructuring of the post of HS, the applicant was posted as HS-I. He applied for govt. accommodation as his father was ill, however, respondent no. 4 allotted the govt. quarter to one Ghambir Singh, UDC.

3. Respondent no. 2 directed respondent no. 4 to declare 33% employees of Industrial staff as surplus. Out of total strength of 76 of the Industrial staff, 66 persons were posted under respondent no. 4 in various categories as per details given in the O.A. Respondent no. 2 declared four Electricians as surplus i.e. the applicant alongwith Vijay Kumar (HSG-I), Sat Pal and Jai Chand (both HSG-II), besides twelve other employees i.e. 16 in all as surplus. Vide order dated 30.08.2013 (Annexure A-1), respondent no. 4 directed the four surplus electricians (including the applicant) to join at their new stations of absorption. The applicant made representation to respondent no. 3 for allowing him at present station i.e. Chandimandir. Respondent no. 3 vide letter dated 28.09.2013 (Annexure A-2) directed respondent no. 4 that surplus employees unwilling to proceed on permanent posting should not be forced to move out to other stations. However, vide movement order dated 30.10.2013 (Annexure A-3), the applicant has

been relieved on 30.10.2013 from the present place of posting, requiring him to join at new station (Ambala),

4. The applicant has alleged that as per Peace Establishment (PE) policy, one Electrician is required against strength of eight Vehicle Mechanics. There are twenty-two Vehicle Mechanics in the present Unit of the applicant and only one Electrician is left after four Electricians have been declared surplus. However, there should be three Electricians against strength of twenty two Vehicle Mechanics. Consequently, the applicant has been declared surplus illegally. The applicant has alleged that it has been so done because he has submitted a complaint against Ghambir Singh, UDC in the matter of allotment of govt. accommodation. The applicant has been declared surplus against PE policy. It is also alleged that 33% employees were to be declared surplus, but 80% Electricians (4 out of 5) have been declares surplus. Direction Annexure A-2 by respondent no.3 to respondent no. 4 has also not been complied with.

5. The respondents in their written reply justified their action. It has been pleaded that the applicant has given willingness certificate/undertaking dated 12.09.2013 (Annexure R-1) thereby accepting his posting/transfer, on being declared surplus, to Ambala as HS-II. The applicant had joined as Electrician on 01.05.2007. He applied on 10.05.2007 for govt. accommodation vide application (Annexure R-2) wherein he did not make any mention of medical condition of his father which he has now raised in the O.A. to invoke sympathy. Govt. accommodation was allotted to Ghambir Singh vide letter dated 03.08.2010 (Annexure R-25). Thereafter the applicant

never approached the respondents for allotment of govt. accommodation. The said issue has now been raised only to gain compassion. After giving his willingness Annexure R-1, he has filed this O.A. only to harass the administration. No one pressurised or forced the applicant to give his willingness (Annexure R-1). The applicant by submitting application dated 26.09.2013 (Annexure R-11) requested that he be allowed to continue at the present station. But after this, he opted to proceed on posting at the given station and was accordingly posted. He is getting same pay scale even after being declared surplus which he was getting prior to it. There has been no violation of any policy. PE policy was revised w.e.f. 01.01.2012 vide letter dated 09.02.2012. The strength of civil industrial employees as per revised policy is 33. After seeking clarification from the Headquarters, Board of Officers (BoO) was convened vide order dated 15.03.2012 (Annexure R-6) and on the recommendation of the Board, the applicant and others were declared surplus. It is also pleaded that there are 74 Vehicle Mechanics (Combatant) and 22 Vehicle Mechanics (Civilians) and there are 12 Electricians (Combatant) and thus Electricians are in the ratio of one against eight Vehicle Mechanics as per policy. Total Civilian authorised industrial strength is 33 of which there are 22 Vehicle Mechanics. Out of remaining 11 employees, there are 10 employees of Other Balance Essential Trades and, therefore, only one Civilian Electrician authorised is left. The Board after taking into consideration all the factors to sustain the operationality of the work establishment etc. recommended that the four Electricians be declared surplus and they were accordingly declared surplus. The applicant had not represented before respondent no. 3 on his visit and only Sat Pal and Vijay Kumar had represented. However, inspite thereof, the case

of the applicant was considered as desired by him and after confirmation from Headquarters, he was relieved. Jai Chand joined the new station voluntarily. Vijay Kumar and Sat Pal were retained till April/May 2014 when they were also moved out. Sat Pal was in fact posted to Delhi Cantt. vide order Annexure A-1. He was willing to move to Ambala. Thereupon the applicant fearing that the only one vacancy at Ambala against which the applicant was posted vide order Annexure A-1 may be given to Sat Pal, abruptly submitted his clearance certificate (Annexure R-16) on 31.10.2013. The Workshop did not have any problem in retaining the applicant also alongwith other surplus Electricians Sat Pal and Vijay Kumar who were retained till April/May 2014. However, the applicant moved voluntarily.

6. The applicant filed rejoinder wherein he controverted the stand of the respondents and reiterated his own version and also annexed some additional documents.

7. Respondents by way of M.A. No. 060/00966/2015 placed on record affidavit of Lt. Col. Rohit Arora alongwith certain other documents. Applicant also filed counter affidavit dated 28.09.2015. He also placed on record some additional documents vide M.A. No. 060/00066/2016 to which the respondents also filed reply.

8. We have heard counsel for the parties and perused the case file.

9. Counsel for the applicant vehemently contended that the applicant made representation against the impugned order Annexure A-1 and he was not willing to move, but was forced to move despite

letter Annexure A-2 of respondent no. 3 to respondent no. 4. The contention is untenable. The alleged representation moved by the applicant has not been placed on record by him. There is also no document on record to depict that he was not willing to move pursuant to impugned order Annexure A-1. On the contrary, the applicant gave willingness certificate/undertaking dated 12.09.2013 (Annexure R-1). There is no material on record to depict that the respondents or anybody else pressurised or forced the applicant to give said willingness certificate. As regards the draft tour note Annexure A-2 of respondent no. 3, the applicant had not even approached respondent no. 3 during his tour to the workshop and only Sat Pal and Vijay Kumar had approached respondent no. 3 during the tour. But inspite thereof, even application of the applicant was also considered and he was moved out only after receiving final order from the Headquarters.

10. Main contention of the counsel for the applicant was that out of five Electricians, four have been declared surplus and now only one Electrician is left against 22 Vehicle Mechanics although as per policy, there should be 1 Electrician against 8 Vehicle Mechanics and, therefore, there should be 3 Electricians against 22 Vehicle Mechanics. It was thus argued that the applicant and one more Electrician were declared surplus illegally out of the four Electricians declared surplus. The contention is misconceived because according to data given in the written statement and subsequent affidavit, the respondents have pointed out that there are 74 Vehicle Mechanics (Combatant) and 22 Vehicle Mechanics (Civilian) i.e. 96 Vehicle Mechanics in all and there are 12 Electricians (Combatant) and 1 Electrician (Civilian) i.e. 13 Electricians in all. Thus the ratio of 1:8 for

38

Electrician vis-a-vis Vehicle Mechanics has not been diluted by declaring the 4 Electricians surplus. Moreover, BoO was convened to determine the surplus employees and as per finding of the Board (vide Annexure R-6), various employees including 4 Electricians (including the applicant) have been declared surplus. The Board has examined the Civilian Industrial manpower as per revised PE policy dated 09.02.2012 and thereupon recommended the number of employees of different categories to be declared surplus. Consequently, there is no illegality in declaring the applicant surplus.

11. Counsel for the applicant also contended that the applicant made complaint regarding allotment of govt. accommodation to Ghambir Singh and, therefore, he has been declared surplus. The plea is completely devoid of substance because the applicant never agitated the matter of govt. accommodation allotment to Ghambir Singh since July 2010 till September 2013. He has now raised the matter just to create a ground in the O.A.

12. Counsel for the respondents rightly pointed out that the applicant and others were declared surplus as per recommendation of the Board and the applicant even gave his willingness/undertaking (Annexure R-1). It was also admitted by the counsel for both the parties during the course of hearing that scale of the applicant on his posting at Ambala pursuant to being declared surplus has been protected. Request of the applicant for permitting him to continue at present station was also forwarded to the Headquarters and he was moved out only after receiving final order from the Headquarters. It is also mentioned in the information obtained under the Right to

Information Act (vide Annexure A-4) that authorisation of Vehicle Mechanics and Electrician depends upon the type of echelon repair system and the type of load on workshop. Consequently, general guidelines of one Electrician against 8 Vehicle Mechanics cannot be applied rigidly although even said ratio has been maintained in the instant case as noticed above. It may also be added that even after being declared surplus, the respondents have adjusted the applicant, although at a different station, but in the same pay scale. The applicant, therefore, can have no grievance.

13. For the reasons aforesaid, we find no merit in the instant O.A., which is accordingly dismissed with no order as to costs.

(JUSTICE L.N. MITTAL)
MEMBER (J)

(RAJWANT SANDHU)
MEMBER (A)

Dated: 28.04.2016

'SK'