

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

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✓
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SECTION OFFICER (Judl.)

Shalita
20/8

CENTRAL ADMINISTRATIVE TRIBUNAL : GUWAHATI BENCH : GUWAHATI

ORIGINAL APPLN. NO. 247 OF 1995
 TRANSFER APPLN. NO. OF 1995
 CONTEMPT APPLN. NO. OF 1995 (IN NO.)
 REVIEW APPLN. NO. OF 1995 (IN NO.)
 MISCELLANEOUS PETITION NO. OF 1995 (IN NO.)

..... Kiran Behra APPLICANT(S)

-vs-
 Union of India RESPONDENT(S)

For the Applicant(s) Mr. Adil Ahmed
 Mr.

For the Respondent(s) Mr. S. Ali, Sr. Case
 Mr.

OFFICE NOTE	DATE	ORDER
<p>This application is in form and within time C. F. of Rs. 50/- deposited vide IPO/BD No. 327456 Dated 20.9.95</p> <p>By Registrar (A) <i>[Signature]</i> 2.11.95</p>	<p>16.11.95</p> <p>pg</p>	<p>Issue notice to the respondents to show cause as to why the application be not admitted and interim relief granted.</p> <p>Returnable on 30.11.95.</p> <p><i>[Signature]</i> Member</p> <p><i>[Signature]</i> Vice-Chairman</p>
<p>Requirements are met as 8/12/95 & 14.12.95</p> <p>as 5271-73 d. 14.12.95</p> <p>Service reports are still <i>[Signature]</i></p>	<p>30.11.95</p> <p>pg</p>	<p>Issue notice to the respondents to show cause as to why the application be not admitted. Returnable on 3.1.96. No interim order at this stage.</p> <p><i>[Signature]</i> Member</p> <p><i>[Signature]</i> Vice-Chairman</p>

OFFICE NOTE

DATE

ORDER

17-1-96

The applicant who declared surplus challenges the legality of his consequential termination of service. No show cause reply is filed. O.A. is admitted. Issue notice to the respondents. 8 weeks for written statements. Adjourned to 20-3-96 for orders as advocate for the applicant is not present. Liberty to apply for interim relief. No order to-day.

Member

Vice-Chairman

Im

25.3.96

Case is ready for hearing. None present for both sides.

List for hearing on 23.5.96.

Member

23.5.96

Mr S.Ali, Sr.C.G.S.C for the respondents.

In our order dated 25.3.96 we have noted that the case is ready for hearing mistakenly. The fact is that the written statement has not been submitted by the respondents. Mr Ali seeks time for filing written statement. Allowed.

List on 21.6.96 for counter and further orders.

Member

pg

3.1.96

FLA n 17-1-96

order

inter reports are all awaited

Notice send on R no. 1, 2 & 3

Notice issued on 21.3-15 & 22.4.96 pg

notice send on R. no. 1, 2, 3

Case is ready on regard service of notice

21.6.96

for orders on 19.7.96

counter has not been filed

19.7.96 None present. Written statement has not been submitted.

List for written statement and further orders on 12.8.96.

of statement - has not been filed

18

[Signature]
Member

pg
[Signature]

12.8.96

Mr S.Ali, Sr.C.G.S.C for the respondents.

Written statement has not been submitted. Mr Ali seeks for one month time for file written statement.

List on 17.9.96 for written statement and further orders.

of statement - has not been filed

18/9

[Signature]
Member

pg
[Signature]
12/8

17.9.96

Mr S. Ali, learned Sr. C.G.S.C. for the respondents. Written statement has not been submitted.

List for hearing on 11.10.96. IN the meantime the respondents may submit written statement with copy to the counsel for the applicant.

statement - has not been filed

[Signature]
Member

nkm
[Signature]
18/9

(17)

O.A. 247. of 1995

11.10.96

Mr. A.Ahmed for the Applicant.

Mr. S.Ali, Sr. C.G.S.C. for the respondents.

Written statement has not been submitted and Mr. ^{Ali} seeks time for submission of the same. However, this is an O.A. of 1995 and therefore list for hearing on 29.11.96. In the meantime Mr. Ali may submit the written statement.

ba
Member

25-10-96

W/S filed by R.no. 1-3.

trd

29-11-96

None present. Written statement has been submitted by the respondents. Copy of the same be served on counsel of the applicant.

List for hearing on 20-12-96.

ba
Member

Justice duty served on R.no. 1-3.
Statement has been filed.

lm
or
29/11

Statement has been filed.

4.4.97

The Division Bench is not sitting. The case is, therefore, adjourned to 15.5.97.

DB
Vice-Chairman

Statement has been filed.
R.No. 1-3.

nkm

fr
8/11

15.5.97

Left over. List it on 30.6.97 for hearing.

ba
Member

DB
Vice-Chairman

nkm

fr
20/5

5

O.A. 247/95

30-6-97

Mr. A. Ahmed learned counsel appearing on behalf of the applicant is reported to sick. Accordingly, mention has been made for adjournment. Mr. S. Ali, Sr. C.G.S.C. has no objection, in granting of adjournment.

The case is adjourned till 18th August 1997.

[Signature]
Member

[Signature]
Vice-Chairman

Memo of appearance has been filed.

17/8/97

lm

[Signature]
17/8

18-8-97

Mr. S. Ali, learned Sr. C.G.S.C. pray for on behalf of Mr. A. Ahmed learned counsel for the applicant as he is out out of Station. Prayer is allowed.

Let this case be listed for hearing on 18-9-97.

[Signature]
Member

[Signature]
Vice-Chairman

Prayer has been filed.

19

lm

[Signature]
19/8

18-9-97

Adjourned to 1.10.97.

By order

Prayer has been filed.

19

1-10-97

On the prayer of counsel for the parties case is adjourned till 28-10-97 for hearing.

[Signature]
Member

[Signature]
Vice-Chairman

Prayer has been filed.

110

lm

[Signature]
3/10

(6)

O.A.No. 247/95

28-10-97

In spite of the repeated adjournments Mr.S.Ali, Sr.C.G.S.C. has not produced the records though the office is at Narangi, Guwahati. Mr.A.Ahmed learned counsel for the applicant submits that the authority is neglecting to produce the records. Considering the submissions of the learned counsel for the parties we direct the Regional Manager, Canteen Store Depot, Narangi Guwahati to appear personally before this Tribunal on 10-11-97 alongwith the records.

Please comply immediately.

MS
28/10/97

Let this case be listed for order on 10-11-97.

Office to communicate the order immediately.

be
Member

Sharma
Vice-Chairman

29.10.97

Copy of order dtd. 28.10.97 issued to the Regional Manager through Regd/Post.

MR
10.11.97

Mr S.Ali, learned Sr.C.G.S.C submits that the Officer concerned is on tour and therefore he is not in a position to appear in the Tribunal.

Further two weeks time granted to the Officer to appear in the Tribunal.

List on 24.11.97 for order.

be
Member

Sharma
Vice-Chairman

7-11-97

1) Written statement filed on behalf of R.No-1, 2, & 3.
Memo of appearance has been filed.

21-11-97

pg
MS
11/11

1) Written statement filed on behalf of R.No-1, 2 and 3.
Memo of appearance has been filed.

N

24.11.97

Mr S. Ali, learned Sr.C.G.S.C.

submits that the name of the applicant Shri Kirtan Behra was withdrawn from the surplus list as per letter No.3/Per A-1/PN-3914/5338 dated 6.11.97 issued for and on behalf of the General Manager Canteen Stores Department. In view of that the applicant has no further grievance.

Accordingly the application is disposed of as ~~infructuous~~ it has become infructuous.



Member



Vice-Chairman

12.97

Copy of the order
has been sent to the
office vide D.O. No.
302 to 3605.

pg

25/91

Central Admin. Tribunal
648 30OCT1995
Gauhati Bench at Guwahati.

In the Central Administrative Tribunal
Gauhati Bench at Guwahati.

O.A. No. 247 of 1995

Resk
Kirtan Behra _____ Applicant
- Vs -
Union of India and Others.
_____ Respondents.

I N D E X

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7.	<i>w/s</i> _____	20 - 27

Received copy
File - Sr. LSSC
1871895

Filed by
Adil Ahmed
Advocate
18.10.95

In the Central Administrative Tribunal
Guwahati Bench at Guwahati.

Filed by
Abil Ahmed
(ABIL AHMED)
August 18 1995

Application under Section 19 of the Administrative Tribunal
Act 1985

Case No. O.A. 247 of 1995

Between

PN 3914 Kirtan Behra

- Vs - _____ Applicant

Union of India and Others.

_____ Respondents.

- i. Details of the Applicant - PN 3914 Shri Kirtan Behra
- ii. Father's Name & Late Bharta Behra.
- iii. Designation & Office :- PACKER (ORDINARY)
in which employed - Canteen Stores Department
NARANGI (Ministry of Defence)
Guwahati - 27.
- iv. Address for service of :- Canteen Stores Department
all others. Narangi, Guwahati-27.

2. Particulars of Respondents.

1. Name and/or designation :- 1. Union of India,
of the Respondents represented by the
General Manager Canteen
Stores Department.
Ministry of Defence
'ADELPHI' 119 M.K. Road
Bombay-400020

Contd.....P/2.

Abil Ahmed

2. The Deputy General Manager
(P&A)
Canteen Stores Department
"ADELPHI" 119 M.K. Road,
Bombay 400020

3. The Manager
Canteen Stores Department
Narangi, P.O. - Guwahati-27.
Assam.

3. Particulars of the Order against which the application is made.

The application is filed for setting aside the letter No. 3/Pers/A-1/1099(Surp)/2580 dated 26th May'95, Order No. 3/Pers/A-1/1099(Surp)/3291 dated 11th June 1995 issued by the Deputy General Manager (P&A) for declaring the applicant as Surplus Staff and with the prayer to continue the applicant till the date of Superannuation.

4. Jurisdiction of the Tribunal

The applicant further declares that the Subject matter of the Order against which he wants redressal is within the jurisdiction of the Tribunal.


5. Limitation.

The applicant further declares that the application is within the limitation prescribed in Section 21 of the Administrative Tribunal Act, 1983.

6. Facts of the Case.

6.1. That the applicant is an Indian Citizen by birth

Contd...P/3.


(Kiran Debnath)

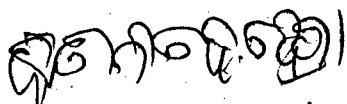
and as such he is entitled to all the rights and privileges guaranteed under the Constitution of India. The applicant is presently serving as Packer (Ordinary) in the Canteen Stores Department (in short C.S.D.), Narangi, under the C.D.D. Ministry of Defence, Assam. He is low paid employee of the C.S.D. He is a married man and has to look after his wife and his children.

6.2. That the applicant was initially appointed as Mazdoor in the Canteen Store Department at Dimapur in in 11.9.61 by the Chairman, Board of Administration, Canteen Store Department. In 1978 he was transferred and posted at Canteen Stores Depot at Visakhapatnam. On 22.2.89 he was promoted to packer (ordinary). In 1991 he was transferred and posted at Canteen Stores Depot at Missamari, He was transferred from Missamari to Canteen Stores Depot Narangi in the year 1993. Now the applicant continuously serving as Packer (O) under the Canteen Stores Department till today.

6.3. That the Staff Inspection of Unit team made a staff Study in the year 1985 in the Canteen Stores Department of Govt. of India, Ministry of Defence and recommended for abolition of the posts of Packer and Marker of the Canteen Stores Department, of the Govt of India

6.4. That the applicant begs to state that the recommendation of Staff Inspection of Unit for abolition of the Posts of Packer and Marker, in the C.S.D. especially based on the report, when it is found, the most of the regular nature of work, in C.S.D. are being performed

Contd.....P/4.


(Kiran Behra)

by the Contract labour in C.S.D. Therefore, the S.I.U. team have recommended for abolition of the post of Packer or Marker, in the Canteen Stores Department. This fact would be evident from the report of the S.I.U. team, the S.I.U. teams appears to be influenced that a good amount of works which are supposed to be performed by the Packer and Marker are being done through Contract labour, by the authorities of the C.S.D. for the reason best known, by the respondents and surprisingly, in view of allotting more works on Contract basis, a decision now after a long lapse of time, after furnishing the report of the S.I.U. team, the respondents have taken a decision arbitrarily for abolition of the posts of Packer and Marker in the C.S.D.

Therefore, the decision of abolition of posts of Packer and Marker cannot be said to be in the public interest. It is probably, for the interest of vested Circle, in the Canteen Stores, Department for getting more works through Contract labour, in deprivation of the existing employees of the C.S.D. who are Packer and Marker.

Therefore, decision communicated under letter No. Ref. No.3/Pers/A-1/1099(Surp)2580 dated 26.5.96 is highly illegal, arbitrary and unfair and the same is liable to be set aside and quashed.

Annexure 1- is the photocopy of the letter dated 26.5.96 issued by the Deputy General Manager (P&A) to all Managers/Regional Managers C.S.D. Depot.

Contd....P/5.

(Kirtan Behra)

6.5. That under Ref. No. 2/Pers/A-1/1099(Surp) 2580 dated 26.5.95 it is stated that as per report on the Staff study of 31 Area, Depot Bombay Base and C.S.D.HQ. conducted by the S.I.U. a number of staff in the Categories of Carpenters, Packer(Spl), Marker, and Packer (Ordinary) have been rendered surplus.

It is stated in the aforesaid letter, that in order to adjust the above, Surplus Staff within C.S.D. itself, the Canteen Stores Department has taken up the case with the Board of Control New Delhi but they have not agreed and directed to initiate immediate action and surrender the surplus staff to the Surplus Cell. The relevant portion of the letter dated 26.5.95 is quoted below :

"As per report on the staff study of 31 Area depots, Bombay base and C.S.D. HQ conducted by the SIU a number of staff in the Categories of Carpenters, Packer(Spl), Marker and Packer (Ordinary) have been rendered Surplus."

2. In order to adjust the above surplus staff within C.S.D. itself we had taken up the case with Board of Control New Delhi/Ministry, but they have not agreed and directed to initiate immediate action and surrender the surplus Staff to surplus Cell. As per the laid down rules, the staff rendered surplus due to above study are to be sent to surplus Cell for replacement to other Govt Departments. The notice to the Surplus Cell has already been issued and further action is under progress.

It appears from the above contention that there was a Scope for ~~ready~~ readjustment of proposed

ॐ ॐ ॐ ॐ ॐ ॐ

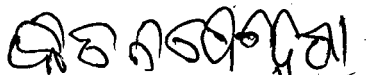
Surplus Staff as per opinion of the Canteen Stores Department, but the Board of Control, Now Delhi, Ministry of Defence did not reconsider their aspect of the proposal of the Canteen Stores Department and they were arbitrarily taken this illegal action of rendering surplus the employee working as Packer, Marker in the C.S.D. It may be stated that the present applicant have rendered more than 30 years of service in the establishment of respondent.

6.6. That the applicant begs to state that even the procedure adopted by the respondents for rendering surplus in the process of abolition of post is also unfair, illegal Malafide as the Junior persons to the applicant also retained in the service whereas applicant being a senior employee of the C.S.D. have been illegally declared surplus. This action of the respondents is highly arbitrary, illegal and violative of Principles of natural justice. Therefore the notice issued by the Respondent under reference No. 3/Pers/A-1/1099(Surp)/3291 dated 11.6.95 is highly illegal, arbitrary and the same is liable to be set aside and quashed.

Annexure-2 is the photocopy of the Notice vide Ref. No. 3/Pers/A-1/1099(Surp)/3291 dated 11.6.95. issued by the Dy. General Manager (P&A) for General Manager.

6.7. That vide letter No, Ref. NGD/Est-71/2029 dated 10 June 1995 issued by the Manager, C.S.D. Narangi Depot whereby the applicant is asked, whether he is interested for Voluntary retirement and further stated if he is interested for Voluntary retirement ~~shall~~ and further state

Contd....P/7.


(Kirtan Behra)


in that event request for Voluntary retirement it should be communicated to them within 20.6.95 otherwise he would be surrendered to surplus Cell for re-deployment but the applicant did not opt for Voluntary retirement.

Annexure-3 is the photocopy of the letter as Ref. No. NGD/Est-71/²⁰²⁹~~2029~~ dated 16th June 1995 issued by the Manager C.S.D. Depot, Narangi.

6.8. That the applicant further begs to state that the C.S.D. vide their letter under reference No. 3/Pers/A-1/1099(Surp)/3084 dated 29.6.95 whereby it is intimated to the Director General Employment and Training, Ministry of Labour, New Delhi that the C.S.D. have surrendered 39 Marker and 29 Packer as they have rendered surplus after study of Staff Inspection Unit (S.I.U.) and it is further stated that out of 39 one marker is expired on 27.5.95. Therefore the actual number of marker surrender strength to 38 and 25 Packer (Ordinary). It is also requested to intimate his clearance for the surrender and subsequent re-deployment as an early date.

Annexure-4 is the photocopy of the letter Ref. No. 3/Pers/A-1/10999Surp)/3084 dated 29th June 1995 issued by the D.G.M. (P&A) C.S.D., Bombay.

9. That the whole Scheme for abolition of posts Marker and Packer have been done illegallu on the basis of S.I.U. report which was submitted by the Inspection Unit after conducting a study in the year 1985 in the C.S.D. without taking into consideration the expenditure incurred by the Department for getting the similar workes done through Contract labour by the respective Stores Depot and the proposal of the Department for getting the work of Packer.


(Kiran Behra)

Contd....P/8..

and Maker after abolition of the posts to Contract labour are highly illegal, arbitrary and unfair and it would give adverse affect to only a particular Section of Officers/Staff of C.S.D. Therefore the Policy of abolition of posts have not been done in public interest and the arbitrary decision communicated vide letter dt. 26.5.95 is liable to be set aside and quashed.

6.10. That the applicant further begs to state that as far as C.S.D. is concerned, the turnover is growing to the tune of 18 to 20% every year. The loading, unloading, Packing etc. are duties of regular nature in C.S.D. as long as procurement and issue continues the basic business of the Department. The Government Orders on the subject clearly says that the duties of permanent nature should be done by permanent employees only. Therefore decision of the Board of Control ~~has~~ abolition of posts of Packer and Marker and surrendering the employee to the Surplus Cell appears to be contrary in the Policy of declaration of surplus as well as the finding of the S.I.U. and their subsequent recommendation of abolition of posts of packer and Marker not in confirmity with the Policy of the Central Government and therefore the report of the ~~SI~~ S.I.U. is also liable to be set aside and quashed.

6.11. That the applicant begs to state that in spite of his best efforts could not procure a copy of S.I.U. report. Therefore the Hon'ble Tribunal be pleased to direct the respondents to produce a copy of S.I.U. repost for perusal of the Hon'ble Tribunal.

6.12. That this application is made bonafide and for the Course of justice.

Contd....P/9.

02/09/95

7. Relief sought for

Under the facts and circumstances stated above the applicant prays for the following relief :

1. That the letter under Ref. No. 3/Pers/A-1/1099(Surp) 2580 dated 26.5.95 (Annexure-1) and notice under letter No. Ref. No. 3/Pers/A-1/1099(Surp)/3291 dated 11.6.95 (Annexure-2) be set aside and quashed.
2. That the report of the staff inspection Unit to be set aside and quashed.
3. That the respondents be directed to allow the applicant to continue in service till the date of Superannuation as per normal rule.
4. That any other appropriate order or orders as deemed fit and proper may be passed.
5. Cost of the Case.

The above reliefs prayed on the following amongst other.

G R O U N D S

1. For that the decision of abolition of Posts of Packer and Marker in the C.S.D. and render them surplus are contrary to the Central Govt. Policy of declaration of surplus.
2. For that the decision of the Board of Central, Ministry of Defence, New Delhi for abolition of posts of Packer and Marker without considering C.S.D. proposal to adjust the surplus Staff with the C.S.D. itself is highly arbitrary, illegal and unfair. 8

Gontd...P/10.

अनुसूचित

3. For that reduction of regular employees allotted with permanent nature of work and allotting the same work on contract labour system is opposed to public policy and also not in continuity with the policy for declaration of surplus employee.

4. For that the report of the S.I.U. was submitted long back in the year 1985 which cannot be acted upon at this belated stage.

5. For the report of the ~~SK~~ S.I.U. did not consider allotment of existing work on contract labour system basis where the services of the Packer and Marker could have been utilised.

6. For that regular staff strength cannot be reduced when they are entrusted with permanent nature of works.

8. Interim reliefs prayed for

During the pendency of the case the applicant prays for the following interim relief :

1. That the Operation of the notice under reference No. 3/Pers/A-1/1099(Surp)/3291 dated 11.6.95 be stayed till final disposal of this application.

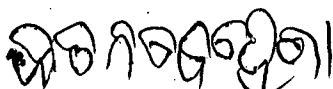
9. Details of remedies exhausted

That the applicant declare that they have availed of all the remedies available to them under the Service Rules etc.

10. Matters not pending with any Court etc.

The applicants further declares that the matters regarding which this application is made of is not pending.

Contd...P/11.


(Kiran Behra)

before any Court of Law or any authority or any other Bench of the Tribunal.

11. Particulars of the Postal Order.

1. Postal Order No. - 809327456
2. Date of Issue - 20.9.95
3. Issued from - Gauhati
4. Payable - Gauhati

12. Index of documents are enclosed

13. Enclosures

As per Index.

Handwritten signature or initials at the bottom of the page.

V E R I F I C A T I O N

I, Shri Kirtan Behra PN-3914 the applicatt in the Case as such I am acquainted with the facts & circumstances of this case. The Statement made in this application are true to my knowledge and belief.. I have not suppressed any material facts of the Case.

AND I signed the Verification on this the 18th day ^{October} of ~~September~~, 1995

Date 18.10.95

 (Kirtan Behra)

Signature.

Place - Guwahati.

ANNEXURE-A (Contd.)-1

(Contd.)

5. As per rule, in case a surplus employee refuses to accept the post offered to him, the action for redeployment should be treated as closed and he should be served with a notice for termination of service under the rules applicable to him.

6. In case any employee senior to the employees shown in Annexure 'A' to 'D' are willing to volunteer themselves for being declared surplus and transferred to the Surplus staff Establishment in accordance with the provision of the revised scheme for disposal of surplus staff they are also advised to give their option as per the proforma attached which should reach this Office by Speed Post on or before 30th June '95.

7. All DGHs/RNs/Depot Managers are requested to ensure that the contents of this circular is speciticial brought to the notice of the respective surplus declare staff working under their control and also give wide publicity to all concerned.

8. Please treat this circular as Most Urgent.

Sd/- N.R.VAID
Deputy General Manager (P&A)
for General Manager

cc : All DGHs/AGHS

cc: Pension Coll

Attested
[Signature]
(Advocate)

GOVERNMENT OF INDIA
MINISTRY OF DEFENCE
CANTEEN STORES DEPARTMENT
"ADELPHI" 119 B.K. ROAD
BOMBAY - 400 020.

24

Ref.No.: 3/Pers/A-1/1099(Surp)/3291

Date: 11 June '95.

SH. KRITAN BEHRA
PN-3914, PACKER (ORDINARY)
CSD DEPOT,
NARANGI

(THROUGH DEPOT MANAGER)

NOTICE

Shri. KRITAN BEHRA is hereby

informed that as it has been decided to abolish the post of PACKER (ORDINARY) held by him on permanent/~~regular~~ temporary/~~regular~~ Officiating basis, he is hereby declared surplus and transferred to the Surplus Staff Establishment of this Ministry/Department in accordance with the Revised Scheme for Disposal of Surplus ^{Staff} circulated with the Department of Personnel and Training O.M. No.1/18/88-CS.III dated 1.4.89, w.e.f. 19th May '95. His name and particulars have been reported to the Central (Surplus Staff) Cell in are being Special Cell

~~the Department of Personnel and Training~~ for taking Directorate General Employment and Training action to arrange redeployment to another appropriate Post in accordance with the provisions of the C.C.S. (Redeployment of Surplus Staff) Rules, 1990 (GSR-99(E) dated 28.2.90).

2. The surplus employee mentioned above is further informed that as per the provisions of the Revised Scheme referred to above, the post held by him in the Surplus Staff Establishment will stand abolished as soon as he is relieved (including in absentia) there from to join a new post arranged

Attested

: 2 :

for him by or in consultation with the Cell mentioned above.

3. The attention of the surplus employee mentioned above is also invited to the provisions of :-

- a) rules 29, 48-A of the CCS (Pension) Rules, 1972 and various clauses of Pt 56, under which, if he so desires, he can seek voluntary/premature retirement, as the case may be, subject to the provisions of the rule(s) elected by him for the purpose; and
- b) rule 6 of the C.C.S. (Redeployment of Surplus Staff) Rules, 1990, under which the surplus employees can, in certain specified contingencies, seek readjustment, after being redeployed.

4. He is further given notice under rules*5/rule*7 of the CCS(TS) Rules, 1965/clause(a) of sub-rule (2) of rule 39 of the CCS (Pension) Rules, 1972, that in the event of his failure to join the new post arranged for him his services will be deemed to have been terminated effective from the date of his being relieved from his post in the Surplus Staff Establishment. If the period between the date on which this notice is served on him and the date of his relief from his post in the Surplus Staff Establishment falls short of

~~one month~~ three months statutory notice prescribed in the rule mentioned above in this paragraph, he can, in the event of termination of his services becoming effective in the circumstances referred to above, claim payment ~~xxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx~~

* Delete whichever is in applicable.

Attested
[Signature]
Associate

of pay and allowances for the period of deficiency in the notice. He can also claim pensionary/terminal benefits as may be admissible under the rules.

5. The authority competent to terminate his services under the rule quoted in Para-4 above, may, if satisfied that the failure on the part of the surplus employee to join the post, which he was relieved to join, was for adequate reasons and there was no deliberate attempt on his part to evade joining the said post arranged for him, revoke the relieving order altogether or postpone the date of relieving him to any later date and in that event he should be deemed to have continued to be borne on the rolls of the Surplus Staff Establishment till the date when he is relieved there-from next.

N.K. Vaid

(N.K.VAID)
Dy. General Manager (P.S.)
for General Manager

CC : THE MANAGER,
CSD DEPOT,
NARANGII

CC : RM (E)
CC : DGM (F&A)
CC : 3/E-2
CC : 3/A-1
CC : P/FILE - 3914

Attested
[Signature]
Associate

कैंटीन स्टोअर्स विभाग

CANTEEN STORES DEPARTMENT

Narangal Depot

तार : कान्सीन्ड गुवाहाटी
टेलीफोन : मीली ७२७७
Telegram : CANSIND GAUHATI
Telephone : Mil 7277, Resi. : 7348
Telex : 0235, 3459 CASD IN

सी. एस. डी. डिपो, नारंगी
पोस्ट ऑ. सातगांव
गुवाहाटी (आसाम) ७८१०२७
CSD Depot Narangi
P. O. Satgaon
Guwahati-781027 (Assam)

संदर्भ Ref: **NGD/Sat-71/2029**

दिनांक Date: **10 June 95**

PH - 3914 Shri Kirtan Behra, Pawan (C)
PH - 4038 " Jiten Prasad Pawan (C)
PH - 4039 " Arjun Das Muzumdar
R. T. D. / Narangal Depot

**Sub : VOLUNTARY RETIREMENT
(SURPLUS STAFF)**

Reference HQ Cir. No. 3/pers/A-1/1099(Surp)/2580
dated 26th May 1995.

2. As per report of the Staff study of this Department as a whole a number of Staff in the Categories of Carpenters, Packers(Spl), Marker and Packer(Ord) have been declared surplus by Staff Inspection Unit.

3. In accordance with the above report and as per Annex. 'C' Sr. No. 3,4 and Annex. 'D' Sr. No. 5 to above circular, you are one amongst the aforesaid surplus declared Staff with opened option for you to "GO FOR VOLUNTARY RETIREMENT" as per existing Government Rules and apply accordingly in the enclosed proforma duly completed in all respect on or before 20th June 95, In case if not applied as above it will be automatically presumed that you are not interested for 'Voluntary Retirement' and you will be put into Surplus Cell, which please note.

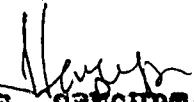
4. In this connection it is further clarified that, in case a surplus employee once offered an employment and he refuses to accept the post offered to him, your further chances for re-deployment will be treated as closed and you will be served with notice for termination as per rules.

Encl.: Proforma-1.

C.C. : The DGM (P&A)

: Sec.-6(Pension Cell)

For information
please.


(S. SENGUPTA)
M A N A G E R

Attested
Authorate

ANNEXURE - 4
SPEED POST

GOVERNMENT OF INDIA
MINISTRY OF DEFENCE
CARTEEN STORES DEPARTMENT
'ADELPHI' 119 M.K. Road
Bombay 400 020

Ref No. 3/Pers/A-1/1099 (Surp)/3094 Date 29 June '95

The Director General,
Employment & Training,
Ministry of Labour
New Delhi

SURRENDER OF SURPLUS CP. 'D' STAFF IN CSD.

Reference our letter No. 3/Pers/A-1/1099 (Surp)/
2468 dated 23rd May '95 and 3/Pers/A-1/1099 (Surp)/2904
dated 14th June '95.

2. With reference to our letter cited above it was intimated that we had surrendered 39 Marker and 25 Packer (Ord) as they have been rendered surplus in our department after study of SIU. However, one Marker is expired on 27.5.95. Therefore, the actual number of surplus staff being surrendered to you is 38 Marker and 25 Packer (Ord.).
3. The relevant details in respect of all the surplus staff is now forwarded to you in the prescribed proforma alongwith the list showing their names.
4. The proforma has been signed by the undersigned who has so been delegated by the Head of the Department ~~xxxxxx~~ required by rule. Copy of the delegation is also enclosed.
5. You are requested to kindly intimate your clearance for the surrender and subsequent re-deployment at an early date.

Sd/- N.K.VAID
Deputy General Manager (P&A)
for General Manager.

cc : The Manager
CSD Depot
MISAMERI

Attested
[Signature]
[Signature]

(20)

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25 OCT 1996
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Central Administrative Tribunal
केन्द्रीय प्रशासनिक अदालत
Gauhati Bench
গুৱাহাটী শাখা

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL:

GUWAHATI BRANCH:

GUWAHATI.

FILED BY:

Shourabati 20/10/96

(100)
Sr. Clerk
Central Administrative Tribunal
Guwahati

O. A. NO. 247/95

Sri Kirtan Behra

- Vs -

The Union of India & others.

IN THE MATTER OF:

Written Statements submitted

by the respondents NO. 1, 2 & 3.

WRITTEN STATEMENTS:

The humble Respondents beg to submit their Written Statements as follows :- .

- 1) That, with regard to the statements made in paragraphs 1, 2, 3, 4 & 5 of the application the Respondents have no comments.

- 2) That, with regard to the statements made in paragraphs 6.1 & 6.2 of the application the Respondents have no comments, the same being matters of record.

(Contd.)

24. 30

3) That, with regard to the statements made in paragraphs 6.3 of the application the Respondents beg to state that, the C.S.D. being a Government department the staff strength with comparison to work load is evaluated by staff Inspection Unit which is a legitimate body of Government of India for performing such professional/skilled evaluation. In the report the SIU has agreed to allow only 31 packers/Markers in 31 served depots. As such the applicant being junior one has been declared surplus which is in accordance with laid down rules and procedure of the Government of India on the subject.

4) That, with regard to the statements made in paragraph 6.4 of the application the Respondent beg to state that, in this department that is, C. S. D. hiring of the services of the contract labour was in practice from long time and SIU, after considering the work force on contract, has evaluated the necessity of the staff required in terms of the work load and job content available in the depot As such the claim of the applicant that this department has hired the services of the contract labour hence due to that he has been declared surplus is not at all correct and not acceptable also. The applicant is trying to mislead the Hon'ble CAT by making such confused statements which is requested not to be given any cognizance in this case. As per the SIU Recommendations further engagement of contract labour in this Depot has since ceased.

(Contd.)

99.31

5) That, with regard to the statements made in paragraph 6.5 of the application the Respondents beg to state that, every cadre of the staff is being given a specific nature of job which are to be performed by them. In the total staff study there are certain cadres which has been enhanced in the final report of SIU and the department considering such enhancement has referred the matter to the Government to absorb the surplus staff within the department. As such the contention of applicant that the respondents have not tried their level best to absorb the surplus staff within the department is not at all true and correct. On refusal of the Ministry for adjournment by way of wastage retirement there was no option left out with the Respondent except to refer the case of the applicant to the surplus cell to offer him substitute employment anywhere in the government sector. It is true that the applicant has already rendered 30 years of the services in the department but it is to clarify that the pensionary benefits to the applicant will be calculated in any of the government sector after considering the services rendered with the respondent. As such there will be no financial loss to the applicant under any circumstances.

6) That, with regard to the statements made in paragraph 6.6 of the application the Respondents beg to state that, the respondents have followed all rules and regularions while declaring the applicant surplus hence there is no discriminate, arbitrary, violative of principles of natural justice has taken place at any point of time.

(Contd.)

V.B. 92

7) That, with regard to the statements made in paragraph 6.7 of the application the Respondents beg to state that, the applicant was given the option to exercise to opt voluntary retirement or he will be referred to surplus cell as per the procedure. As the applicant has not opted for the voluntary retirement the respondent had no other option except to refer his name to the surplus cell which is in accordance with the existing rules and regulations .

8) That, with regards to the statements made in paragraph 6.8 of the application, the Respondents beg to clarify that as per the procedure the respondent has issued the said letter to the Director General Employment and Trainee, Ministry of Labour, New Delhi for their clearance. As such the Respondent have not initiated anything from their end which has violated any laid down instructions on the subject.

9) That, with regard to the statements made in paragraph 6.9 of the application, the Respondents beg to state that, in the ~~application~~ the foregoing para the applicant has questioned the authority of Staff Inspection Unit which is a legitimate body of Government for evaluating/recommending the staff strength in terms of the work load available in the government sectors. Regarding evaluation of cost effective operation, SIU team consists of professionals and experts whose recommendations ~~are~~ cannot be challenged/questioned under any prevailing rules/act. As such the contention of

(Contd.)

the applicant is not agreed and against the prevailing rules, as such should not be given any cognigence in this case.

10) That, with regard to the statements made in paragraph 6.10 of the application the Respondents beg to state that, as per the recommendation of the SIU and its approval by the competent authority which is President of India in this case, the Respondent have simply implemented the decision given by the Government, as such the respondent have a very limited role in this case. The abolition/creation in the government sector is a prerogative of SIU which is based on the study of material facts on ground. As such it cannot be challenged by any one and has to be accepted/ implemented in its true terms.

11) That, with regard to the statements made in paragraph 6.11 of the application the Respondents beg to state that, the copy of SIU Report which was approved by the competent authority and accordingly reproduced by the department which is annexed to this reply as Annexure 'A' for the perusal of the Hon'ble ~~CA~~ CAT.

In this matter kind attention of Hon'ble CAT is drawn to the judgment dated 19-1-96 of CAT Bombay in O.A. 1441/95 filed by Sh. GD. Atkari,

(Contd.)

75 . . 34

Packer (SPL.) whose copy is annexed herewith as Annexure - 'B' to this reply. In this Sh. CD Atkari, the applicant in OA has prayed the Hon'ble CAT, Mumbai for interim order to direct the respondents to desist themselves by declaring him as surplus staff in terms of SIU report. The Hon'ble CAT Mumbai after listening to the counsels of both sides has refused to grant interim relief to the applicant.

In light of the above it is humbly requested that the relief sought for by the applicant should not be given as it will adversely affect the Government exchequer because as on date there is no work available for the applicant and it is in the interest of the Nation to utilise the services of any Government employee at any appropriate place where output can be achieved by the services of the applicant. As such this application is liable to be dismissed on its merits with its cost.

12) That, with regard to the statements made in paragraph 6.12 of the application the Respondents beg to state that the same are not correct and hence denied.

13) That, with regard to the statements made in paragraph 7 of the application regarding the reliefs sought for the Respondents beg to state that the applicant is not entitled any of the reliefs sought for and hence the application is liable to be dismissed.

14) That, with regard to the statements regarding the grounds of the application the Respondents beg to state that, non of the grounds is maintainable in law as well as in fact and as such the application is liable to be dismissed.

15) That, with regard to the statements made in paragraph 8 of the application regarding the interim reliefs sought for, the Respondents beg to state that in view of the facts and circumstances of the case narrated above, the applicant is not entitled to get any interim relief and hence the application is liable to be dismissed.

16) That, with regard to the statements made in paragraphs 9,10,11,12 & 13 of the application the Respondents have no comments.

17) That with regard to the statements made in the submissions of the application, the Respondents beg to state that, the same have no merrit and as such the application is liable to be dismissed.

(contd...8)

VF 36

V E R I F I C A T I O N

I, Commander S.Kamal Krishnan, Dy.Gen.Manager(P&A) Canteen Stores Department, Mumbai being competent to file these Written Statements do hereby solemnly declare that the statements made in this Written Statement are true to my knowledge, belief and information.

I sign this verification on this 13th day of Sep 1996 at Mumbai.



(S. KAMAL KRISHNAN)
Commander
Dy. Gen. Manager (P&A)