

30/10/00
CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH
GUWAHATI-05

(DESTRUCTION OF RECORD RULES, 1990)

INDEX

O.A/T.A No. 169/95

R.A/C.P No.

E.P/M.A No.

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SECTION OFFICER (Judl.)

Kalita

6.2.18

CENTRAL ADMINISTRATIVE TRIBUNAL : GUWAHATI BENCH : GUWAHATI

ORIGINAL APPLN. NO.	169	OF 1995
TRANSFER APPLN. NO.		OF 1995
CONT EMPT APPLN. NO.		OF 1995 (IN NO.)
REVIEW APPLN. NO.		OF 1995 (IN NO.)
MISC. PETITION NO.		OF 1995 (IN NO.)

..... B. Magistrate No. (2947) APPLICANT(S)

-vs-

..... M. O. I. Toms. RESPONDENT(S)

For the Applicant(s) ... Mr. B.K. Sharma

Mr. B. Mehta

Mr. S. Sarma

Mr.

Mr. G. Sarma, Addl. C.G.S.C.

For the Respondent(s)

OFFICE NOTE

DATE

ORDER

This application is in
form and within time.
C. F. of Rs. 50/-
deposited vide
IPO/BD No. 32221
Dated 30.8.95

13.9.95

Issue notice to the respondents
to show cause as to why the application
be not admitted and interim relief as
prayed be granted. Returnable on 9.10.95.

Mr G. Sarma, Addl. C.G.S.C seeks to
appear at this stage for the respondent.
However, notice be directly issued to the
respondents. Ld. Addl. C.G.S.C to file
memo of appearance.

60 Member

60 Vice-Chairman

12-9-95

Passed over for the
day for admission

BSC

P9

17.10.95

Mr. M. Chanda for Mr B.K. Sharma.

Mr G. Sarma, Addl. C.G.S.C for respon-
dents.

Adjourned to 30.10.95. Liberty to
file show cause reply in the meantime.

60 Member

60 Vice-Chairman

Requirements are yet
to be seen.

P9

(contd. to Page No. 2)

OFFICE NOTE	DATE	ORDER
Requirements are given on 25.9.95 Adjourned to 16.10.95	30.10.95	Mr. S. Sarma for the applicant. Mr. G. Sarma, Addl. C.G.S.C for the respondents. Adjourned to 16.11.1995.
29/10	pg	full Vice-Chairman
Notice sent on R. no. 1, 2 & 3.	3.11.95	Adjourned to 15.12.1995 for orders.
10/11	pg	6 Member full Vice-Chairman
15-12-95 Adjourned to 12-2-96 for orders	12-02-96	Mr. B. Mehta/ Mr. G. Sarma, Addl. CGSC. One month for written statement granted. Adjourned for orders to 25/3/96.
18/12	pg	6 Member full Vice-chairman
Shri Committee not summoned	25.3.96	None for the applicant. Written state- ment has been submitted. Learned Addl. C.G.S.C Mr. G. Sarma is present for the respondents. Case is ready for hearing. List for hearing on 23.5.96.
16.2.96 W/S on behalf of respondents informed	pg	6 Member

OFFICE NOTE

DATE

ORDER

23.5.96

M/S B.Mehta and S.Sarma for the applicant. Mr G.Sarma, Addl.C.G.S.C for the respondents.

List for hearing on 28.6.96.

ba
Member

pg

28-6-96

Leave note of Mr.B.K.Sharma. Mr.G.Sarma Addl.C.G.S.C. for the respondents.

List for hearing on 26-7-96.

ba
Member

pg

26.7.96

None present.

Written statement has been submitted. Copy of the same may be served on the opposite party.

List for hearing on 23.8.96.

ba
Member

trd

23.8.96

Mr S.Sarma for the applicant. List for hearing on 19.9.96.

ba
Member

pg

M
23/8

QA/TA/CP/RA/MP No. of 19

(4)

OFFICE NOTE	DATE	ORDER
W/S. his sum filed	19.9.96	Mr G. Sarma, learned Addl. C.G.S.C. for the respondents. List for hearing on 17.10.96.
	nkm M/20/9	60 Member
W/S. his sum filed	17.10.96	Mr G. Sarma, Addl. C.G.S.C. for the respondents. List for hearing on 5.12.96.
	pg M/17/10	60 Member
W/S. his sum filed	7-5-97	Learned counsel for the parties submit that this case is ready for hearing. Let this case be listed for hearing on 27-6-97.
	1m M/8/97	60 Member
W/S. his sum filed	27.6.97	D. B. is not sitting. Adjourned to 1-8-97. A hearing.
	1.8.97	By order.
W/S. his sum filed		Mr. S. Sarma, learned counsel appearing on behalf of the applicant submits that certain development has taken place and he needs a fortnight time for that purpose. Therefore, accordingly we adjourn the case till 1.9.97
		List it on 22.9.1997.
		60 Member
		60 Vice-Chairman

trd 21/9

22.9.97

Heard the learned counsel for the parties. Hearing concluded. Judgment delivered in open court, kept in separate sheets. The application is closed.

13.10.97
Copy of the Judgment
has been sent to the
Parties on 21.10.97
9156 on 31.9.97 1.3.10.97

nkm


Member


Vice-Chairman

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH :::: GUWAHATI-5.

O.A. NO. 169 of 1995
T.A. NO.

DATE OF DECISION 22.9.1997

Shri Brijalal

(PETITIONER(s))

Mr B.K. Sharma and Mr S. Sarma

ADVOCATE FOR THE
PETITIONER (s)

VERSUS

Union of India and others

RESPONDENT (s)

Mr G. Sarma, Addl. C.G.S.C.

ADVOCATE FOR THE
RESPONDENT (s)

THE HON'BLE MR JUSTICE D.N. BARUAH, VICE-CHAIRMAN
THE HON'BLE MR G.L. SANGLYINE, ADMINISTRATIVE MEMBER

1. Whether Reporters of local papers may be allowed to see the Judgment ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the judgment ?
4. Whether the Judgment is to be circulated to the other Benches ?

Judgment delivered by Hon'ble Vice-Chairman



6

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No.169 of 1995

Date of decision: This the 22nd day of September 1997

The Hon'ble Mr Justice D.N. Baruah, Vice-Chairman

The Hon'ble Mr G.L. Sanglyine, Administrative Member

Shri Brijlal, No.2 Marker,
Office of the Manager, C.S.D.,
Missamari, Sonitpur, Assam.

.....Applicant

By Advocate Mr B.K. Sharma and Mr S. Sarma.

-versus-

1. The Union of India, through the
Under Secretary to the Govt. of India,
Ministry of Defence,
New Delhi.

2. The General Manager,
Government of India, Ministry of Defence,
Canteen Stores Depot,
Bombay.

3. The Regional Manager,
Canteen Stores Depot,
Narengi, Guwahati.

4. The Manager,
Canteen Stores Depot,
Missamari, Sonitpur, Assam.

.....Respondents

By Advocate Mr G. Sarma, Addl. C.G.S.C.

.....

O R D E R

BARUAH.J. (V.C.)

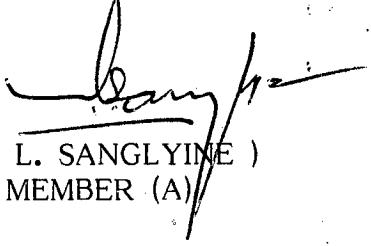
In this application the applicant has challenged Annexure-A order dated 26.5.1995 and Annexure-B order dated 11.6.1995 rendering him surplus. During the pendency of the application the applicant was allowed to continue in his service and presently he is posted at Missamari.

2. We have heard Mr B.K. Sharma, learned counsel for the applicant and Mr G. Sarma, learned Addl. C.G.S.C. Mr B.K.

[Signature]

Sharma submits that the authority has now offered an appointment to the applicant by letter under reference No.3/Pers/A-1/1099/2789 dated 5.6.1997. By the said letter written by the Assistant Manager(P) for General Manager, Canteen Stores Department, Mumbai, the applicant was been offered alternative employment for which option was also called for. The applicant has already exercised his option for place of posting at CSD Depot, Lucknow, and if not at Missamari CSD Depot, as asked for.

3. In view of the above, in our opinion, there is no ground to proceed with the case. Therefore, we close the application. However, if the authority does not act upon as assured, the applicant shall have the liberty to approach this Tribunal, if so advised.


(G. L. SANGLYINE)
MEMBER (A)


(D. N. BARUAH)
VICE-CHAIRMAN

31 AUG 1995

450

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH : GUWAHATI

3. Public
To
10/8/95

An application under Section 19 of the
Administrative Tribunals Act, 1995.

O.A. No. 169 95

Sri Brijlal No. 2

.... Applicant

Vs.

Union of India & Ors.

.... Respondents

I N D E X

Sl.No.	Annexure	Particulars	Page No.
1	-	Application	1 to 12.
2	-	Verification	13.
3	Annexure-A	Letter dated 26.5.95	14. to 15B
4	Annexure-B	Letter dated 11.6.95	16. to 18.
5	Annexure-C	Letter dated 20.6.95	19.
6	Annexure-D	Letter dated 29.6.95	20.

Ree *Sambhu*
Gupta & Co
CAT
447
30-8-95

Filed By :

Advocate

Brijlal

File by Mr. Applicant
Brijlal
20-8-95
B. Brijlal
A.P.O. 200020

1. Particulars of the applicant.

1. Sri Brijlal No. 2 (4120) ~~4120~~

Marker

Office of the Manager, C.S.D.

Missamari, Sonitpur,

Assam

2. Particulars of the Respondents

1. Union of India

Through Secretary to the Govt. of India

Ministry of Defence

New Delhi

2. The General Manager

Govt. of India

Ministry of Defence

Canteen Stores Depot

'A D E L P H I ' 119 M.K.Road

Bombay-400020

3. Regional Manager

Canteen Stores Depot

Narengi, Satgaon

Guwahati

4. The Manager

Canteen Stores Depot

Missamari, Sonitpur

Assam

Brijlal

3. Particulars for which the application is made.

This application is made against the decision communicated under letter No.3/Pers/A-1/1099(Surp)/2580 dated 26th May, 1995 and notice issued under Reference No. 3/Pers/A-1/1099(Surp)/3265 dated 11th June, 1995 whereby decision of rendering the applicant ~~is declared~~ surplus and with the prayer to continue the applicant till the date of superannuation.

4. Jurisdiction

That the applicant declares that the cause of this case is arisen within the jurisdiction of the Tribunal.

5. Limitation

That the applicant declares that the case is filed within the limitation of the Administrative Tribunals Act.

6. Fact of the case

6.1 That the applicant is a citizen of India and as such he is entitled to all the rights and privileges guarantee by the Constitution of India. The applicant is presently serving as ~~Marker~~ in the Canteen Stores Department (in short C.S.D.), Missamari, under the Manager, C.S.D. Ministry of Defence, Missamari, Assam.

6.2 That the applicant is initially appointed as Mazdoor, and joined the department on 24.12.65, thereafter he was found suitable for promotion for the post of

Bruil

Marker, and accordingly, promoted to the post of Marker in the pay scale of Rs. 800-15-1010-EB-20-1150 and the applicant continuously serving as Marker, under the Canteen Stores Department.

6.3 That the duties of the Packer's, Marker in the Canteen Stores Department - particularly Marker, entrusted with the job of Marking the different items of goods, received and distributed in different units of the Canteen Stores through the Canteen Stores, Misamari.

6.4 That the Staff Inspection of Unit (SIU in short) 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.

6.5 That the applicant begs to state that the recommendation of SIU for abolition of the posts of Packer and Marker, in the C.S.C. especially based on the report, when it is found, that most of the regular nature of work, in C.S.D. are being performed by the contract labour in C.S.D. Therefore, the SIU team have recommended for abolition of the post of Packer & Marker, in the Canteen Stores Department. This fact would be evident from the report of the SIU team, the SIU team appears to be influenced that a good amount of works which are supposed

to be performed by Packer and Marker are being done through contract labour, by the authorities of the C.S.D. for the reasons 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 SIU 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 a 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 serving and Packer and Marker.

Therefore, decision communicated under letter No. - Ref No. 3/Pers/A-1/1099(Surp)/2580 dated 26.5.95 is highly illegal, arbitrary and unfair and the same is liable to be set aside and quashed.

A copy of the letter dated 26.5.95, is enclosed as Annexure-A.

6.6. That under letter 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, Depots, Bombay Base and CSD H.O. conducted by the SIU a number of staff in the categories of Carpenters, Packer (SPI), Marker, and

Printed

Packer (Ordinary) have been rendered surplus,

It is stated in the aforesaid letter, that in order to adjust the above, surplus staff within CSD itself, the Canteen Stores, Department, had taken up the case with the Board of Control New Delhi but they have not agreed and directed to ~~immediately~~ 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 CSD HO 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 CSD 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 the 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 readjustment of proposed surplus staff as per opinion of the Canteen Stores Department, but the Board of Control, New Delhi, Ministry of Defence did not reconsider this aspect of the proposal of the

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Canteen Stores Department and they have arbitrarily taken this illegal action of rendering surplus the Employees working as Packer Marker in the CSD. Be it stated that the present applicant have rendered more than 28 years of service in the establishment of respondents.

6.7 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 as the junior person than the applicant also retained in the service whereas applicant being a senior employee of the CSD has been illegally declared surplus. It would be evident from the Annexure-A where the list of surplus Marker enclosed by the Ministry of Defence in their letter dated 26.5.95 and the Respondent No. 5 Sri B.B. Sadaphule who is serving as Marker in the Canteen Stores Department in Bombay area and junior to the applicant has not been declared surplus. The service particulars of the applicant and Respondent No. 5 are given below:

Sl. No.	Name	Date of joining in the Deptt.	Date of promotion to the Gr. of Marker
1	Sri Brijlal No.294120	24.12.65	14.4.71
2	Sri B B Sadaphule (4003)	22.8.66	1.7.90

From the above table it appears that the Respondent No. 5 who is junior to the applicant in the service in the C.S.D.



have not been declared surplus for the reason best known to the respondents. 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)/3265 dated 11.6.95 is highly illegal, arbitrary and the same is liable to be set aside and quashed.

A copy of the Notice dated 11.6.95 is annexed as Annexure-B.

6.8 That vide letter No. MMB/EST/PN-4120/464 dated 20th June 1995 issued by the Manager C.S.D. Misamari Depot whereby the applicant is asked, wherther he is interested for voluntary retirement and further stated if he is interested for voluntary retirement in that event ~~maximum~~ request for voluntary retirement should reach by 30.6.95, othersie he would be surrendered to surplus cell for redeployment but the applicant did not opt for voluntary retirement.

A copy of the letter dated 20.6.95 is enclosed as Annexure-C.

6.9 That the applicant further begs to state that the C.S.D. vide their letter under reference No. 3/pers/A-1/1099(Srup)/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

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after study of staff Inspection Unit (SIU) and it is further stated that out of 39 one marker is expired on 27.5.95. Therefore the accrual number of marker surrender strength to 38 and 25 packer (ordinary). It is also requested to intimate his clearance for the surrender and subsequent redeployment as an early date.

A copy of the letter dated 29.6.95 is enclosed as Annexure-D.

6.10 That the whole scheme of abolition of posts Marker and Packer have been done illegally 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 works done through contract labour by the respective Stores Depot and the proposal of the Department for getting the work of Packer and Marker 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 No dt. 26.5.95 is liable to be set aside and quashed.

6.11 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 and the proportionate increased in the volume of work also exist as mentioned

Brijil

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S.I.U. team in their report, duties of regular nature are performed by the contract labour in C.S.D. and hence they recommended reduction in strength. If the C.S.D. administration entered into Labour Contract System it must have been in the personal interest of the officers who decided to do so and not in the wider interest of the Department but the same is being done at the cost of the employees like the applicant, loading, unloading, packing etc. are duties of regular nature in CSD 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 pri nature should be done by permanent employees only. Therefore decision of the Board of Control for abolition of posts of Packer and Marker and surrendering the employees to the Surplus Cell appears to be contrary in the plicy 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 S.I.U. is also liable to be set aside and quashed.

6.12. 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. report for perusal of the Hon'ble Tribunal.

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6.13 That this application is made bonafide and for the cause of justice.

7. Reliefs sought for

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

1. That the letter under Ref. No. 3/Pers/A-1/1099 (Surp) 2580 dated 26.5.95 (Annexure-A) and Notice under letter No. 3/Pers/A-1/1099 (Surp)/ 3265 dated 11.6.95 (Annexure-B) be set aside and quashed.
2. That the report of the Staff Inspection Unit 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.

Arul

2. For that the decision of the Board of Control, 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. itslef is highly arbitrary, illegal and unfair.

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 declaratiin of surplus employee.

4. For that the Respondent No. 5 is junior to the applicant but retained in service, therefore the same is violative of Articles 14 and 16 of the Constitution of India.

5. 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.

6. For the report of the S.I.U. did not consider alltoment ofexisting work on contract Labour System basis where the services of the Packer and Marker could have been utilised.

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

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8. For that the decision of the Hon'ble Tribunal in the case of Sri D.C. Medhi Vs. U.O.I & Ors. is applicable in the instant case.

8. Interim reliefs prayed for

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

1. That the operation of the notice under Reference No. 2/Pers/A-1/1099 (SURP)/3265 dated 11.6.95 be stayed till final disposal of this application.

The above relief is prayed on the grounds explained in para 7 above of this application.

9. That the applicant declares that he has not filed any case before any Court/Tribunal

10. That there is no any other rule/law save and except filing this application before this Hon'ble Tribunal.

11. Particulars of the Postal Order

1. Postal Order No.	: 09 327221
2. Date of Issue	: 30.8.95
3. Issued from	: G.P.O., Guwahati
4. Payable at	: G.P.O., Guwahati

12. Index of documents are enclosed

13. Enclosures

As per Index

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VERIFICATION

I, Sri B.P.Lal the applicant in this case as such am acquainted with the facts & circumstances of this case. The statements made in this application are true to my knowledge and belief. I have not suppressed any material fact of the case.

And I signed the verification on this the 28th day of August, 1995.

Date : 30-8-95

Place : Guwahati

Prinice
PINO \$120
MARKER
Signature

(Bnizlal no 2)

Prinice

ANNEXURE - A

24

GOVERNMENT OF INDIA
 Ministry of Defence
 Canteen Stores Department
 'Adelphi' 119 M.K.Road
 Bombay-400 020

Ref. No. 2/Pers/A-1/1099 (Surp)/2580 Dated 26th May '95

All Managers/Regional Managers

VOLUNTARY RETIREMENT (SURPLUS STAFF).

As per report on the staff study on 31 Area depots, Bombay Base and CSD HO 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 CSD itself, we had taken up the case with Board of Control New Delhi/Ministry, but they have not agreed and agreed to initiate immediate action and surrender the surplus staff to the surplus cell. As per the laid down rules, the staff rendered surplus due to above study are to be sent to surplus cell for redeployment to other Govt. Departments. The notice to the Surplus Cell has already been issued and further action is under progress.
3. The name of the employees who are rendered surplus due to SIU study in each category are enclosed herewith as Annexure A, B, C & D to this Circular.
4. In case any employee (declared surplus as per Annexure A to D) wish to opt for voluntary retirement as per existing Govt. rules, he may apply for the same through Depot Manager/Regional Manager. The request should reach HO latest by 30th June, 95, otherwise it will be presumed that the employee is not interested for voluntary retirement and will accordingly be surrendered to the Surplus Cell for redeployment by them.

Attested.

Advocate.

Bruce

ANNEXURE-A (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 DGMs/RMs/Depot Managers are requested to ensure that the contents of this circular is specifically brought to the notice of the respective surplus declared staff working under their control and also give wide publicity to all concerned.

8. Please treat this circular as Most Urgent.

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

cc : All DGHs/AGHs

cc: Pension Cell

Attested.
 Advocate.

Bruice

✓
 ANNEXURE 'C' to Circular
 No. 3/Pers/A-1/1059(Surp) / 2580
 Date : 26th May '95.

MARKER

Sr. No.	P. No.	Name	Date of Birth	Date of joining	Date of Appt/Pro- motion to the Present grade	Whether SC/ST	Installation	Basic Pay as on	Retirement on super- annuation	Remarks
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)
1)	3336	Shri. Tulsi Ray	05.07.44	07.07.67	22.03.91		Bareilly	Rs.1070/- 01.01.95		31.07.2004
2)	4055	" K. Shankar	07.07.46	04.07.67	22.03.91		Madras	Rs.1070/- 01.04.95		31.07.2005
3)	4039	" Arjun Das	01.07.45	12.04.67	22.03.91		RTD Marangi	Rs.1050/- 01.05.95		30.06.2005
4)	4038	" Jiten Prasad	22.01.49	01.04.67	22.03.91		RTD Marangi	Rs.1050/- 01.12.94		31.01.2009
5)	4037	" Mahendra Pandit	2.01.49	01.04.67	22.03.91		Jaipur	Rs.1050/- 01.04.95		31.01.2009
6)	4161	" Devaraj	05.05.48	16.05.72	17.09.90	SC	Madras	Rs.1050/- 01.12.94		31.05.2006
7)	4035	" Shrigunath Prasad	12.05.45	01.04.67	17.09.90		Bikaner	Rs.1050/- 01.12.94		31.05.2005
8)	4034	" Trinath Hule	01.07.43	01.04.67	17.09.90		Vizag	Rs.1050/- 01.09.94		30.06.2003

Attested.

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(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)
9.	4023	Sh.R.C.Hari Singh	03.09.47	02.01.59	17.09.90	Gen	RTD E.B.Bari	Rs.1050/- 01.11.94	30.09.2007	
10.	4182	Sh.Hari Ram Janatha	03.05.51	12.05.72	01.07.90	SC	Srinagar	Rs.1050/- 01.07.94	30.05.2001	
11.	4117	Sh.Shiv Ram	12.03.50	16.08.71	01.07.90	SC	Udhampur	Rs.1050/- 01.08.94	31.03.2010	
12.	4022	Sh.K.G.Saindas	05.12.46	02.01.57	01.07.90	Gen	Pathankot	Rs.1050/- 01.07.94	31-12.2005	
13.	4018	Sh.Ajit Singh	05.01.42	02.01.57	01.07.90	Gen	Pathankot	Rs.1050/- 01.07.94	31.01.2002	
14.	4008	Sh.Desh Raj Mishra	01.07.43	23.11.55	01.07.90	Gen	Ramgarh	Rs.1050/- 01.09.94	30.05.2003	
15.	4004	Sh.Dorji Gelop	31.05.42	01.09.55	01.07.90	SC	Leh	Rs.1050/- 01.07.94	31.05.2002	
15.	3955	Sh.Donger R.Singh	15.10.44	01.02.66	01.07.90	Gen	Agra	Rs.1050/- 01.09.94	31.10.2004	
17.	3028	Sh.Ram Prasad	09.07.42	01.09.55	01.07.90	Gen	Jhansi	Rs.1050/- 01.9.94	31.07.2002	
18.	3909	Sh.Girina Prasad	01.07.43	01.08.55	01.07.90	Gen	Agra	Rs.1050/- 01.07.94	30.05.2003	
19.	3907	Sh.Ram Eahadur	01.07.42	01.08.55	01.07.90	Gen	Dimapur	Rs.1050/- 01.07.94	30.05.2002	
20.	3501	Sh.A.R.Khan	01.07.40	01.08.55	01.07.90	Gen	Calcutta	Rs.1050/- 01.07.94	30.05.2000	

15B

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)
21.	3882	Sh. Gauri Roy	05.02.43	15.03.55	01.07.90	Gen	Calcutta	Rs. 1050/- 01.10.94	28.02.2003	
22.	3853	Sh. B. R. Shinde	01.10.40	01.12.54	01.07.90	Gen	Khadki	Rs. 1050/- 01.09.94	30.09.2000	
23.	3788	Sh. Sanju R. Patil	01.01.44	01.08.54	01.07.90	Gen	E' Base	Rs. 1050/- 01.08.94	31.12.2003	
24.	3850	Sh. B. V. Minde	01.07.44	01.12.54	22.02.89	Gen	E' Base	Rs. 1090/- 01.02.95	30.05.2004	
25.	3858	Sh. S. X. Patil	01.01.44	01.12.54	22.02.89	Gen	E' Base	Rs. 1090/- 01.05.95	31.12.2003	
25.	3855	Sh. Nanku Rampal	12.11.42	01.12.54	22.02.89	Gen	E' Base	Rs. 1110/- 01.04.95	30.11.2002	
27.	3845	Sh. N. F. Chander	10.05.37	01.12.54	22.02.89	Gen	E' Area	Rs. 1110/- 01.02.95	30.05.1997	
28.	3792	Sh. R. M. Kakade	28.09.45	01.08.54	22.02.89	Gen	Khadki	Rs. 1090/- 01.01.95	30.09.2005	
29.	3750	Sh. Satyya K. M.	10.04.42	01.07.54	12.12.84	Gen	Sec'bad	Rs. 1030/- 01.12.94	30.04.2002	
30.	3578	Sh. Rattan Kumar	10.02.42	20.03.62	15.07.81	Gen	Meerut	Rs. 1070/- 01.09.94	28.02.2002	
									4/-

Attested.

/s/

Advocate.

(1)	(2)	(3)	(4)	(5)	(5)	(7)	(8)	(9)	(10)	(11)
31.	3150	Sh. Madan Lal	09.08.58	23.11.57	15.07.81	Gen	Lucknow	Rs. 1070/- 01.10.94	31.08.1998	
32.	3981	Sh. Om Prakash Pal	20.04.48	20.04.55	14.04.71	Gen	Jalandhar	Rs. 1150/- 01.05.94	30.04.2008	
33.	4120	Sh. Brijlal No.2	01.07.47	24.12.55	14.04.71	Gen	Misamari	Rs. 1150/- 01.04.95	30.05.2007	
34.	3925	Sh. Jaswant Singh	01.08.44	05.18.55	14.04.71	Gen	Delhi	Rs. 1150/- 01.05.94	31.07.2004	
35.	3920	Shri. Sohanlal	10.05.42	14.10.55	14.04.71	SC	Delhi	Rs. 1150/- 01.04.94	31.05.2002	
36.	3755	Sh. Jagdish Saran	01.01.45	21.07.54	14.04.71	Gen	Delhi	Rs. 1150/- 01.04.94	31.12.2004	
37.	3575	Sh. C. A. Bernard	08.02.41	15.03.52	14.04.71	Gen	Bangalore	Rs. 1150/- 01.01.94	28.02.2001	
38.	3551	Sh. James Ambrose	18.02.41	20.07.59	14.04.71	Gen	Bangalore	Rs. 1150/- 01.01.94	28.02.2001	
39.	3725	Sh. Ram Narayan	08.01.47	04.10.53	14.04.71	Gen	Agra	Rs. 1150/- 01.05.94	31.01.2007	

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

Ref No. 3/Pers/A-1/1099 (Surp)/3265 Date : 11 June '95

SH. BRIJLAL NO. 2
 PN-4120, MAKER
 CSD DEPOT
 MISAMARI

(THROUGH DEPOT MANAGER)

NOTICE

Shri BRIJLAL No. 2 is hereby informed that as it has been decided to abolish the post of MARKER held by him on permanent 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 Special Cell in the Department of Personnel 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 for him by or in consultation with the Cell mentioned above.

Brijlal

Advocate

ANNEXURE - B (Contd.)

31

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 FR 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 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

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

Attested.

A.
Advocate.

Prinid

ANNEXURE-B (Contd.)

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 would 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.

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

C.C. THE MANAGER
CSD DEPOT
MISAMARI

Attest.
A.

Advocate.

Brice

ANNEXURE-C

Govt. of India
 Ministry of Defence
 Canteen Stores Department
 Misamari Depot

Misamari (Cantt)
 Assam 784506

MMD/EST/PN-4120/464

Date : 20 June 95

PN 4120
 Shri Brizlal, Marker
 C.S.D.Depot, Misaamari

Sub : VOLUNTARY RETIREMENT (SURPLUS STAFF)

Reference No. Circular No. 3/Pers/A-1/1099
 dated 26.5.95.

Since your name has been enlisted in the surplus staff list received as per Annexure 'A' to 'D' of the above circular. You may opt for voluntary retirement as per Govt. rules. Your request for voluntary retirement shoud reach HO by 30th Jun'95. Otherwise it will be presumed that you are not interested for voluntary retirement and accordingly you will be surrendered to 'the surplus Cell for re-deployment.

It is further mentioned that any surplus employees if refuses to accept the post offered to him by the Surplus Cell the action for -redeployment will be treated as closed and such employees will be served with a notice for termination of service under the rules applicable to him.

Sd/- O.P.CHANDNA
 MANAGER

cc : HO Sec 3 -, For information, please

Attested.
 M.
 Advocate.

Brizlal

ANNEXURE - D

SPEED POST

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

Ref No. 3/Pers/A-1/1099 (Surp)/3084 Date 29 June '95

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

SURRENDER OF SURPLUS GP. '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.

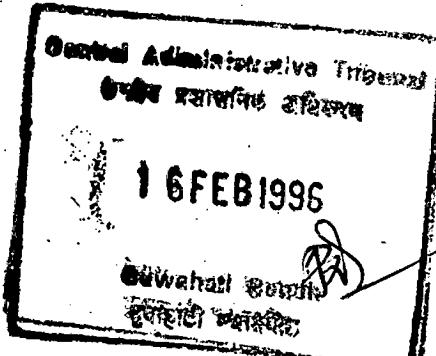
Sd/- N.K.VAID
 Deputy General Manager (P&A)
 for General Manager

cc : The Manager
 CSD Depot
MISAMARI

Witnessed
M.

Advocate

Praveen



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH

In the matter of :

O.A.No.169/95

Shri Brijlal

...Applicant.

-Vs-

Union of India & Ors. ...Respondents.

- AND -

In the matter of :

Written Statement on behalf of

the Respondents.

I, Shri N.K.Vaid, Regional Manager(East),
Canteen Stores Department, C.S.D.Depot Complex,
Satgaon, Guwahati do hereby solemnly affirm and
declare as follows :-

1. That a copy of application in connection
with the above noted case alongwith an order passed
by this Hon'ble Tribunal have been served upon the
Respondents and myself being authorised to contest
the case.....

30/5/96

the case on behalf of the respondents do hereby file the written statement and say categorically that save and except what is admitted in this written statement, rest will be total denial by all the Respondents. Further, I beg to state that before I go for para-wise comment I make back ground of the case in brief which will constitute part and parcel of this written statement.

Back Ground of the case in Brief

That a study for manpower requirement was conducted by Staff Inspection Unit of the Ministry of Finance (Department of Expenditure) during the year 1991 in 31 Area Depots and submitted their report vide ON No.15/1/(91)/(K)/SIU dtd.23-4-91 as reproduced in CSD order 4/92 dated 14-12-92 hereto annexed as Annexure R-1.

The study group of SIU observed that there were post viz. Carpenters, Packers, Markers etc., which were created in olden days when the supply of stores used to be mostly in big cartages and demand of the Units used to be less than a full crate. So, lot of work used to be there for opening, repacking, marking etc. But now goods are supplied in small cartons made of card board. The size of items demanded has also increased to the extent that very little items are supplied in loose. Even whatever is issued as loose does not.....

does not require the services of all these categories of staff. The requirement of Carpenter, Packer and Marker was discussed in detail and it was agreed that there was not enough work for these posts. However, it was felt that on functional basis some posts would be required. Therefore, it was agreed that these posts be clubbed in all 62 posts be allowed to continue. Since the pay scales of these 3(three) categories of posts are not identical i.e. the scale of Carpenter is Rs.950-1500 whereas the scale of Packer and Marker is Rs.800-1150 and these posts are to be allowed on functional basis, the member of these 2 posts have been allowed is 1:1 ratio i.e. 31 Carpenter and 31 Packer/Marker in 31 surveyed depots.

2. That with regards to the contents made in paragraphs 4 & 5 of the application, I beg to state that I have nothing to comment.

3. That with regards to the contents made in paragraphs 6.1. to 6.3 of the application, I beg to state that it is true that the applicant has joined the department as Mazdoor and promoted as Marker due to his seniority and approved by the DPC.

4. That with regards to the contents made in paragraphs.....

paragraphs 6.4 to 6.6. of the application, I beg to state that this department is a Government department hence Staff Inspection Unit has conducted study in 1991, the study of staffing pattern in terms of the work load and as per the report submitted and approved by the competent authority, they have agreed to allow only 31 Packers/Markers in 31 surveyed depots and as such the applicant was declared surplus which is not at all victimisation. However, they have been offered to opt voluntary retirement or their names should be forwarded to surplus cell of Govt. of India which is in accordance with the existing Government Rules.

5. That with regards to the contents made in paragraph-6.7 of the application, I beg to state that it is clarified that the applicant is declared surplus correctly and there is no discrimination taken place while taking the final decision in this subject. Shri B.B.Sadaphule, Marker who is junior to the applicant has not been declared surplus is not correct. The said employee is also declared surplus. His details has already been sent to surplus cell in the prescribed proforma and has also issued notice on him.

6. That with regards to the contents made in paragraph-6.8, I beg to state that these being matter of fact do not require comments.

Contd.....

7. That with regards to the contents made in paragraph-6.9 of the application, I beg to state that in compliance to the directions of the Ministry as communicated vide BOCCS letter No.95279/BOCCS/Vol-III dtd. 1st May,1995 the competent authority has approved surrender of the following Gp'C' and 'D' staff w.e.f. 19th May,1995 which has been rendered surplus on review of the establishment of the 31 Area Depots by the Staff Inspection Unit.

1. Carpenter	- 03
2. Packer(Spl)	- 07
3. Marker	- 38
4. Packer(O)	- 23

In this regard the respondents have already issued the notice of surrender to the surplus cell, following the provisions as laid down by Govt. of India in response to such surrender and subsequent re-deployment.

8. That with regards to the contents made in paragraphs 6.10 and 6.11 of the application, I beg to state that Ministry of Defence vide their letter No.95279/Q/BOCCS/909/D(Mov) dated 26.4.93 has approved the SIU report of the said 31 Area Depots and further instructed to implement the creation/abolition of post in CSD. Copy of the said letter is annexed herewith and marked as Annexure R-2. Accordingly, the respondents

implemented

implemented the order? The respondents deny any arbitrary action in this matter.

9. That with regards to the contents made in paragraph-6.12 of the application, I beg to annex herewith the copy of SIU Report as Annexure R-3.

10. That with regards to the contents made in paragraph-6.13 of the application, I beg to state that the applicant was holding the post of Marker on permanent basis and this post has been rendered surplus as a result of studies of work measurement undertaken by the SIU which is the legitimate body of Government of India to undertake such studies and recommendations.

11. That with regards to the contents made in paragraphs 7.1 to 7.8 of the application, I beg to state that the applicants holding the post Marker on permanent basis and this post has been rendered surplus as a result of studies of work measurement undertaken by the SIU (Staff Inspection Unit) which is the legitimate body of Government of India to undertake such studies and recommendations. It is also stated that the respondents have initiated actions in this matter are in accordance with existing rules and not at all

injustice,.....

injustice, unreasonable, illegal and contrary to the Law and nowhere any action of the respondents have violated the Articles 14 and 16 of the Constitution of India.

12. That with regards to the contents made in paragraph-8 of the application, I beg to state that the requirement of post like Carpenter, Packer and Marker was discussed in details and it was agreed that there was not enough work for these posts. However, it was felt that on functional basis some posts would be required. Therefore, it was agreed that these posts be clubbed in all 62 posts be allowed to continue. As these posts be allowed on cunttional basis, the member of these posts have been allowed in 1:1 ratio i.e. 31 Carpenters and 31 Packers/Markers. The statement showing the sanctional and agreed strength of staff in respect of 31 Area Depots was approved by Ministry of Defence vide OM No.95279/Q/BOCCS/909/D(Mov) dated 26th April, 1993 (annexure R-2) as reproduced in CSD Order 13/93 dated 16-6-93. Therefore, the respondent has surrendered the applicant to surplus cell for re-deployment.

13. That with regards to the contents made in paragraphs 9 to 13 of the application, I beg to state that I have nothing to comment.

Contd.....

14. That the present application is ill-conceived of law and mis-conceived of fact.
15. That the present application is not at all maintainable in the present form.
16. That there being no any prima facie case at all, it is a fit case for summary dismissal.
17. That the present application is barred by law of limitation.
18. That the respondents crave leave of this Hon'ble Tribunal of filing additional written statement if the Tribunal so desire.
19. That this Written Statement is filed bonafide and in the interest of justice.

VERIFICATION

29/3

VERIFICATION

I, Shri N.K.Vaid, Regional Manager(East),
Canteen Stores Department, C.S.D.Depot Complex,
Satgaon, Guwahati-781027, do hereby solemnly affirm
and declare that the statements made in paragraph-1
of this Written Statement are true to my knowledge
and those made from paragraphs 2 to 13 including
the 'back ground of the case in brief' are derived
from records which I believe to be true and rest
are humble submissions before this Hon'ble Tribunal.

I sign this VERIFICATION on this 14 day
of February ,1996 at Guwahati.

N.K.Vaid
DEPONENT.

N. K. VAID
Regional Manager (E)
CSD, Depot (Complex)
P. O :- Satgaon,
Guwahati-27