

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA 1781/2001

New Delhi, this the 16th day of April, 2002

Hon'ble Shri Govindan S.Tampi, Member (A)

Shri Tek Narain
S/o Shri Dal Bahadur
R/o House No.7903, Nai Basti
Ram Nagar, Pahar Ganj
New Delhi.

...Applicant

(By Advocate Shri P.S.Mahendru)

V E R S U S

UNION OF INDIA : THROUGH

1. General Manager
Northern Railway
Baroda House
New Delhi.

2. The Chief Administrative Officer (Construction)
Northern Railway
Kashmere Gate
Delhi.

...Respondents

(By Advocate Shri R.P.Aggarwal)

O R D E R

BY HON'BLE SHRI GOVINDAN S.TAMPI,

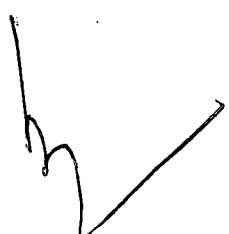
Directions of the respondents, in not allowing the applicant to join duty w.e.f.9-7-2001 and verbal orders terminating services are under challenge in this OA.

2. Heard S/Shri P.S.Mahendru and R.P.Aggarwal, ld. counsel for the applicant and the respondents respectively.

3. The applicant was engaged as a Bunglow Khallasi with Deputy Controller of Stores, Rail Coach Factory, Kapurthala from 31-3-97 to 30-6-98. He was thereafter engaged as Bunglow Khallasi with Deputy Controller of Stores (Construction), Northern Railway, Kashmire Gate, New Delhi on 20-8-98. From 17-5-99 to 28-4-2000, he was attached to Deputy Chief Engineer

(Construction) Jallandhar and was working under Deputy Chief Engineer (Construction), Northern Railway, Delhi from 29-4-2000 till his date of disengagement on 9-7-2001. He had been granted temporary status on 10-12-1998 and was placed in the list of Bunglow Peon/Khallasi. On 26-2-2001, he was screened and was granted identity card as well as Railway Medical Attendance identity card Card on 4-7-2001. Being a Bunglow Khallasi, engaged as a substitute, he was entitled for conferment of temporary status after completion of 120 days of continuous service, in terms of PS No.11506/97. In the circumstances, instead of absorbing him in appropriate Group D Post, the respondents have dispensed with his services in a most arbitrary, illegal and harsh manner, this calls for immediate intervention of the Tribunal, according to Shri Mahendru.

4. Replying on behalf of the respondents, Shri R.P.Agarwal indicates that the applicants' services were originally terminated on 30-6-98 at Kapurthala, whereafter, he was re-engaged in Northern Railway, Delhi, Jallandhar and once again at Delhi on 28-4-2000. However, on account of report from his superior above the unsatisfactory nature of his work, his services were terminated on 30-5-2001. It is pointed out that it was for the General Managers, Incharge of the Zonal Railways to lay down conditions of service with regard to the Bunglow Peon/Khallasi and the continuance or otherwise of a Bunglow Khallasi depends on the report which the officer to whom he attached, gives. No letter granting him any temporary status, has been issued as yet. The applicant did appear for the screening test, but result thereof is



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yet to be declared. As, he had not completed three years in Northern Railway, he was not eligible for being considered for screening. It is also reported that the Deputy Chief Engineer (Construction), Northern Railway had reported that the individual concerned was unauthorizedly absent. His termination was, therefore, directed correctly and the same is supported by the decision of the Tribunal, Principal Bench in OA 896/95 filed by Shri Shyam Sunder Vs. UOI & Ors, decided on 12-2-1999. The Tribunal had held that Bungalow Peons/Khallasis were not railway employees, but were only performing contractual service and that merely by putting 120 days of continuous service, a bungalow peon/khallasi did not acquire temporary status. Such status could be granted only after completion of specific period, fixed by the General Manager. Before completion of such period and even after grant of temporary status, his services could be terminated without any enquiry, if the work was found not up to the mark.

5. In his reply, during oral submissions, Shri Mahendru countered Shri Aggarwal's pleadings and stated that in the circumstances of the case, wherein the applicant has completed satisfactory services of 120 days and was granted temporary status, the decision of Full Bench was not applicable in his case.

6. I have carefully considered the matter and I am fully convinced that the applicant has no case at all and his position is clearly covered by the decision of the Full Bench of this Tribunal in OA 896/95 and other related matters, passed on 12-2-99, whereunder, it has been held that a substitute or bungalow peon/khallasi was not a regular railway

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employee, and his services are purely contractual in nature. The Tribunal has further gone on to state as below :-

- "(iii)(a) No. As a general principle, it cannot be laid down that after putting in 120 days' continuous service, a Bungalow Peon/Khallasi acquires temporary status. He acquires temporary status on completion of such a period of continuous service, as may be prescribed by the General Manager of the Railway under which he works and which is current on the date of his employment as a Bungalow Peon/Khallasi. In the absence of any such rule or instructions from the General Manager, the general instructions or rule in that regard, like one given under paragraph 1515 of the Manual, issued or framed by the Railway Board and current on the date of employment may determine the period of his continuous service for conferment of temporary status, as discussed in paragraphs 10 and 11 of this order.
- (b) Yes. After acquisition of temporary status by a Bungalow Peon/Khallasi, his services can be terminated on the ground of unsatisfactory work without holding a departmental enquiry, as discussed in paragraphs 14, 15 and 16 of this order.
- (iv) No. The termination of the service of a substitute Bungalow Peon/Khallasi, who has acquired temporary status, is not bad or illegal for want of notice before termination. In such a case, he may be entitled to pay for the period of notice in lieu of notice, as discussed in paragraph 17 of this order. The question whether for want of retrenchment compensation under section 25-F of the Industrial Disputes Act, 1947, the termination of the service of a substitute Bungalow Peon/Khallasi, who has acquired temporary status, is bad or illegal, is beyond the scope and jurisdiction of this Tribunal, as discussed in paragraphs 19 and 20 of this order."

In my appreciation of the circumstances of the case of the applicant it is clear that the same is covered by the decision of the Full Bench referred supra. The



applicant cannot get any benefit, as he was only a contractual employee, whose services have been dispensed with on account of his unsatisfactory work. The respondents cannot be faulted for the same.

7. The OA having no merit, whatsoever, fails and is accordingly dismissed. No costs.

(GOVINDAN S. TAMPI)
MEMBER (A)

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