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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA 3312/2001

New Delhi, this the 17th day of January, 2002

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

Shri Tarlok Singh Kanyal
S/o Shri Anand Singh Kanyal
Telephone Attendant and Dak Khallasi
Under Secretary Railway Board
Ministry of Railways, Rail Bhawan
New Delhi.

R/o 304 (2-C) Chelmsford road
New Delhi.

(By Advocate Shri B.S.Mainee with
Ms. Meenu Mainee)

...Applicant

V E R S U S

UNION OF INDIA : THROUGH

1. The Secretary
Ministry of Railways
Railway Board
Rail Bhawan
New Delhi.

2. The General Manager
Northern Railway
Baroda House
New Delhi.

(By Advocate Shri R.L.Dhawan with
Shri Rajender Khatter)

...Respondents

O R D E R (ORAL)

By Hon'ble Shri Govindan S.Tampi,

Heard S/Sh. B S Mainee and R L Dhawan,
learned counsel for the applicant and the
respondents.

2.Applicant in this case was engaged as
TADK/Bunglow Khallasi at the residence of Shri
J.N.Pant who was working as CRSE (FR) in the Railway
Board's office. The applicant was appointed on
regular pay scale in terms of the Board's letter dated
17-2-1998 and he had been performing his duties
satisfactorily. An identity card also was given to

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him. He was granted temporary status in terms of the instructions and was screened on completion of three years' service on 2.7.2001 and has been declared suitable and empanelled as Bungalow Khallasi/TADK by the order dated 4-10-2001. This was in terms of PS No. 11506/97 dated 31.12.97. However, after the transfer of Shri Pant, with whom he was attached from the Railway Board Office Delhi to Mumbai, the applicant has not been given any duties, though he has become entitled for being regularised. Though no specific order of his termination has been issued, the refusal and reluctance of the respondents to permit him to perform duties, had brought him to the doors of the Tribunal for justice, argues Shri B.S. Mainee, learned counsel.

2. No written submissions have been filed by the respondents but their case was spiritedly argued by their learned counsel, Sh. R L Dhawan. According to him no cause of action at all has arisen in this case, as no order of termination from service had been issued as yet and, therefore, the applicant cannot present himself as being aggrieved in terms of Section 19 of the Administrative Tribunal's Act. The applicant according to him, has been absent unauthorisedly since 9-8-2001 and, the respondents would have to take action against him for unauthorised absence in terms of the rules. O.A. which is totally misconceived has to be dismissed with costs, urges Sh. Dhawan.

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- 3 -

3. I have carefully considered the matter. The facts brought on record shows that the individual has been working as TADK/Bungalow Khallasi in the residence of one of the officers in respondent's organisation from February, 1998. It is also found that after three years of service he has been duly screened on 2.7.2001 and has been declared as suitable and empanelled as regular Bungalow Khalasi/TADK, in terms of respondents' letter dated 4-10-2001. Therefore, question of his termination would arise only after following the requisite procedure. However, in this case Shri Dhawan learned counsel for the respondents has specifically pointed out that no order of termination has been issued and, therefore, the applicant cannot have any grievance in this case. However, Shri B.S. Mainee, learned counsel states that the applicant has not been allowed to join duties after Sh. Pant, with whom he was attached had been transferred out of Delhi. He has also represented to Chief Personnel Officer in this regard. At the same time the respondents point out that they would be initiating action against him for unauthorised absence. In the circumstances, OA was not maintainable as no cause of action has arisen. ^{the} respondents would have to permit him to perform duties when he presents himself before them, subject of course to the respondents' right to initiate action against him, under law, for his unauthorised absence, if any.

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-4-

application

4. In the above view of the matter, the ~~application~~ is being dismissed as not being maintainable and being premature but with the directions to the respondents to permit him to join duties, when he presents himself before the Personnel Deptt. Northern Railway. This would not prevent the respondents from taking any action against the applicant under law, if he is guilty of any misdemeanour.

5. No costs.

(GOVINDAN S. TAMPI)
MEMBER (A)

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