

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI.

RA-149/94 in  
OA-67/94

(b)

New Delhi this the 19<sup>th</sup> Day of September, 1994.

Hon'ble Mr. Justice S.K. Dhaon, Acting Chairman  
Hon'ble Mr. B.N. Dhoundiyal, Member(A)

1. Union of India,  
through the General Manager,  
Northern Railway,  
Baroda House,  
New Delhi.
2. The Chief Signal Engineer,  
Northern Railway H.Q.,  
Baroda House,  
New Delhi.
3. The Assistant Secretary to  
General Manager,  
Northern Railway,  
H.Q. Baroda House,  
New Delhi.

Review Applicants/  
Respondents in OA

(through Sh. R.L. Dhawan, advocate)

versus

Shri Rajesh Kumar,  
S/o Shri Hukam Chand,  
Ex-Bungalow Peon under  
Chief Signal Engineer,  
Northern Railway,  
Headquarters Office,  
Baroda House, New Delhi.

Respondent in RA/  
applicant in OA

ORDER(BY CIRCULATION)

delivered by Hon'ble Mr. B.N. Dhoundiyal, Member(A)

This review application has been filed by the respondents in O.A.No.67/94 decided on 4.3.1994. In spite of due service and one adjournment given to the respondents, they failed to put appearance or file a counter-affidavit. This Tribunal had no option but to take the averments made by the applicant as correct. These showed that he was employed in July, 1991 and the last extension was granted to him as Bungalow Peon from 28.2.1993 to 27.5.1993. This Tribunal held that the impugned

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order dated 23.2.1993 discharging him from service with retrospective effect was not sustainable and the respondents were directed to reinstate the applicant and pay him back wages.

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The grounds for review are as under:-

The judgement mentioned that the appointment of the applicant as Bungalow Peon was on short term basis and had been extended from time to time. It is stated that the appointment was made on 28.8.91 for a period of three months and was purely temporary and liable to be terminated earlier if his work was found unsatisfactory or his services were no longer required as substitute Bungalow Khallasi or if he was unwilling to work as such. It is erroneously mentioned in the judgement that a charge of unauthorised absence was levelled against the applicant. In fact, he was unwilling to work as substitute Bungalow Peon as is apparent from his conduct of absenting from duty. The payment of back wages till 27.5.93 has also been challenged on the ground that under the terms of appointment his services could be terminated earlier also. It is also stated that this Tribunal should have followed the law laid down by the Hon'ble Supreme Court in the

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case of State of Uttar Pradesh Vs. Kaushal Kishore Shukla (SLJ 1991 (2) SC 96) holding that "temporary Government servant has no right to hold the post and their services can be terminated in accordance with the relevant service rules and terms of contract of service". It is also contended that the application should have been dismissed under Section 20 of the Administrative Tribunals Act as the applicant has not exhausted the alternative remedies.

Ample opportunities were given to the respondents after due notice to appear or file a reply. They failed to do so. The finding of this Tribunal was that the impugned notice was issued without affording any opportunity of hearing to the applicant and that there can be no getting away from the fact that the contents of the notice were stigmatic. The respondents failed to observe the principles of natural justice before passing an order adverse to the applicant. Their impugned notice was, therefore, not found sustainable. Another infirmity in the notice was that it was given retrospective effect. Nothing has been stated in the review application which will enable this Tribunal to reach a different conclusion. It has not been pleaded that a suitable opportunity was given to the applicant and emphasis has been laid on the terms and conditions

mentioned in the appointment letters. These had already been taken into account in the judgement rendered by this Tribunal.

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Due to afore-mentioned reasons, this review application fails and is hereby rejected.

*B.N. Dhondiyal*  
(B.N. Dhondiyal)

Member(A)

*S.K. Dhaon*  
(S.K. Dhaon)  
Acting Chairman

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