

Central Administrative Tribunal
Principal Bench

CA.2217/95

New Delhi, the 3rd July, 1996.

(17)

Hon'ble Shri A.V. Haridasan, VC(J)
Hon'ble Shri R.K. Ahooja, M(A)

Mahesh Shankar
32B, Railway Colony
Punjab Line,
Ghaziabad.

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Applicant

vs

1. Secretary,
Min. of Railway,
Rail Bnawan,
New Delhi.

General Secretary,
2. Indian Railway Conference
Association,
Chelmsford Road,
New Delhi.

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Respondents

(Advocate: Sh.D.S. Mahendru)

ORDER (Oral)

Hon'ble Shri R.K. Ahooja, M(A)

This CA has been transferred from Allahabad Bench to the Principal Bench of this Tribunal. The case of the applicant is that he was given appointment as Bunglow Peon on 20.1.90. The respondents, namely, Indian Railway Conference Association (hereinafter referred to as IRCA) is an autonomous body under the Indian Railways. It is claimed that the

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respondents had employed him from 20.1.90 to 30.4.91 and removed him from service w.e.f. 1.5.91 without complying with section 25F of the Industrial disputes Act when the applicant had worked for more than 240 days in 12 Calendar Months. The applicant thereafter raised the matter before the Regional Labour Commissioner (Central) New Delhi. This led to conciliation proceedings on 27.1.1992 but the respondents disowned the employment of the applicant and the proceedings came to an end. The applicant now seeks relief that he may be reinstated to the post of Banglow Peon from 1.5.91 and the service ~~in~~ that post be regularised from the same date and he be paid back wages.

2. The respondents controvert ~~the~~ the claim of the applicant. They deny that the letter of appointment as claimed by the applicant, a copy of ^{which} ~~is~~ ~~is~~ annexed to the application, was issued to him. They also submit that since the matter has already been filed before the Industrial Court it cannot be now taken up before the Tribunal and finally that ~~the~~ application is barred by limitation.

3. Although, initially the counsel had appeared on behalf of the applicant but when the matter came up before the Tribunal on 13.5.96, the applicant's

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father appeared and submitted that the applicant had taken brief from the counsel and sought permission to appear himself on behalf of the applicant. Since there is no provision in ATC Act 1985 and Rules thereunder for any person other than the applicant or counsel to appear on his behalf, the request of the applicant's father to appear on behalf of the applicant could not be allowed. The applicant thereafter wrote a letter on 13.5.96 stating that since he could not engage the advocate and have submitted all the necessary documents, it is requested that the case may be considered on the basis of documents and his father may be allowed to attend this case. The feasibility of allowing his father to represent the applicant has already been decided by this Bench on 13.5.96 and now the application is to be decided on the basis of pleadings, records and arguments on behalf of the respondents.

4. We have heard Shri D.S. Mahendru, ld. counsel for the respondents and have perused the records. The claim of the applicant is based entirely on the alleged letters of appointment which have been annexed to his application. Annexure A1 is the purported letter from the IRCA addressed to his father that after the decision of the Special Judge, Ghaziabad the applicant has been given employment as Bungalow

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Peon. Annexure A2 is a purported letter from the General Secretary, IRCA addressed to the father of the applicant that the applicant has served during 1991 as a Bungalow Peon and he has also been considered for selection as Khalasi on 3.10.91. Both these letters according to the respondents have not been issued by them and are forged documents. The applicant in his rejoinder although denying the allegation of the respondents has produced no evidence by way of proof that the letters are genuine. Further more, the so called letter of appointment at Annexure A1 is at best only a copy of the letter addressed to the father of the applicant stating that his son had rendered duty as Bungalow Peon during 1991. Neither ~~the~~ letter at Annexure A1 or ~~the one at~~ Annexure A2 mentions any specific period during which service was rendered. It could have been quite possible for the applicant to ~~produce~~ ^{produce} some proof of service either through the letter of appointment or by collateral evidence such as, OTA claim conveyance allowance or any other document. The copies of the letters allegedly addressed to the father of the applicant by some authority in the office of the respondents which has been denied by the respondents cannot form the basis of his claim.

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that he was actually employed by the respondents.

The Asstt. Secretary letter addressed to the

Asstt. Labour Commissioner, Annexure LA.11

clearly states that the letter purported to

have been signed by him is not ~~genuine~~ *genuine*

5. We therefore find that there is no foundation in the claim that ^{the applicant} ~~he~~ has ever been employed by respondents. He has also been ^{unable} ~~to~~ to refute the claim of the respondents that no such letter was issued by them. We also find that apart from the two disputed letters no other evidence has been produced by the applicant to show that he ever was employed by the respondents.

6. In view of the above discussions, we find no merit in the case and dismiss the application. There will be no order as to costs.

R.K. Ahooja
(R.K. Ahooja)
Member (A)

A.V. Haridasan
(A.V. Haridasan)
Vice Chairman (J)