

9

CENTRAL ADMINISTRATIVE TRIBUNAL: PRINCIPAL BENCH

Original Application No.1981 of 2000

New Delhi, this the 31st day of July, 2001

HON'BLE MR.KULDIP SINGH, MEMBER(JUDL)

Gopal Dutt son of Shri Devi Dutt
Ex-Bungalow Khallasi under Chief Staff Surgeon
Central Hospital, Northern Railway, New Delhi
Resident of 177/4, Kishan Ganj, Railway Colony
Delhi-7

-APPLICANT

(By Advocate: None)

Versus

1. Union of India, through
The Chairman
Railway Board,
The Principal Secretary
Government of India
Ministry of Railways,
Rail Bhawan, New Delhi-1
2. The General Manager
Northern Railway
Baroda House, New Delhi-1
3. Doctor Mrs. Lalita Rao
Chief Staff Surgeon
Central Hospital, Northern Railway
P.K. Road Lane
New Delhi-52

- RESPONDENTS

(By Advocate: Shri R.P. Aggarwal)

O R D E R (ORAL)

By Hon'ble Mr. Kuldip Singh, Member(Judl)

Applicant in this O.A. has assailed order of removal from service passed on 6.4.99 (Annexure A-1).

2. Facts as alleged by the applicant are that he was engaged as Substitute Bungalow Khallasi by respondent no.2 vide their letter dated 9.12.97. On completion of 120 days of continuous service, he was conferred with temporary status and thereafter, he became entitled for all the rights and privileges as applicable to other temporary status substitute. Annexure A-4 to the OA contains the rights and privileges to which applicant was entitled for. It is alleged that after a period

km

of more than 15 months, his services had been terminated by the impugned order dated 6.4.99 (Annexure A-1). In order to challenge the same, the applicant has submitted that termination of temporary railway servant is provided in Chapter III of IREC Vol.I by which one month notice is necessary in case where the termination is simplicitor. Applicant has further submitted that since his termination is on the basis of unsatisfactory service, it attracts the provisions of Railway Servants (Discipline and Appeal) Rules, 1968 and as the respondents have not complied with these rules, his termination order is void ab-initio.

3. I have heard Shri R.P. Aggarwal, learned counsel for the respondents. Since the applicant's counsel did not appear, I have proceeded to take up the matter in accordance with CAT (Procedure) Rules to decide the case on merits.

4. Learned counsel for the respondents submitted that Substitute Bungalow Khallasi is appointed only on the wishes of the officer to whom he is to serve and in case, the officer concerned reports that his work is unsatisfactory, his services are liable to be terminated. In support of his contention, he has referred to a judgement of the Tribunal in the case of Manoj Kumar Poddar vs. Ministry of Railways and ors. (OA-1589/98) and after going through this judgement, I find that this OA had been dismissed following the observations made in a Full Bench case titled Shyam Sunder vs. UOI & ors. (O.A.896/95), wherein the following questions were referred to the Full Bench:

- i) "bungalow peons in Railways were Railway employees or not.

km

ii) their services were purely contractual and they could be discharged in terms of the contract.

iii) upon their putting in 120 days continued service, they acquired the status of temporary employee or not, and if so, whether upon acquiring such status, their services could be dispensed with for unsatisfactory performance only after conducting a departmental enquiry."

5. The Full Bench in its order dated 12.2.99 in the aforesaid case, answered the reference as under:

i) & ii) Bungalow peons/Khallasis in Railways were not railway employees, and their services being purely contractual in nature could be terminated at any time in terms of their contract so long as they did not acquire temporary status.

iii) As a general principle it could not be laid down that after putting in 120 days continuous service, a Bungalow Peon/Khallasi acquired temporary status. He acquired temporary status on completion of such period of temporary service as may be prescribed by the GM of the Railways under which he worked and which was current on the date of his employment as a Bungalow Peon/Khallasi. In the absence of any such rule or instruction, the general instructions or rule in that regard like the one given under paragraph 1515 of the IREM 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

K

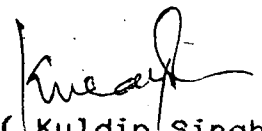
12

temporary status. Even after conferment of temporary status by a Bungalow Peons/Khallasi, his services could be terminated on the ground of unsatisfactory work without holding a DE, and termination of the service of a Substitute Bungalow Peon/Khallasi who had acquired temporary status was not bad or illegal merely for want of notice before termination."

6. Thus the plea of the applicant that after completion of 120 days of continuous service, he had become temporary employee and was entitled for all the rights and privileges as applicable to other temporary status employees, is of no help to the applicant and his services could be terminated on the report of the officer concerned to whom he was serving. Full Bench in the aforesaid case has also held that even after acquiring temporary status, the services of a Substitute Emergency peon, also known as Bungalow Peon/Khallasi, could be terminated on the ground of unsatisfactory work without holding a DE.

7. In the result, I am of the opinion that the services of the applicant have been rightly terminated. No other ground is taken up by the applicant in his OA. Therefore, following the judgement of the Full Bench in the case of Shyam Sunder vs. UOI & ors. and the case of Manoj Kumar Poddar (supra), I hold that this OA has no merits and deserves to be dismissed. It is, therefore, dismissed. No costs.

/dinesh/


(Kuldip Singh)
Member (Judl.)