

**CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH**

**OA/020/00711/2020**

HYDERABAD, this the 2<sup>nd</sup> day of December, 2020.

**Hon'ble Mr. Ashish Kalia, Judl. Member  
Hon'ble Mr. B.V. Sudhakar, Admn. Member**



Adari Mahesh S/o Adari Nooka Raj,  
Aged about 29 years,  
Occupation : Substitute Bungalow Peon in the  
O/o Chief Works Manager, S.C.Railway,  
Wagon Work Shop, Guntupalli R/o Boddavaram,  
Kotanandur, Tuni (via), E.G. District, AP. ...Applicant

(By Advocate : Mr.K.Siva Reddy)

Vs.

Union of India rep. by

1. The General Manager,  
South Central Railway, Rail Nilayam,  
Secunderabad.
2. The Chief Workshop Manager,  
Wagon Workshop, SC Railway,  
Guntupalli.
3. The Workshop Personnel Officer,  
Wagon Workshop, SC Railway,  
Guntupalli.
4. Ramana Alla S/o not known,  
Aged not known, Ex. Sr. System Manager (Stores),  
Dy. Chief Material Manager, SC Railway, M&G,  
Rayampadu. ....Respondents

(By Advocate : Mr. N.Srinatha Rao, SC for Railways)

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**ORAL ORDER**  
**(As per Hon'ble Mr.B.V.Sudhakar, Administrative Member)**

**Through Video Conferencing:**

2. The O.A. has been filed aggrieved over the action of the respondents in not allowing the applicant to discharge his duties.

3. The brief facts of the case are that the applicant was appointed as Bungalow Peon on 10.6.2016. The order states that the applicant would be regularized after 3 years of satisfactory service. Applicant was attached to Respondent No.4. The applicant has been transferred from Secunderabad to the present place on 27.01.2017 along with Respondent No.4. He reported to duty on 28.1.2017. Later, he was conferred with temporary status on 11.5.2017 w.e.f. 5.2.2017 based on the satisfactory service certificate issued by Respondent No.4. Due to ill health, applicant could not attend to duty from 29.6.2019 to 2.7.2019 and, therefore, he requested Respondent No.4 for grant of leave. The leave was not sanctioned though leave was available at his credit. Thereafter, Respondent No.4 has been harassing the applicant and did not allow him to work. The applicant was orally directed not to come to the bungalow. Consequently, O.A. No.796/2019 was filed which was disposed on 23.12.2019, directing the respondents to dispose of the representation of the applicant. Thereafter, respondents allowed the applicant to work in February/ March, 2020. Once again, from April 2020 onwards, respondents are not permitting the applicant to discharge his official work. On 25.1.2020, respondents issued a charge memo and applicant submitted representations dated 9.6.2020 & 13.7.2020. The applicant requested Respondent No.4 to recommend his case for



regularization. The same was not agreed to and over and above, the applicant was directed not to come to duty. Though the applicant was willing to work, Respondent No.4 showed him as absent and denied salary. Aggrieved over the same, the present O.A. has been filed.



4. The contentions of the applicant are that he has complained to the higher authorities and also filed a case in the Central Administrative Tribunal about being prevented from performing his duties. Denying him to discharge his legal duties is illegal and violative of Articles 14 & 16 of the Constitution. Only after the O.A. No.796/2019 was filed that the applicant was allowed to work in February/ March, 2020. The applicant has cited the judgment of the Hon'ble Supreme Court in Janakiraman's case wherein it was held that if an employee is prevented from performing his official duties, then salary has to be paid by the respondents. The applicant states that he has also made a complaint against Respondent No.4 to Respondent No.1 stating that he sought Rs.5,00,000/- for regularizing his services. Respondents No.4 intends to give the job of the applicant to his relatives. The charge memo issued on 25.1.2020 was with regard to the unauthorized absence of the applicant for 210 days. According to the applicant, this absence was because the respondents themselves have not allowed him to work with an intention to remove him from service. The charge sheet was challenged in O.A. No.464/2020 and the Tribunal stayed the inquiry. The applicant prays that Respondent No.1 should inquire into the matter and allow him to work in the respondent's organization. The 4<sup>th</sup> respondent did not deny the allegations made against him regarding

demanding money. The applicant made representations dated 9.6.2020 & 13.6.2020 but the respondents have not taken any action on the same.

5. The respondents state in the reply statement that the applicant was appointed as Bungalow Peon on 10.06.2016 and he was transferred along with Respondent No.4 to Guntupalli. He was conferred with temporary status w.e.f. 5.2.2017 with a condition that his services will be regularized if found satisfactory. The applicant has been unauthorisedly absent from 29.6.2019 onwards and he is under the mistaken impression that he has become a regular employee. Therefore, indulging in an deviant manner. Respondents state that the applicant was never denied leave for the period from 29.6.2019 to 2.7.2019. If the applicant was ill, he could have reported to the Railway hospital and in case Railway hospital was not available, he could have obtained a medical certificate from a Registered Medical Practitioner as per IRMM Rules. For unauthorized absence, disciplinary action has been initiated against the applicant. The applicant has to render 5 years of service under the officer to whom he was attached as Bungalow Peon, and thereafter he would be allowed to work in the regular establishment. Applicant was allowed to work in the regular establishment in the February/ March 2020 in order to enable him to appear in the disciplinary proceedings initiated against him. Applicant did request the 4<sup>th</sup> respondent to get him posted near his native place and he was informed that as per relevant rules, he has to work for another two years as Bungalow Peon to get the posting as requested by him. Thereafter, applicant stopped attending duties. In the O.A. No.796/2019 filed by the applicant, there is no mention about allegation of demanding money by the 4<sup>th</sup> respondent.

The applicant made a complaint after filing the said O.A., to the higher authorities, who found that there was no substance in the complaint. The salary of the applicant was drawn up to December, 2019 though he did not attend duty. The bill clerk was proceeded on disciplinary grounds for this lapse. The allegations against the 4<sup>th</sup> respondent & others are all baseless. The applicant is not staying in Vijayawada as is evident from the residential address furnished by him in his leave application. The 4<sup>th</sup> respondent cannot engage his relatives because as per rule, he has to declare that the person engaged is not his relative and that the appointment of a Bungalow Peon is done by a Screening Committee. Therefore, the allegation of bribe is baseless. The allegation of corruption were made to gain sympathy from the higher authorities and the Tribunal. The applicant continued to make complaints on 27.1.2020 & 9.6.2020 to the authorities stating that he has already paid Rs.5,00,000/- to Respondent No.4 as bribe and that Respondent No.4 has demanded some more, without producing any evidence. The allegations are all made by the applicant in order to get the unauthorized absence converted into a corruption case. Applicant is not eligible to any subsistence allowance since he has not been suspended. Further, the 4<sup>th</sup> respondent affirms states that the applicant was never prevented from discharging his duties. Even now, the applicant is welcome to join and perform official duties. The appointment of the applicant was done by the APO and not by the 1<sup>st</sup> Respondent as claimed by the applicant. Respondents cited the judgments of the Hon'ble Supreme Court in regard to review of disciplinary cases.



6. Heard Sri K. Siva Reddy, learned counsel for the applicant and Sri N.Srinatha Rao, learned counsel for the respondents, and perused the pleadings on record.

7. It is not under dispute that the applicant has been appointed as a Bungalow Peon in the respondent's organization on 10.6.2016 and that he was conferred with temporary status on 11.5.2017 w.e.f. 5.2.2017. The applicant claims that he has approached the 4<sup>th</sup> respondent to recommend his case for regularization and the latter has not acceded to the request made. The respondents explain that the case of the applicant for regularization was taken up for processing. Applicant alleges that regularization is not being done because the 4<sup>th</sup> respondent has sought some amount as bribe, which the 4<sup>th</sup> respondent, who filed the reply affidavit, has flatly denied. In fact 4<sup>th</sup> respondent has stated that the applicant was never prevented from discharging his official duties and made it clear that if the applicant wishes to join duty, he would be permitted. As per rules for engagement of Bungalow Peon, applicant has to work for 5 years under the officer to whom he is attached and thereafter he would be allowed to work in regular establishment. Besides, the 4<sup>th</sup> respondent avers that the behavior of the applicant has changed after rendering three years of service being under the wrong impression that his services have been regularized. Applicant is habituated to unauthorized absence and, therefore, a charge memo was issued. Inquiry in regard to the charge memo was kept in abeyance by virtue of the order of the Tribunal in O.A. No.464/2020. Allegations made against the other respondents are false because on one hand the applicant says he has given bribe and on the other hand he says he

is prevented from discharging his official duties. The sum and substance of the reply statement filed by the 4<sup>th</sup> respondent is that not attending to duties is the fault of the applicant and not that of the respondents.

In view of the above submissions of both the parties, we are of the view that since Respondent No.4 has filed the counter affidavit stating that he would permit the applicant to perform official duties in his official bungalow, we direct him to do so. The applicant should be more responsible while discharging his duties without giving room for any adverse remarks. Nevertheless, we direct the 1<sup>st</sup> respondent also to look into the grievances of the applicant by obtaining a report from the appropriate authority and take necessary steps to resolve the grievance, if any, as is deemed fit, within the ambit of rules. The time period allowed to implement the order of this Tribunal is 4 weeks from the date of receipt of this order.

With the above direction, the O.A. is disposed of. No order as to costs.

**(B.V.SUDHAKAR)**  
**ADMINISTRATIVE MEMBER**

**(ASHISH KALIA)**  
**JUDICIAL MEMBER**

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