

Central Administrative Tribunal, Principal Bench

O.A.No.2467/92

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

New Delhi, this 7th day of July, 1997

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Rabindra Nath Barik  
age 28 years  
s/o Shri Basudeb Barik  
c/o Jai Narain. 25/4,  
Railway Colony  
N 2 M/East  
New Delhi  
last working as Bunglow Peon  
of Sr. D.O.S. Northern Railway  
New Delhi.

Applicant

(By Shri H.P.Chakravorti, Advocate)

Vs.

1. Union of India through  
The Secretary  
M/o Railways  
Rail Bhawan  
New Delhi.
2. The General Manager  
Northern Railway  
Baroda House  
New Delhi.
3. The Divisional Railway Manager  
Northern Railway  
Estate Entry Road  
New Delhi.

Respondents

(By Shri B.K.Agarwal, Advocate)

O R D E R (Oral)

The applicant was initially engaged in January, 1986 as Casual Labour in Delhi Division. In 1988, he was appointed as Substitute Bunglow Peon in the grade of Rs.750-940 (revised pay scale). His grievance is that he was not allowed to discharge his duties since September, 1991. He now seeks a direction that the oral termination of his services be quashed and he be reinstated with full back wages, protection of seniority and other benefits.

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2. The respondents in reply state that the applicant has not himself been attending the duty of Bunglow Peon since 1.8.1991. As such, his services were neither terminated nor retrenched. He himself absented unauthorisedly without any information. As regards his entitlement for temporary status, the respondents state that this can be done after casual labourers complete two years of service and subject to screening, they can be regularised against a permanent post. However, in so far as the applicant is concerned, his case has been referred to General Manager, Northern Railway, for orders. At present however there is no vacancy available.

3. I have heard the counsel on both sides. The letter of the Divisional Railway Manager dated 27.8.1992, a copy of which has been annexed as MP-I of the rejoinder, indicates that the applicant has not been working as Bunglow Peon because the officer with whom he was attached had requested to keep the post vacant till he found a suitable re-placement.

4. Learned counsel for the respondents submits that the practice is that Bunglow Peons are appointed at the choice of the concerned officers and they often go along with the officer when he is transferred. In the present case, the concerned officer, on the representation of the applicant (Annexure A4), had stated that he had his own man who was working with him in Headquarter already, whom he was getting transferred to work with him again. According to the learned counsel this happened only because the work of the applicant was not satisfactory. The learned counsel for the applicant submits that the respondents have obtained the orders of the General

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Manager for sanction of the posts and the applicant has also since been reinstated and is still working in a different category since December, 1993. Now he should get the benefit of his past services for seniority and fixation of pay and for further regularisation.

5. I have considered the matter carefully. The applicant's services have been dispensed with and not that he had himself voluntarily left the work. However, there is no allegation that the respondents have engaged any junior or freshers in preference to the applicant. All the same the applicant who has now been re-engaged, is entitled to the benefit of seniority for the service which he has already rendered. Accordingly, I dispose of this OA with the direction to the respondents to give him the benefit of his seniority for the period he has already worked, to consider him for grant of temporary status and for screening and regular employment as per rules. His case for pay fixation may also be considered taking into account his past services in accordance with the provisions of Chapter XV & XX of the Indian Railway Establishment Manual. No costs.

R.K.Ahooja  
(R.K.AHOOJA)  
MEMBER(A)

/rao/