

Central Administrative Tribunal, Principal Bench

O.A.No.949/92

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

New Delhi, this 21st day of August 1997

16

Shri Gaur Mohan Chowdhury
s/o Shri S.B.Chowdhary
Ex. Bungalow Peon
under Dy. Chief Signal &
Telecommunication Engineer(Constrn.)
Patel Nagar
New Delhi.
r/o 5/F Pandav Nagar
Delhi.

... Applicant

(By Shri B.S.Maine, Advocate)

Vs.

Union of India through:

1. The General Manager
Northern Railway
Baroda House
New Delhi.
2. The Chief Administrative Officer
Northern Railway
Kashmere Gate
Delhi.
3. The Signal Inspector (Constrn.)
Northern Railway
Kashmere Gate
Delhi.

... Respondents

(By Ms. B. Sunita Rao, Advocate)

O R D E R

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

The claim of the applicant is that while he was working as Casual Labour(Bungalow Peon) on 31.12.1991, his services were terminated without assigning any reason and inspite of the fact that he had already put in more than 300 days of service. Casual Labourers who had been engaged subsequently to him were given preference and are still working with the respondents. On that basis the applicant prays for grant of temporary status and re-engagement in accordance with his seniority after placing his name in the Live Casual Labour Register.

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2. The respondents in their counter reply admit that the applicant had completed 205 days of service from 10.6.1991 to 31.12.1991. They also submit that the applicant's name is already borne on the Live Casual Labourers Register on page ²⁶ at Sr. No.213. They further state that the services of the applicant were terminated since sanction for the post of Bungalow Peon against which he was working expired on 31.12.1991 and thereafter no vacancy of Bungalow Peon arose. The respondents also state that the applicant would be considered for re-engagement as and when vacancy of ⁶ Bungalow Peon is available.

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3. We have heard the learned counsel on both sides. Shri B.S.Mainee, learned counsel for the applicant submits that according to Para 1515 of the Indian Railways Establishment Manual (IREM) Volume No.1 the substitute should be afforded all the rights and privileges as admissible to temporary railway servants from time to time, on completion of continuous four months service. In the present case no notice has been given despite the admitted fact that the applicant had worked at least for 205 days continuously. In support, learned counsel for the applicant cited the orders of this Tribunal in OA No.2081/93 (Ashok Kumar Limba vs. Union of India & Others), wherein the applicant who was a substitute Bungalow Khalasi of Chief Area Manager, Delhi was orally discharged from service without giving any notice despite the fact that he had already completed four months continuous service. The Tribunal had held in that case that the impugned order was in violation of Para 1515 of IREM and if the respondents desired to do

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away with the services of the applicant they should have taken recourse to such legal proceedings as are taken in the case of temporary railway servants. Learned counsel for the applicant also relied on the orders of this Tribunal in OA No.2937/92 (Shri Bahadur Maurya Vs. Union of India & Others) wherein also the impugned order of termination was set-aside on the short ground that notice had not been given even though the applicant had rendered the requisite service for acquiring the temporary status.

19

4. Learned counsel for the respondents has argued that the services of applicant were terminated because the officer with whom he was working as Bungalow Peon/Khalasi had retired on 31.12.1991. Even a Casual Labour with temporary status had to be given the employment only if the work is available and in the present case no post of Bungalow Peon was created after the retirement of the officer with whom the applicant had been working. The posts of Bungalow Peons had been created for working with individual officers and in case those officers found the work of the Bungalow Peons satisfactory they often took them along on transfer. In view of this position, the applicant could not be considered for replacing any Bungalow Peon which may already been working. Learned counsel also pointed out that as had already been stated in the counter reply the name of the applicant had been duly taken on to the Live Casual Labour Register and he would be afforded employment as soon as a vacancy becomes available.

5. Having considered the matter carefully we find that the termination of the services of the applicant was contrary to the provisions of Para 1515 of the IREM.

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The applicant had already put in 205 days of Casual Labour continuously as admitted by the respondents themselves, even without going into his claim of having worked earlier as a catering khalasi. Admittedly, no notice was given and therefore the order of termination of services was contrary to the Rules. Accordingly, the order of termination of services is quashed. The applicant will be deemed to be in service and would be entitled to his back wages. It would however be open to the authorities concerned to pass a fresh order on merits following the prescribed procedure keeping in view the vacancy position and the seniority of the applicant on the Live Casual Labour Register.

R.K.Ahooja
(R.K.AHOOJA)

MEMBER(A)

A.Kedavalli

(DR. A. VEDAVALLI)
MEMBER(J)

/rao/