

Central Administrative Tribunal
Principal Bench, New Delhi.

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OA-2081/93

New Delhi this the 27th Day of May, 1994.

Hon'ble Mr. Justice S.K. Dhaon, Vice-Chairman
Hon'ble Mr. B.N. Dheundiyal, Member (A)

Shri Ashok Kumar Limba,
S/o Sh. Pukhraj Limba,
C/o Mohan Lal,
164/9, Jhampson Read,
Railway Colony,
New Delhi.

Applicant

(By advocate Sh. H.P. Chakravorty)

versus

1. Union of India,
through the Secretary,
Ministry of Railway,
Rail Bhawan,
New Delhi.

2. The General Manager,
Northern Railway,
Bareda House,
New Delhi.

3. The Divl. Railway Manager,
Northern Railway,
New Delhi.

Respondents

(By advocate Sh. Remesh Gautam)

ORDER(ORAL)

delivered by Hon'ble Mr. Justice S.K. Dhaon, V.C.

The order dated 18.8.1993, passed by the
Divisional Personnel Officer, Northern Railway,
New Delhi, discharging the applicant, a Substitute
Bunglew Khalasi of Chief Area Manager, Delhi from
service with immediate effect, is being impugned
in the present application. A counter-affidavit has been
filed on behalf of the respondents. A rejoinder too
has been filed. Pleadings are complete. The
point involved is short. Therefore, with the
consent of the learned counsel for the parties, this
O.A. is being disposed of finally.

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2. On 14.10.1991, the A.P.O.(Engg.)/NDLS issued a letter of appointment to the applicant. In this letter, it is recited that after having been declared medically fit in category C-1, the applicant is posted as substitute Bungalew Khalasi initially for a period of three months unless further extended by the competent authority. The terms of appointment, as material are these. The term The appointment of the applicant as substitute Bungalew Khalasi is purely temporary. His services will be terminated at any time as per rules in force and he will have no right/claim to alternative class IV appointment on the Railway.

3. Indisputably, the applicant on or before 18.8.1993 had completed four months continuous service with the respondents. Para 1515 of the Indian Railway Establishment Manual Vol.I, inter alia, states that substitutes should be afforded all the rights and privileges as admissible to temporary railway servants from time to time, on completion of four months continuous service. It is thus clear that the impugned order of discharge has been passed in violation of the terms of para 1515 aforesaid. If the respondents desired to do 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. This not having been done, the impugned order is not sustainable.

4. In the result, this O.A. succeeds and is allowed. The impugned order dated 18.8.1993, discharging the applicant from service is quashed.

The applicant shall be re-instated in service and

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paid his back wages. The wages shall be computed on the basis that he had been in uninterrupted and continuous service of the respondents all along.

5. There will be no order as to costs.

B.N.Dhundiyal

(B.N.Dhundiyal)

Member (A)

S.K.Dhaen

(S.K.Dhaen)

Vice Chairman.

/sds/