

**Central Administrative Tribunal  
Jaipur Bench, Jaipur**

**O.A. No.425/2019  
M.A. No.817/2019  
M.A. No.1061/2019  
and  
O.A. No.645/2019**

Reserved on :02.03.2021  
Pronounced on:04.03.2021

**Hon'ble Mr. Dinesh Sharma, Member (A)  
Hon'ble Mrs. Hina P. Shah, Member (J)**

**O.A. No.425/2019**

Naurat Singh Rawat S/o Sh Ram Deen Rawat Age: 30 Yrs.  
R/o 103, Mehron Ka Mohalla, Hasanpura-'A', Jaipur Group 'D',  
Substitute Bungalow Khalasi/TADK, Min. of Railways NW  
Railway now working with Dy CPM DFCC Jaipur  
Mob:9602997098. ...Applicant.

(By Advocate: Shri S.K.Bhargava)

Versus

1. Union of India Through General Manager, North  
Western Railway, Jawahar Circle, Jagatpura Jaipur-  
302017.
2. Sh. Rakesh Gupta  
Dedicated Freight Corridor Corporation of India Ltd.  
Regional Office: C-16, Khushi Vihar, Patrakar Colony,  
Mansarovar, Jaipur-302020.
3. Dedicated Freight Corridor Corporation of India Ltd.  
Through Managing Direct, 5<sup>th</sup> Floor, Pragati Maidan,  
Metro Station Building Complex New Delhi-110001,

...Respondents.

(By Advocate: Shri P.K.Sharma for Respondent No.1 and  
Shri P.C.Sharma for Respondent No.2)

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**O.A. No.645/2019**

Naurat Singh Rawat S/o Sh Ram Deen Rawat Age: 30 Yrs.  
R/o 103, Mehron Ka Mohalla, Hasanpura-'A', Jaipur Group 'D',  
Substitute Bungalow Khalasi/TADK, Min. of Railways NW  
Railway now working with Dy CPM DFCC Jaipur  
Mob:9602997098. ...Applicant.

(By Advocate: Shri S.K.Bhargava)

Versus

1. Union of India Through General Manager, North Western Railway, Jawahar Circle, Jagatpura Jaipur-302017.
2. Dedicated Freight Corridor Corporation of India Ltd. Through Managing Direct, 5<sup>th</sup> Floor, Pragati Maidan, Metro Station Building Complex New Delhi-110001,

...Respondents.

(By Advocate: Shri P.K.Sharma for Respondent No.1 and  
Shri P.C.Sharma for Respondent No.2)

**ORDER**

**Per: Dinesh Sharma, Member (A):**

The facts, in the two OAs titled above are, briefly, as follows: The applicant was appointed as Ewazi Bangalow Khalasi, by order dated 08.12.2014 (Annexure A/1 in both the OAs). He was granted Temporary status (TS) by order dated 27.09.2016 (Annexure A/2). The applicant claims that he should have been given TS on completion of four months of service and action taken for screening and regularisation of service on completion of 3 years thereafter. As per the policy dated 21.04.2011, under which he has been

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appointed, his services should be utilised in the North Western Railways only and he cannot be sent on deputation to Dedicated Freight Corridor Corporation of India Ltd. (DFCCIL), a PSU under the Railways. However, under duress to save his job, the applicant accepted the deputation to DFCCIL. He was also compelled to apply for leave. He has alleged that his services were satisfactory. However, in spite of it, he was tortured at the work place and was beaten up by his officer Shri Rakesh Gupta, Respondent No. 2, and his wife, for which he had to seek medical treatment and has lodged a police complaint. He has prayed, in OA 425/2019, for directing the respondents:

- a. to depute the applicant for screening as per rules and to regularize his services;
- b. not to disturb his service conditions;
- c. to recast the Temporary Status strictly after four months of service;
- d. to utilize his services in the North West Railways in the post of Bungalow Khalasi or in any alternative job as per the policy;
- e. to pay costs, and
- f. any other relief that this Tribunal deems fit and proper.

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2. An additional prayer, in OA 645/2019, (while dropping the prayer at 'b' above), is to call him back from deputation to DFCCIL, since this deputation was against the rules and he was sent there against his wishes. Since almost all the reliefs claimed, and the underlying facts, in the two OAs, are common, we are disposing these OAs with this common order.

3. The Respondent No 1, the Railways Department, has denied the claims made by the applicant. It is stated that the applicant was appointed as substitute Bungalow Khalasi and was attached with Shri Rakesh Gupta, Deputy Chief Vigilance Officer. Thereafter, Shri Gupta was transferred as Dy. Project Manager, DFCCIL Jaipur. According to Para 15 of policy dated 28.04.2017 (Refer Annexure R/1 of OA 645/2019), if an officer is transferred to another Railway or unit (PSU), the Bungalow Khalasi is compulsorily taken with him, if the employee has not completed three years of service from the date of granting Temporary Status. The Temporary Status is granted only on completion of 120 days of continuous service and after getting satisfactory report from the concerned officer. The applicant was granted this status when he completed 120 days of continuous service on 13.04.2016, from 11.08.2016. The completion of 3 years

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from this date was on 10<sup>th</sup> August 2019. However, the applicant has concealed the fact about his absence from duties since 25.07.2019 and the fact that the applicant's performance is not satisfactory. The Respondent No 2 (Shri Rakesh Gupta, in OA 425/19) has also denied the claims made by the applicant and stated that not only the services of the applicant were not satisfactory, he also misbehaved with the Respondent No.2. In this situation, the Respondent No. 2 cannot be compelled to give a positive recommendation for screening, and the applicant cannot claim it as a matter of right. The respondent has denied having tortured the applicant, has related various acts of misbehaviour and indiscipline. He has also annexed copies of the alleged admission by the applicant of his own failings (Annexure R/2/1), besides copies of outdoor treatment (Annexure R/2/2) and report to the police regarding the scuffle and abuse by the applicant with him and his wife/mother (Annexure R/2/3).

4. Following an MA (MA No.1060/2019), the Tribunal had allowed the DFCCIL to be made a party in OA 425/2019 and besides filing a reply in OA 645/2019, they have also filed their reply, as Respondent No 3, in OA 425/2019. The DFCCIL has raised an issue of jurisdiction of this Tribunal over matters coming under them, since the Corporation has

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not been notified to come under the purview of the C.A.T. Act. They have also stated that they have paid regular salary to the applicant for the period for which he worked.

5. The applicant has filed rejoinders to the replies of Respondents in OA 425/2019. He has stated that the applicant is governed by the policy of 2011 (and not 2017). He has denied being absent as alleged and stated that the officer did not allow him to sign the muster roll and he had reported the "misdeeds" of the officer by sending letters(annexing tracking sheets as proof). In his rejoinder to the reply of Respondent No 2, the applicant has alleged that his apology (refer Annexure R/2/1) was recorded under duress. The applicant has also alleged that the Respondent No.2 asked for illegal gratification of Rs. 5 lacs for recommending Temporary Status and the satisfactory report was delayed because he was not in a position to pay such a hefty sum. The applicant states that it was not his responsibility to do household work which he was made to do. He has also alleged incident of slapping and beating of him on alleged spoiling of milk and the consequent medical/police intervention and the videography resorted to by him to prove his case. In the rejoinder to the reply of Respondent No.3, it is stated that the Tribunal has jurisdiction since the Respondent No. 3 is a special purpose

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vehicle constituted by the Union of India to augment Railway services in the country and the Section 14(3) of the Administrative Tribunals Act, 1985 enables the Tribunal to exercise its jurisdiction. The pay slips produced by Respondent No.3 show deduction in the month of August which are unauthorised, illegal and unjustified.

6. The matter was heard, through video conferencing, on 02.03.2021 besides repeating the arguments mentioned in their respective pleadings, the learned counsel for the applicant argued that the absence of satisfactory report does not, by itself, mean unsatisfactory service. The policy under which the applicant's services were engaged cannot be changed unilaterally during the course of this service. The applicant would have completed 3 years of service much earlier if the Temporary Status was granted to him, not on 11.8.2016, but earlier, on his completion of 120 days of service. The learned counsel of the Respondent No.1 countered these arguments by stating that services cannot be assumed to be satisfactory without being certified as such, especially so, looking into the facts and circumstances of this case. The order engaging the applicant (Annexure A/1) itself provided that the engagement will be as per the policy dated 21.04.2011 and as per instructions issued from time to time. The applicant has not challenged the alleged

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late grant of Temporary Status at the appropriate time (in 2016) and is therefore barred from raising that issue now.

7. We have gone through the pleadings and heard the arguments of the learned counsels of the parties. To put the whole issue in concise terms, the applicant has prayed for proceeding further with his regularisation as per the policy dated 21.04.2011. The respondents have denied the claim stating that the applicant hadnot completed 3 years period after grant of TS and his performance has not been found satisfactory by the officer under who he was posted to serve as a Bungalow khalasi. The respondents have alleged bad behaviour and absence from duty on the part of the applicant while the applicant has alleged torture and abuse by his controlling officer. The applicant has alleged violation of policy in posting him on deputation to a PSU while the respondents have claimed it is in line with their revised instructions. The DFCCIL (Respondent No.3 in OA no 425/2019 and Respondent No.2 in OA No. 645/2019) has raised the issue of lack of jurisprudence by this Tribunal.

8. We must look into the issue of jurisdiction first. It is true that the DFCCIIL has not been notified to come under the jurisdiction of this Tribunal. However, the fact remains that the Railways and the matters relating to railway employees



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come within our jurisdiction. The issues raised in the OA are by an employee of the Railways and are mainly against the action (or the lack of action) by the Railways. Thus, the Tribunal does have jurisdiction to decide this matter.

9. The applicant has mainly based his claim based on the policy of 2011. He argues that he cannot be sent outside North Western Railways. The respondents have quoted the policy of 2017 to support that this is not a violation of their policy. The learned counsel for the respondent drew our attention to the words "नीति पत्र सं 885ई/1/प्रका/बं.ख/पोलिसी दिनांक 21.04.२०११ व समय समय पर जारी निर्देशानुसार" in the appointment letter of the applicant which shows that the policy was subject to change. The Para 15 of the policy instructions issued by the Railways by their letter dated 28.04.2017 (Annexure R/1 in OA 645/2019) clearly states that a Bungalow Khalasi is bound to move along with the officer to whom he is attached when that officer gets transferred to any other Railway or unit or undertaking (PSU). The applicant, therefore, has no right to remain in the North Western Railways and must serve to the satisfaction of the officer under whom he is posted as Bungalow Khalasi. We agree with the argument of the learned counsels for the respondents since the appointment letter itself made it clear that the instructions regarding engagement were not static and were subject to

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instructions issued from time to time. We also cannot ignore the fact that though reluctantly; the applicant did, for whatever reasons, join on deputation to DFCCIL and has drawn salary, including the deputation allowance, from there.

10. The applicant has prayed for grant of TS from the time when his 4 months service was over (without stating when exactly it was over). The respondents have stated that they have done so from the time when his four months continuous service was over in 2016. The applicant has not given any evidence to show that it was over earlier. It is also evident that he did not challenge the grant of TS in the year 2016, within the period of limitation, when he could have done so, if he was aggrieved because of late grant of TS. The prayer of the applicant for an earlier grant of TS is therefore, clearly an afterthought and cannot be considered now.

11. Regarding the prayer for screening for regularisation, the applicant claims he has become eligible on completion of 3 years from the grant of TS. The respondents have alleged absence from 25.07.2019 to 07.08.2019 and also the fact of his services being not found satisfactory by his controlling officer. The applicant has alleged that he was not allowed to

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join despite reporting on duty. The respondents have stated that they issued letters to his known place of residence for taking action against his absence. The applicant has denied this as false and fabricated evidence. We do not think it is necessary for us to go into whether the applicant was wilfully absent or was denied the opportunity to join, since the more important issue, in proceeding with regularisation, is that the controlling officer should have found the service of the applicant satisfactory. We do not find any evidence of that. The Respondent no 2 (in OA 425/2019) has categorically asserted that he cannot be compelled to give such certificate. Though we find it hard to believe that the applicant would have abused or assaulted this respondent (his superior officer) for no reason, it is equally hard to believe that there would have been assault and torture by this respondent and his wife and mother, again, for no reason. Since we are not the competent court to go into that matter (of assault and counter assault), we need not go further into the incident to arrive at who is to blame and who, between the applicant and Respondent No.2 (in OA No.425/2019) is telling the truth. Suffice to say that under these circumstances, it would be unreasonable to expect that respondent to certify the applicant's services, as Ewazi Bungalow Khalasi, to be satisfactory. We agree that the work of Bungalow Khalasi should not not involve kitchen and

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housework. However, a person working at an officer's bungalow, whose continuance under the very terms of his appointment depends on providing satisfactory service at the officer's bungalow, should have taken care not to cause dissatisfaction to the officer (or any other significant persons residing at that bungalow). This does not appear to have happened in this case. We also note that however anachronistic the terms of his engagement might be, the applicant has not challenged these terms. Therefore, given the undisputed facts of an unseemly fracas at the bungalow, we cannot expect the Respondent No.2 to express satisfaction at the applicant's services. Besides this, the applicant has openly stated unwillingness to work at the PSU under the Railways. This also makes him ineligible for continuance under the current policies of the respondents.

12. For all these reasons explained at length above, we do not think that the respondents have violated any of their policies in not proceeding further with the applicant's regularisation. The applicant did not question the grant of TS when it was granted, on ground that it was granted late. Such challenge now, is clearly an afterthought and is barred by period of limitation. The policy of the respondents does allow posting a Bungalow Khalasi under any officer on deputation to any PSU under them. Therefore there is

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nothing wrong in their action in sending the applicant on deputation along with the officer he was attached to. The OAs, thus, lack merit and are therefore, dismissed. No costs.

13. M.A. No.817/2019 filed by the applicant for interim relief and taking documents on record and M.A.No.1080/2019 filed by the Respondent No.2 (OA No.425/2019) for taking appropriate/stringent action against the applicant are disposed of accordingly.

(Hina P. Shah)  
Member (J)

(Dinesh Sharma)  
Member (A)

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