

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

(5)

Original Application No. 1681 of 1994

Allahabad this the 6th day of June, 2002

Hon'ble Mr.C.S. Chadha, Member (A)
Hon'ble Mr.A.K. Bhatnagar, Member (J)

Moti Lal Mishra, Son of Shri Harbans Prasad Mishra
aged about 21 years, resident of village ; Bilohi,
Post : Shahpur, District : Rewa(M.P.).

Applicant

By Advocate Shri S.S. Sharma

Versus

1. Union of India representing through the General Manager, Railway Electrification, Headquarters Office, Allahabad.
2. Shri J.K.D. Garg, The Chief Electrical Engineer, Railway Electrification, Headquarters Office, Allahabad.
3. The Senior Electrical Engineer, Railway Electrification, Headquarters Office, Allahabad.

Respondents

By Advocate Shri P. Mathur

O R D E R

By Hon'ble Mr.C.S. Chadha, Member (A)

This O.A. has been filed challenging the validity of the order dated 31.10.94, (Annexure I), by which the services of the applicant as a Bungalow

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Khalasi were terminated on the ground that his services were found to be unsatisfactory, but without giving him any opportunity to be heard.

2. The brief facts of the case are that the applicant was engaged as a Bungalow Khalasi to work at ^{the} the residence of Shri J.K.D. Garg, Chief Electrical Engineer/CORE, Allahabad on 19.04.94 vide annexure-2. However, it is alleged by the applicant that he was wrongfully charged by the family members of the said officer of not performing his duties to their satisfaction and he was summarily removed w.e.f. 31.10.94 without giving him any opportunity to be heard, in violation of the principles enshrined in Article 311 of the Constitution.

3. The learned counsel for the applicant has placed reliance on several Judgments of the Hon'ble Supreme Court which have laid down that even temporary govt.servants, cannot be discharged without giving due opportunity to heard, as such ^{the} action is violative of article 311(2) of the Constitution.

4. On the other hand the counsel for the respondents has placed reliance on the Judgment of the Principal Bench of Central Administrative Tribunal. The Full Bench while deciding O.A.nos.896/95, 1764/92 and 817/94, by a common Judgment delivered on 12.2.99 has clearly differentiated between other servants in the railways who have acquired temporary status and Bungalow Khalasis. The learned counsel for the

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applicant has averred that since the Principal Bench while delivering the above mentioned Judgment did not keep in mind the principles laid down by the Apex Court in similar matters the said Judgment should not be binding in this case. We fail to agree with this argument because the Principal Bench has clearly differentiated between other temporary railway servants and Bungalow Khalasis. A careful perusal of the said Judgment also shows that the Principal Bench discussed the findings of the Apex Court in several landmark cases on the subject and clarified why it differentiates between those Judgments and the facts pertaining to cases of Bungalow Khalasis. It is needless to repeat those arguments and it should suffice to say that the Judgments quoted by the learned counsel for the applicant all relate to temporary govt. servants or casual labourers in the railways, which do not apply to the class of Bungalow Khalasis.

5. In their Judgment (supra) the Principal Bench have clearly laid down that :-

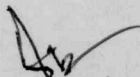
"Our conclusion, therefore is that the question whether termination of a Bungalow Peon/Khallasi after acquisition of temporary status is bad or illegal for want of [&] retrenchment compensation is beyond the scope and jurisdiction of this Tribunal.

Further the Principal Bench also held that even "after acquisition of temporary status by a Bungalow Peon/Khallasi his services can be terminated on the ground of unsatisfactory work without holding a departmental enquiry as discussed inthis order. "

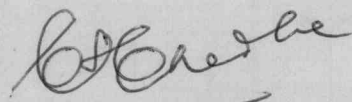
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6. We feel that the circumstances of the present O.A. before us are exactly similar to the above cited cases and the Judgment of the Principal Bench applies squarely to the instant case. We are in respectful agreement with the Principal Bench. Therefore, without going into any further argument and relying on the Judgment of the Principal Bench, we dismiss the O.A. as having no merit. No order as to costs.


Member (J)

/M.M./


Member (A)