

(RESERVED)

**CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH  
ALLAHABAD**

ALLAHABAD this the 20<sup>th</sup> day of March 2008.

HON'BLE MR. A. K. GAUR, MEMBER- J  
HON'BLE MR. K. S. MENON, MEMBER- A.

**ORIGINAL APPLICATION NO. 401 OF 2007**

Jitendra S/o Sri Manoj Kumar, C.M.P.E (Diesel),  
Chief Workshop Engineer, North Central Railway, Allahabad.

.....Applicant.

**VE R S U S**

1. Union of India through the General Manager,  
North Central Railway, Allahabad.
2. The General Manager (P), North Central Railway,  
Allahabad.
3. Chief Workshop Engineer, Headquarter Office,  
Mechanical Department, North Central Railway, Allahabad.

.....Respondents

Present for the Applicant:

Sri A.K. Srivastava

Present for the Respondents :

Sri K.P. Singh

**ORDER**

**BY HON'BLE MR. A.K. GAUR, J.M.**

Through this Original Application, the applicant has prayed for following relief(s): -

- i. to issue order or direction quashing the impugned termination order dated 19.03.2007 (Annexure- 2 to the O.A);

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- ii. to issue a suitable order or direction that the service of the applicant may be regularized and he may be allowed to continue in service with all service benefits;
- iii. to award cost of the application in favour of the applicant.

2. The case, in brief, is that the applicant was appointed as substitute Bunglow Khalasi vide order dated 20.01.2006. It was further directed vide order dated 20.01.2006 that if the applicant is relieved from the post of Bunglow Khalasi, then his services shall be utilized in the field unit. The grievance of the applicant is that inspite of the impugned order dated 19.03.2007, the applicant is still working as Bunglow Khalasi but the attendance is not being properly marked in the Attendance Register. As per the applicant, his services have been dispensed with in violation of rules framed by the Railway Board vide Printed Serial No. 10960/95D dated 13.01.1995. It is further submitted by the applicant that the duties of Bunglow Khalasi have also been indicated in Railway Board's Letter dated 03.01.1978. The applicant has been granted temporary status vide order dated 21.05.2006 (Annexure- 3 to the O.A).

3. On notice, the respondents have filed their Counter Reply stating therein that the services of the applicant was contractual in nature and further, the applicant remained absent unauthorisedly w.e.f. 30.09.2006 to 19.03.2007 without taking prior permission from the competent authority. The respondents have further stated that as per paragraph 18 of recruitment rules of Bunglow Khalasi/ Peon dated 14.04.2003, it is clearly provided that the engagement of substitute Bunglow Khalasi/peon, which is contractual in nature, will be terminated after

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receipt of unsatisfactory working report of the concerned officer, to whom he is attached and that to without any notice, even after acquiring the temporary status. The respondents have further stated that the appointment of the applicant in North Central Railway is governed by General Manager's Letter dated 14.04.2003 (Annexure CA-2) and seek dismissal of the O.A.

4. It has also been contended on behalf of the respondents that in view of the Full Bench decision rendered in O.A No. 896 (Shyam Sunder Vs. U.O.I & Ors.) alongwith connected O.As No. 1764/92 (Prahlad Prasad Vs. U.O.I & Ors.) and 817/94 (Mahfuj Yazdani Vs. UOI & Ors.), even after acquisition of temporary status by a Bunglow Peon/Khalasi, services of the applicant can be terminated on the ground of unsatisfactory work without holding a departmental enquiry. It has further been contended on behalf of the respondents that the applicant could acquire temporary status only after completion of two years continuous service. The relevant instructions contained in Letter dated 13.01.1995 about conferment of temporary status is as follows: -

"i. In case of appointment of fresh faces as Substitute Bunglow Khalasies GM's prior personal approval should be obtained. The initial appointment will be for a period of three months. The engagement of the Bunglow Khalasies shall be purely on contractual basis. In case of any eventuality such as his unwillingness to work as Bunglow Khalasi or he/she is found unsuitable or his/her performance is found unsatisfactory, his/her services shall be terminated.

ii. After the initial period of three months, the extension of the services of the Substitute Bunglow Khalasies will be approved in different spells of three months each by the

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*nominated ADRM on the Division and Dy. G.M./E in Hd. Qrs. Office on receipt of satisfactory working report from the officer concerned. This procedure will be followed up to a total period of two years. After two years the person will be granted temporary status and also screened for regular absorption after conducting screening alongwith other Class IV staff. Grant of temporary status to them will not entitle them to automatic absorption against regular post".*

5. The applicant has filed Rejoinder Affidavit denying the submissions made by the respondents in their Counter Reply reiterating the same facts as enumerated in the O.A.

6. We have heard Sri A.K. Srivastava, learned counsel appearing for the applicant and Sri K.P. Singh for the respondents and also perused the written arguments submitted by the counsel for the respondents as well as other pleadings available on record.

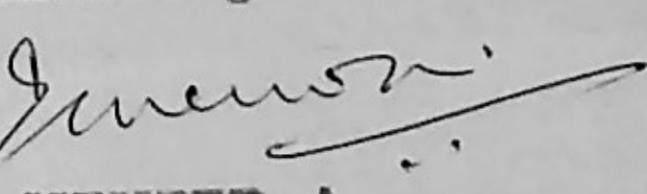
7. It is seen from the record that the performance of the applicant was not convincing or satisfactory. In any case, the Bunglow Peon/ Khalasi does not become entitled for automatic regularization/absorption as per Railway Board's Circular of 13.01.1995, quoted above. From the above Circular, it is clear that in any case, the work of Bunglow Peon/ Khalasi is found unsatisfactory , his services can be terminated without notice. The moot question here as to whether the termination of the applicant's services can be termed as illegal or arbitrary. This question has already been settled by the Full Bench judgment of the Central Administrative Tribunal, Principal Bench, in Shyam Sunder (Supra) that - even after acquisition of temporary status,

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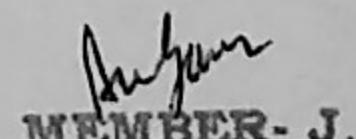
the services of a Bunglow Peon/ Khalasi can be terminated on the ground of his unsatisfactory work without giving any notice, hence it need not be detained by us for long and there is no illegality in terminating the services of the applicant.

8. In view of the decisions of Hon'ble Supreme Court rendered in case of Commissioner, Food and Civil Supplies Vs. Prakash Chandra Saxena (1994) 5 SCC 177 and wherein it has clearly been held by the Hon'ble Supreme Court that - "the termination simpliciter is not a penalty and the Government has power and jurisdiction under the contract of employees or the Rules to terminate simpliciter the services of a temporary Government servant without conducting an enquiry and such termination simpliciter does not amount to termination for misconduct". In the light of aforesaid discussions our conclusion is that a Bungalow Peon, who acquires Temporary status on completion of such a period of continuous service as may be prescribed by General Manager of a particular Railway. In the absence of any such rule or instructions from General Manager of Railway, the general instruction or rule in that regard like the one under paragraph 1515 of the Manual issued or framed by Railway Board may determine the period of continuous service for conferment of Temporary status on a substitute. Thus we find no illegality or infirmity in the impugned order of termination dated 19.03.2007. Accordingly the O.A fails and is dismissed with no orders as to costs.

10. Interim order granted on 20.04.2007 is hereby vacated.



MEMBER-A.



MEMBER-J.