

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

O.A. 168 of 2001

Date of order : 15.4.04

Present : Hon'ble Mr. Justice B.Panigrahi, Vice-Chairman
Hon'ble Mr. S. K. Naik, Member (A)

N. K. MURTY

VS

UNION OF INDIA & ORS

For the applicant : Mr. G.K. Misra, Counsel

For the respondents : Mr. A.Mohanty, Counsel

O R D E R

Justice B.Panigrahi, VC :

In this case a prayer has been made by the applicant to quash the show cause notice dt. 27.4.2001 (annexure-A4) and to regularise him in Gr. D post of Bungalow Peon. It appears that the applicant was initially appointed as Bungalow Peon w.e.f. 20.6.2000 on daily wage basis and subsequently on being approved by the General Manager he was appointed in regular scale w.e.f. 16.11.2000. However, by the impugned show cause notice dt. 27.4.2001 he was asked to explain why his service should not be terminated for his continuous unauthorised absence. The applicant submitted his reply and finally by an order dt. 15.5.01 his service was terminated. The applicant has challenged only the show cause notice and has prayed for its quashing and for his regularisation.

2. The respondents in their reply have stated that the applicant was appointed as substitute Bungalow Peon and his appointment was approved by the General Manager as per rules vide order dt. 24.11.00

but he has been absenting himself from duties and he has repeatedly warned but he did not amend and, therefore, a show cause notice was issued to him although he was not entitled to such notice being a substitute Bungalow Peon. Thereafter on consideration of the representation, the respondent authorities terminated his service by an order dt. 15.5.01 vide annexure-A to the reply. It is contended that the applicant being a substitute Bungalow Peon and has worked only for a few months, he has no right to be regularised.

3. During the course of hearing, ld. counsel for the applicant has advanced two-fold arguments. His first contention is that before terminating the service of the applicant no proceeding was held and his second limb of argument is that the respondent authorities by replacing the applicant are trying to engage a new hand which they cannot do. According to the ld. counsel the applicant having been approved by the General Manager cannot be terminated without following the DA Rules particularly when a stigma has been attached.

4. Ld. counsel for the respondents has, however, contended that a substitute Bungalow Peon is entitled to notice before termination only after completion of one year's service and his service can only be regularised after completion of three years service. Since the applicant did not complete one year's service he was not entitled to any notice, but the respondents have granted him an opportunity before terminating his service. It is contended that the applicant has been absenting unauthorisedly without any authority. It is also contended that the applicant was engaged only on contract basis due to exigency of service.

5. We have considered the matter very carefully. A substitute Bungalow Peon is normally attached to a particular officer during his

incumbency at the station. However, from the appointment order dt. 8.11.2000 (annex re-A1) it is apparent that the applicant was informed in advance that he would be eligible for absorption only after completion of 3 years service and that before completion of one year's service, his service can be terminated with ~~xxx~~ due notice. Admittedly, a show cause notice was issued to the applicant though the applicant has not completed one year's service. He was engaged due to exigency of service by the respondents. But since he has been absenting unauthorisedly the respondent authorities thought it fit to terminate his service after giving him due notice. We, therefore, find no illegality in the action of the respondent authorities in terminating the service of the applicant.

6. Ld. counsel for the applicant has tried to persuade us that the respondent authorities should have held a regular enquiry before terminating the service of the applicant as stigma has been attached. However, we find that in the termination order it was observed that his service was not satisfactory. In our opinion, this cannot be treated as stigma because the applicant acquired no right and status as he did not complete one year's service, and in such situation, a substitute Bungalow Peon can be disengaged.

7. The ld. counsel has also contended that another person is going to be appointed in place of the applicant. We find no irregularity in this action of the respondent authorities as obviously a Bungalow Peon may be necessary for the occupant of the Bungalow in which the applicant was attached.

8. For the reasons stated above, we find no merit in this OA and it is accordingly dismissed. No costs.

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MEMBER (A)

Banyan

VICE CHAIRMAN