

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

No. MA 261 of 2005
(OA 65 of 1996)

Present: Hon'ble Mr.K.V.Sachidanandan, Vice-Chairman
Hon'ble Mr.P.K.Chatterji, Administrative Member

RATNESWAR YADAV

VS

UNION OF INDIA & ORS.

For the applicant : Mr.S.K.Mitra, counsel
Mr.B.Chatterjee, counsel

For the respondents : Mr.P.K.Arora, counsel

Heard on : 4.3.08

Order on : 14.3.08

O R D E R

Mr.P.K.Chatterji, A.M.

This MA has been filed by the applicant of OA 65/96 under Rule 24 of the CAT (Procedure) Rules, 1987. The prayer made in this application is for recalling the order passed by this Tribunal on 19.4.05 in OA 65/96.

2. Heard Mr.B.Chatterjee, ld. counsel leading Mr.S.K.Mitra, ld. counsel appearing for the applicant and Mr.P.K.Arora, ld. counsel appearing for the respondents. The respondents have filed an objection to this MA.

3. The operative part of the final order of the Tribunal in OA 65/96 is as follows :

"In view of the judgments referred above and the facts of the case, the judgments referred by the applicant are not relevant. The latest judgment of the Hon. Supreme Court which are cited above by the respondents are relevant and considered. There is no stigma attached to the order of termination. Since the applicant is a substitute Bunglow Peon, his service does not attract Article 311 of the Constitution of India. Hence the action taken by the respondents is perfect. There is no illegality or irregularity."

4. The above order was issued after examining the original application filed by the applicant praying for setting aside the impugned notice of termination of his service as substitute Bunglow Peon on 24.8.88. The Tribunal issued the final order after considering

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the pleadings and oral submissions of both parties and with regard to the relevant rules and records. In the MA however, the applicant says that by not giving due regard to the provisions of IREM Vol. I Rules 1512 and 1513 the Tribunal committed an error in its judgment. The relevant provisions are reproduced below :

1512 Definition – “Substitutes” are persons engaged in Indian Railway Establishments on regular scales of pay and allowances applicable to posts against which they are employed. These posts fall vacant on account of a railway servant being on leave or due to non-availability of permanent or temporary railway servants and which cannot be kept vacant.

1513 Circumstances under which substitutes can be recruited :

- i) Ordinarily there should be no occasion to engage “substitutes” having regard to the fact that practically in all categories of railway servants leave reserve has been provided for. However, when owing to an abnormally high rate of absentees the leave reserve may become inadequate or ineffective as in the case of heavy sickness, or where the leave reserve is available but it is not possible to provide the same, say at a way side station, and it may become absolutely necessary to engage substitutes even in vacancies of short duration.
- ii) As far as possible substitutes should be drawn from a panel of suitable candidates selected from Group ‘C’ and ‘D’ posts and should be engaged subject to the observations made in (i) above, only in the following circumstances :
 - a) Against regular vacancies of unskilled and other categories of Group ‘D’ staff requiring replacement for which arrangements cannot be made within the existing leave reserve;
 - b) Against a chain vacancy in the lower category of Group ‘D’ staff arising out of the incumbent in a higher Group ‘D’ category being leave, where it is not possible to fill the post from within the existing leave reserve;
 - c) Against posts in categories for which no leave reserve has been provided;
 - d) Against vacancies in other circumstances notified by the Railway Board from time to time.”

5. In the MA the applicant has not explained what error was committed by the *✓ regard having* *✓* Tribunal with *reply and* to application of Rules 1512 & 1513 of IREM.

6. On a perusal of the MA coupled with the order of the Tribunal in OA 65/96 it appears to us that the Tribunal did not commit any error apparent on the face of records. The decision was arrived at after giving due consideration to relevant rules and circulars. What the applicant has prayed for in this OA tantamounts to re-opening the matter for fresh argument and decision. We are afraid this is not permissible in an application under Rule 24 of the CAT (Procedure) Rules, 1987. If the applicant has any grievance against the merit of the decision he has other appropriate forum to agitate the matter.

