

CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH

O.A.No.291/98

Tuesday this the 2nd day of June, 1998.

CORAM

HON'BLE MR. A.V. HARIDASAN, VICE CHAIRMAN  
HON'BLE MR. S.K. GHOSAL, ADMINISTRATIVE MEMBER

K.Suresh,  
S/o G.Kuttappan,  
Substitute Bungalow Lascar,  
Under Deputy Chief Engineer,  
Southern Railway, Construction  
Trivandrum Central,  
residing at Rly.Qr.No.145/F  
Thampanoor, Trivandrum.

...Applicnat

(By Advocate Mr. T.C.Govindaswamy)

Vs.

1. Union of India represented by the General Manager, Southern Railway Headquarters Office, Park Town PO, Madras.3.
2. The Chief Project Manager, Guage Conversion, Southern Railway, Construction, Egmore, Madras.3.
3. The Deputy Chief Engineer, Southern Railway, Construction, Trivandrum.
4. The Chief Engineer, Construction Southern Railway, Egmore, Madras.8.
5. The Chief Personnel Officer, Southern Railway, Headquarters Office, Park Town PO, Madras.3.

R.5 impleaded vide  
orders in MA 430/98.

(By Advocate Mrs.Sumati Dandapani)

The application having been heard on 2.6.1998, the Tribunal on the same day delivered the following:

O R D E R

HON'BLE MR. A.V. HARIDASAN, VICE CHAIRMAN

The applicant a Bungalow Lascar attached to Shri George K.George, Deputy Chief Engineer(Construction) has filed this application impugning the order dated 27.1.98 (A3) of the Chief Engineer(Construction) Madras by which he was informed that it was proposed to terminate his services duly giving him thirty days notice period w.e.f.

27.1.98 on Shri George K. George, Deputy Chief Engineer proceeding on study leave for two years with effect from 12.1.98. It was also stated in this order that this order was issued with the approval of the competent authority. The appointment of the applicant as substitute Bunglow Lascar to Mr. George K. George happened to be made on the applicant making an application to the Chief Administrative Officer on 12.5.97 stating that he was willing to work as Bunglow Lascar to Shri George K. George, Deputy Chief Engineer (Construction) and Shri George K. George also addressing the Chief Engineer stating that he proposed to engage Shri K. Suresh as his Bunglow Lascar (Annexures R.1 and R.2 respectively). Sanction of the General Manager for appointment of the applicant as a substitute Bunglow Lascar in the scale of Rs. 750-940 to the Deputy Chief Engineer was conveyed by the Headquarters, Works Construction Branch, Madras on 4.11.97. Accordingly the applicant was appointed as a substitute Bunglow Lascar to Shri George K. George, Deputy Chief Engineer by the Deputy Chief Engineer (Construction) himself (Annexure A2). The impugned order A3 came to be issued as Shri George K. George was proceeding on study leave for two years w.e.f. 12.1.98 to 11.1.2000 to prosecute his studies, the requirement of a Bunglow Lascar to him ceased to exist. The applicant aggrieved by the impugned order A3 had made a representation to the Chief Engineer (Construction) (A.4) which was disposed of by the Chief Personnel Officer by order dated 23.2.98 (A5) explaining the reason for the termination of his services, that it became necessary as Shri George K. George is on long leave for two years. It has also been mentioned in

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the order that he could not compare himself with other Bunglow Lascars who had been appointed later than him as he was attached to Shri George K. George. The applicant has in this application challenged both these orders and has prayed that the respondents may be directed to give him the consequential benefits.

2. The respondents in their reply statement have stated that the Administrative Grade Officers are entitled to have Bunglow Lascars of their choice, that the applicant was engaged by Shri George K. George and appointed as Bunglow Lascar to him, that as Shri George K. George has now proceeded on leave there would be no requirement of the applicant continuing, action was taken to terminate his services. It has also been stated that only in case of Bunglow Lascars who had continued for over a period of one year there is a liability to retain them under certain specific circumstances and that as the services of the applicant lasted only for less than two months the applicant is not entitled to any such relief.

3. We have perused the pleadings and have heard Sri T.C.G. Swamy, learned counsel appearing for the applicant as also the learned counsel for the respondents at considerable length. The learned counsel for the applicant argued that as the applicant was appointed with the approval of the General Manager, the order which has been issued without any specific approval of the General Manager is unsustainable. The applicant is not holder of any civil post. Even for a person holding a civil post the guarantee under Article 311(1) of the Constitution is that he shall not be dismissed, removed or reduced in rank by any authority which is subordinate to the authority which appointed him. In this case even though the appointment of

the applicant was made with the approval of the General Manager, the appointment was made by the Deputy Chief Engineer who has issued the order A3. Therefore, we do not find any infirmity or incompetence in the order.

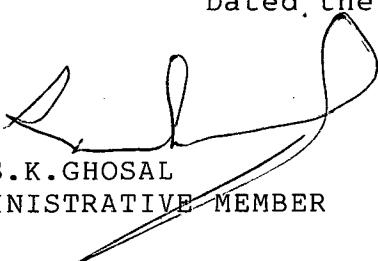
4. Learned counsel further argued that according to the provisions contained in para 1516(c) of the Indian Railway Establishment Manual it is required to maintain a gradation list of substitutes unitwise and that as the respondents have not indicated the position of the applicant in the gradation list, the termination of his services while retaining his juniors is unjustified. We do not find any force in this argument. The appointment of the applicant was as stated earlier on his specific willingness to work as Bunglow Lascar to Mr. George K. George alone. Therefore, if there is a unit, the unit is Mr. George K. George, Deputy Chief Engineer and there would have been only one in the gradation list, namely the applicant.

5. Learned counsel argued that according to Section 21 of the General Clauses Act when powers are vested in an authority to issue rules, orders and notifications, for amendment of the rules also the same authority has to follow the same procedure. This argument was raised by him to support his contention that without the approval of the General Manager, the services of the applicant who has been appointed with such approval cannot be terminated. Validly Section 21 of the General Clauses Act deals with rules, notifications and orders of general application and does not relate to appointment order of a particular individual. Therefore, the argument based on this provision

of the General Clauses Act also has no force at all. The applicant who has been appointed to work as Bunglow Lascar of Shri George K. George according to his willingness and the willingness of Shri George K. George has no right to continue when Mr. George K. George is not working as Deputy Chief Engineer but is away on long leave. As the period during which the applicant served being less than one year, the respondents are under no obligation to continue his services.

6. Under these circumstances, we do not find any merit in this application. Therefore, we dismiss the same leaving the parties to bear their costs.

Dated the 2nd June, 1998.

  
S.K. GHOSAL  
ADMINISTRATIVE MEMBER

  
A.V. HARIDASAN  
VICE CHAIRMAN

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LIST OF ANNEXURES

1. Annexure A-2 : Memo No.P.407/I/CN/TVC dated 6-11-97 issued by the third respondent.
2. Annexure A-3 : Order No.P/407/I/CN/8p dated 27-1-98 issued by the fourth respondent.
3. Annexure A-4 : Representation dated 9-2-98 submitted by the applicant to the fourth respondent.
4. Annexure A-5 : Order No.P.407/I/CN/8p dated 23-2-98 issued by the Chief Personnel Officer, Southern Railway, Madras.
5. Annexure R-1 : Request for appointment submitted by the applicant before the Chief Administrative Officer, Construction Division, Southern Railway, Bangalore Cantonment.
6. Annexure R-2 : Approval of request of the applicant by Shri George K George, Deputy Chief Engineer (Construction), Southern Railway, Trivandrum to the Chief Engineer (Construction), Southern Railway, Madras.

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