

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH  
AT HYDERABAD

OA.1200/99

dt.18-7-2000

Between

A. suryaprasad

: Applicant

and

1. General Manager  
SC Rly., Railnilayam  
Secunderabad

2. Financial Advisor & Chief  
ACcounts Officer, SC Rly.  
Railnilayam, Secunderabad

3. RV Subba Rao,  
Dy. Chief Accounts Officer  
SC Rly., Railnilayam  
Secunderabad

4. Asstt. Personnel Officer(BG)  
o/o DRM(P) BG/SC, SC Rly.  
Secunderabad

: Respondents

Counsel for the applicant : G.S.V. Seshu  
Advocate

Counsel for the respondents : K. Siva Reddy  
SC for Railways

Coram

Hon. Mr. Justice D.H. Nasir, Vice Chairman

Hon. Mr. R. Rangarajan, Member (Admn.)

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## Order

Oral order (per Hon. Mr. R. Rangarajan, Member(Admn.)

Heard Mr. G.S.V. Seshu for the applicant, Mr. K. Siva Reddy for Official respondents and Mr. P. Krishna Reddy for Respondent No.3.

2. The applicant in this OA was initially appointed as Bungalow Peon, under Senior Divisional Operations Manager, Secunderabad. Later on he was transferred and he was appointed as Substitute Bungalow Peon under Respondent No.3 vide letter No.CP/121/P.10/Admn.B.Peon dated 27-7-1994(A-I). The applicant was terminated by office order dated 7-5-98 (Annex.2).

3. This OA is filed to set aside the termination order dated 7-5-98 and for a consequential direction to reinstate the applicant with all consequential benefits including consideration of the applicant for absorption in Class IV service in terms of appointment order.

4. A reply has been filed. The main contention of the respondents in the reply is that the applicant was appointed as Substitute Bungalow Peon fresh by the office order No.49/1995 dated 21-3-1995 and his appointment as per that office order is subject to the conditions spelt therein. The applicant's services were not found satisfactory, hence, his services were terminated as per note-4 of the office order dated 21-3-1995. Hence, the impugned order No.73/98 dated 7-5-98 is in order.

5. The only point for consideration in this OA is whether the rules have been followed in terminating the services of the applicant. Note 4 of the office order dated 21-3-95

reads as follows :

"4. In the event of his services as a Bungalow Peon are not required by an officer either before or either completion of 3 years service and he is declared unsuitable for absorption in regular Group-D Establishment by the officer, he will have no title to be transferred to the regular Establishment and his services will be terminated without assigning any reasons, giving him the requisite notice and/or payment of retrenchment as admissible under the rules."

However, the applicant has to be given notice in accordance with para 310 of IREM. Either he should be given notice of 14 days or in lieu of that salary for 14 days. It is admitted fact that the applicant was given salary in lieu of notice after 7-5-1998 i.e. on 13-5-98, as per the cheque issued to him. Hence, issuing termination order dated 7-5-98 in our opinion is incorrect. Hence, office order dated 7-5-98 cannot be treated as a valid order in the eye of law.

6. It is further submitted by the respondents that the applicant has submitted a School Leaving Certificate which is forged and that was revealed when an enquiry was conducted by the Vigilance cell of the Railways. But in reply there is no such material available. The respondents submit that even though it was not available, it was brought to the notice of the Bench so as to pass suitable orders.

7. If it has been indicated in the reply, probably that would have given an opportunity to the applicant to resist that inquiry report of the Vigilance Cell. But they have not done so. <sup>As</sup> If such an order cannot be taken note of at this juncture, the respondents are at liberty to ~~see~~ <sup>be</sup> such report if it is necessary in future.

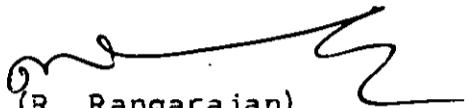
8. In the result, the name of the applicant should be kept in live register at the appropriate place in a suitable seniority list unit to which he was eligible on 7-5-1998.

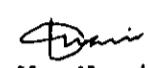
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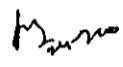
On that basis his case for regular posting also should be considered. Even though the compensation was given later on 7-5-98, <sup>by cheque</sup> the respondents are directed to give compensation in cash within 14 days as the applicant cannot encash the cheque being poorly paid. <sup>in case the cheque is returned by him</sup>

9. The OA is ordered accordingly. No costs.

  
(R. Rangarajan)  
Member (Admn.)

  
(D.H. Nasir)  
Vice Chairman

Dated : 18 July, 2000  
Dictated in Open Court

  
M. Munro

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