

Central Administrative Tribunal
Principal Bench
New Delhi

O.A.No.2377/2013
M.A.No.1815/2013

Order Reserved on: 03.02.2016
Order pronounced on 05.02.2016

Hon'ble Shri V. Ajay Kumar, Member (J)
Hon'ble Shri Shekhar Agarwal, Member (A)

Shri Amit Kumar Patel
S/o Shri Rajendra Prasad
R/o Gali No.1
House No.L-26G
Jaipur Extension, Badurpur
Opposite Arbanschool
New Delhi. ... Applicant

(By Advocate: Ms. Meenu Mainee)

Versus

Union of India: through

1. General Manager
Northern Railway
Baroda House
New Delhi.

2. Divisional Railway Manager
Northern Railway
Moradabad. ... Respondents

(By Advocate: Shri A.K.Srivastava)

O R D E R**By V. Ajay Kumar, Member (J):**

MA 1815/2013, for seeking exemption in filing of the typed Hindi translation of the Annexure, is allowed.

2. The applicant, who worked as Telephone Attendant/Dak Khalasi (TADK/Bungalow Khalasi) from 2.5.2012 to 31.08.2012, when one Shri Atul Kumar Jain, worked as Senior DOM (G), Northern Railway at Moradabad, filed the OA seeking a direction to the respondents to consider his case for reappointment as a Bungalow Khalasi under any JAG Officers in any of the Divisions of the Northern Railway.
3. Heard both the learned counsel and perused the pleadings on record.
4. The undisputed facts of the case as narrated in the counter of the respondents are as under:
 - i. That in the Railways, officers of the rank of Junior Administrative Grade and above are entitled for services of Bungalow Peon at their residence to meet with official work arising out of Railway Operations at their residence also. The terms and conditions of appointment of Bungalow Khalasi are contained in Printed Serial No.10960/95.
 - ii. That the terms and conditions for appointment as Bungalow Khalasi provide that the engagement of Bungalow Peon is

purely on contractual basis extendable from time to time after every three months on submission of satisfactory working report by the Controlling Officer. In case of any eventuality such as unwillingness to work as Bungalow Khallasi or he/she is found unsuitable or his/her performance is found unsatisfactory, his/her services shall be terminated. After completion of continuous satisfactory service of 120 days, the Bungalow Khallasi becomes eligible for grant of Temporary-status and on completion of 3 years continuous satisfactory service, the Bungalow Khallasi becomes eligible to be screened along with others for absorption in regular Group D appointment.

- iii. The person being engaged as Bungalow Peon gives his consent in writing i.e. he/she is willing to work as a Bungalow Peon and in case of any eventuality such as his/her unwillingness to work as Bungalow Peon or he/she is found unsuitable or his/her performance is found unsatisfactory, his/her services shall be terminated.
- iv. That owing to the sensitive nature of the job involving Bungalow Peon's presence at the residence of the officer when he/she shall be at work place/on tours/on training, persons engaged as such has to be a dependable/reliable/faithful person in whom officer should

have full trust. Every entitled officer can exercise his option for engaging person of his/her choice only once in service.

v. That in case of appointment of a fresh faces as Substitute Bungalow Khallasies, GMs' prior approval should be obtained. It is submitted that on the recommendation of Sh. Atul Kumar Jain, Sr. DOM/G/MB GM/P., N.Rly., accorded approval for the appointment of the applicant as Substitute Bungalow Khallasi to work at his Bungalow. It is submitted that the applicant was appointed as Substitute Bungalow Khallasi, and posted with Sh. Atul Kumar Jain, Sr. DOM/G/MB on the terms and conditions laid down in his appointment letter dt. 2.5.2012. Applicant continued to work with Sh. Atul Kumar Jain, Sr. DOM/G/MB till his transfer. After the transfer of Sh. Atul Kumar Jain, the new incumbent did not accept the services of the applicant, so his services were terminated vide impugned order dt. 29.8.2012 in accordance with the terms and conditions of his appointment.

5. Mrs. Meenu Mainee, the learned counsel appearing for the applicant, while not disputing the aforesaid facts submits that one Dr. Shyam Sunder working as ACMS/PATH/MB in SAG grade vide his letter dated 04.02.2013 while expressing his willingness to engage the applicant as Bungalow Khalasi, requested the 1st Respondent, General Manager, to permit him to reengage the applicant as fresh face Bungalow Khalasi to work with him, and hence, the applicant may be

reengaged as Bungalow Khalasi with the said officer. The learned counsel also placed reliance on a decision of this Tribunal, delivered by a Single Bench, in OA No.2867/2002 dated 24.11.2005 (Dharmender Kumar Yadav v. Union of India) as upheld by the Hon'ble High Court of Delhi in WP (C) No.3263 of 2006 dated 08.03.2006.

6. The respondents while reiterating their stand that the applicant has no right to compel the respondents to engage him as Bungalow Khalasi, under the rules in force, placed reliance on a Coordinate Bench decision of this Tribunal in OA No.2283/2013, dated 29.05.2015 (**Manish Yadav v. Union of India**).

7. In **Dharmender Kumar Yadav** (supra), the applicant was a Bungalow Khalasi on whom temporary status was confirmed and who was terminated from service without following due procedure. His termination was set aside on the ground that once temporary status was conferred, the procedure under the disciplinary and appeal rules were to be followed while discharging him from service for unsatisfactory conduct. In the present case, neither temporary status was conferred on the applicant nor his services were terminated for unsatisfactory conduct, and hence, the said decision has no application.

8. In **Manish Yadav** (supra), it was alleged that the applicant's services as TADK were terminated without prior notice on account of mala fide action, despite the fact that he had attained the status of a temporary employee. The Division Bench following a decision of a Full

Bench of this Tribunal in **Shyam Sunder v. Union of India** (O.A.No.896/1995), dismissed the O.A.

9. In the circumstances and since the applicant failed to show any valid reason for issuing a direction to the respondents compelling them to reengage the applicant as TADK, the OA is dismissed. No costs.

(Shekhar Agarwal)
Member (A)

(V. Ajay Kumar)
Member (J)

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