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CENTRAL ADMINISTRATIVE TRIBUNAL
KOLKATA BENCH, KOLKATA

No. O.A. 585 of 2015

Date of order: 13.11.2018

Present : Hon'ble Ms. Bidisha Banerjee, Judicial Member
Hon'ble Dr. Nandita Chatterjee, Administrative MemberChhabi Kayal (Halder),
Wife of Deepak Halder,
Ex-Bungalow Peon attached to
Dy. FA & CAO/S&W/GRC
Aged about 38 years
At present residing at 42,
Satyen Roy Road,
Kolkata - 34.

... Applicant.

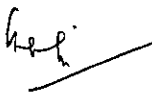
Versus

1. Union of India
through General Manager,
South Eastern Railway,
Garden Reach,
Calcutta - 43.
2. Financial Advisor and Chief Accounts Officer,
South Eastern Railway,
Garden Reach,
Calcutta - 43.
3. Chief Personnel Officer,
South Eastern Railway,
Garden Reach,
Calcutta - 43.
4. Sr. AFA (ADMN)
South Eastern Railway,
Garden Reach,
Calcutta - 43.
5. Dy. Chief Personnel Officer (Rectt.)
S.E. Railway,
Garden Reach,
Kolkata - 43.

... Respondents.

For the Applicant : Mr. C. Sinha, Counsel

For the Respondents : Mr. M.K. Bandyopadhyay, Counsel



ORDER

Per Dr. Nandita Chatterjee, Administrative Member:

Ld. Counsel for both sides are present and heard.

2. An Original Application has been filed under Section 19 of the Administrative Tribunals Act, 1985 seeking the following relief:-

"(a) To set aside and quash Impugned letter No. Admn/SE/CC/CK/N-537 dated 31/3/14 issued by Dy. CAO (G) for FA&CAO/SER/GRC.

(b) To direct the respondents consider the case of the applicant to be posted as Substitute against Group 'D' vacancies in field units with GM's prior personal approval, in terms of Para 3(a) of policy dated 9.6.2010.

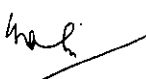
(c) To direct the respondents to consider the case of the applicant for posting as Substitute Bungalow Peon, commensurating her age, educational qualification.

(d) Any other order or orders as the Hon'ble Tribunal deems fit and proper."

3. The contentions of the applicant, as articulated through her Ld. Counsel, is that the applicant was appointed as a Substitute Bungalow Peon and was attached to Dy. FA & CAO (S&W)/S.E. Railway/GRC in the pay of Rs. 2550/- w.e.f. 8.4.2005. The officer, with whom she was attached as Bungalow Peon, was thereafter transferred from S.E. Railway, Garden Reach to COFMOW vide orders dated 20.9.2005. Consequently, vide an Office Orders dated 16.3.2006, the applicant was also transferred in the same capacity to COFMOW.

That, the applicant had submitted leave applications for one month's LAP from 13/3/2006 to 14/4/2006 by her application dated 13.3.2006 and extended the same from 12.4.2006 to 26.4.2006 vide her letter dated 14.4.2006.

That, the respondent authorities vide their reply dated 10.5.2006, regretted sanction of the leave stating that, as she had been transferred on 16.3.2006



along with the transferee official with whom she was attached, S.E. Railway is not competent to sanction her leave post transfer therefrom.

That, thereafter, since the applicant had completed more than one year of continuous service as a Substitute Bungalow Peon, she preferred representations to obtain benefit of the S.E. Railway's Policy dated 9.6.2010 on "Revised policy for engagement, re-engagement, absorption & discharge of Bungalow Peons." Having received no response, the applicant thereafter approached the Tribunal in O.A. No. 1383 of 2013 which was disposed of vide orders dated 31.10.2013 with liberty to the applicant to prefer a fresh representation and with directions to the respondent authority to dispose of the same in terms of para 3(a) of the said policy. The applicant further states that the respondent authorities, vide their letter dated 31.3.2014 (since impugned), rejected her claim and being aggrieved with such rejection, the applicant has approached the Tribunal praying for specific relief in the instant O.A.

4. Per contra, the respondents have argued that as the applicant was released on 16.3.2006 consequent to the transfer of the official with whom she was attached, the applicant had not completed one year of continuous service since her engagement on 8.4.2005. The respondents further argued that, as per the policy dated 9.6.2010, particularly para 3(d) of the same, the officer concerned has the choice to take his Bungalow Peon with him on transfer or leave the Bungalow Peon behind for regularisation if the incumbent has completed the requisite service failing which the services of the Bungalow Peon will be terminated as per rules. In the instant matter, the officer did express his choice to take the applicant with him on transfer but as the applicant had refused to move with the officer on transfer, her services have been terminated in terms of such policy.

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5. The point of determination herein is whether the applicant is entitled to any relief in terms of policy of S.E. Railway dated 9.6.2010 on Bungalow Peons.
6. The relevant extracts of the said policy are quoted below:-

SOUTH EASTERN RAILWAY

Office of the
Chief Personnel Officer
Garden Reach, Kolkata-43.
Dated: 09.06.2010

No. P/R&R/C1.IV/Bungalow Peon/Policy/Loose

To
All Concerned

Sub: Revised policy for engagement, re-engagement, absorption & discharge of Bungalow Peons.

Ref: This Office letter of even No. dated 11.11.2009.

(d) If the officer is transferred outside S.E. Railway he/she will have the choice either to take his/her B/Peon along with him/her to his new post or leave the B/Peon behind, on S.E. Railway, either for regularization, if he/she has completed requisite service or else his/her service will be terminated, as per Rules. In case the Bungalow Peon has completed more than 1 year of continuous satisfactory service but less than 3 years of continuous and satisfactory service, he/she will be posted as a "Substitute" against Group 'D' vacancies, in field units only after obtaining GM's prior personal approval. He will be screened and given paper lien after completion of 3 years of continuous aggregate and satisfactory service. In respect of such B/Peons, who have completed 120 days of continuous and satisfactory service but less than 1 year probationary service and their services have been terminated due to transfer, retirement, death etc. of appointing officer, their names will be maintained in a Reserve List, to be centrally maintained in CPO's Office (Recruitment Section). Similar list may be maintained by respective Sr. DPO/DPO also. In the exigencies of administrative requirement, such persons can be engaged from the Reserve List. With G.M.'s personal prior approval as Substitute, provided they fulfil the prescribed norms for such re-engagement. Those whose services were terminated due to unsatisfactory service/conduct/behaviour shall not be re-engaged.

XXXXXXXXXXXXXXXXXXXX

(B.N. Soren)
Dy. Chief Personnel Officer (Rectt.)
For General Manager"

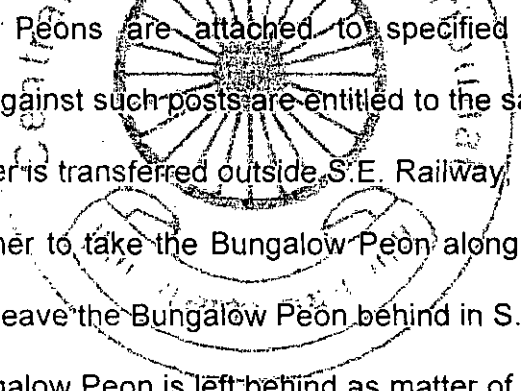
The applicability of the applicant's prayer is examined in the background of such policy. The applicant was engaged on 8.4.2005 and, if she had continued in service without any break, she would have completed one year of continuous

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service on 7.4.2006. On 16.3.2006, however, the applicant was transferred to COFMOW in consequence to transfer of the officer with whom she was attached. Accordingly, her continuity in service in GRC ceased from 16.3.2006.

The applicant claims that she had applied for leave from 13.3.2006 to 26.4.2006 and on 14.4.2006 had preferred a representation requesting for posting anywhere in Kolkata. The said leave was regretted vide respondents' communication dated 10.5.2006 on ground that as she had been transferred from S.E. Railway, the scope of any further sanction of leave by S.E. Railway did not arise. Finally, her service were terminated vide notice issued by respondents on 5.5.2006.

The contents of para 3(d) of the policy dated 9.6.210 read with para 2(a) of the said policy are examined in detail. The following are inferred therefrom:

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- (i) Bungalow Peons are attached to specified posts and officers attached against such posts are entitled to the same.
 - (ii) If the officer is transferred outside S.E. Railway, then he will have the choice either to take the Bungalow Peon along with him to his new post or to leave the Bungalow Peon behind in S.E. Railway.
 - (iii) If the Bungalow Peon is left behind as matter of choice by the Officer concerned and if the Bungalow Peon has completed the requisite service of one year of satisfactory service but less than three years of continuous and satisfactory service, the Bungalow Peon will be posted as a 'Substitute' against Group 'D' vacancies, in field units only after obtaining GM's prior personal approval.
 - (iv) The said Substitute Peons will, after completion of three years continuous aggregate and satisfactory service, will be screened and provided with paper lien against a permanent cadre of Gr. 'D' vacancy.

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- (v) Names of Bungalow Peons, who have completed 120 days but less than one year of satisfactory service and if their services have been terminated due to transfer etc., will be maintained in a Reserve List, to be centrally maintained in CPO's Office (Recruitment Section). Similar lists may be maintained in respective Sr. DPO/DPO, and in the exigency of such posts, can be engaged with GM's personal prior approval provided they fulfil the prescribed norms for such re-engagement.

Upon examination of the policy guidelines, we do not deem it expedient to intervene with the speaking order dated 13.3.2006. The applicant stood transferred as on 16.3.2006 and failed to respond within seven days from the date of receipt of the notice dated 5.5.2006 leading to termination of her engagement. As it has not been established that respondents have violated their policy guidelines in the matter of Bungalow Peon, we do not detect any infirmity in the said speaking order.

At the same time, as in this case, admittedly, the applicant had completed 120 days of satisfactory service but had failed to complete one year on probation and, accordingly, she was entitled to be considered in the Reserve List and thereafter engaged as per provisions of Para 3(d) of the policy dated 9.6.2010. Respondents also have not controverted applicability of the above mentioned position in the context of the applicant.

7. Consequently, we feel that this matter may be disposed of by directing the competent respondent authority namely, the respondent No. 3, who is the Chief Personnel Officer, S.E. Railway, Garden Reach to examine the contents of the representations submitted from time to time by the applicant and to consider whether the applicant may be maintained in the Reserve List to be deployed further as per the policy guidelines dated 9.6.2010, particularly Para 3(d) of the same. Respondent No. 3 will complete such exercise within 8 weeks of receipt of

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a copy of this order and will convey decisions taken to the applicant immediately thereafter.

8. With these directions, the O.A. is disposed of. No costs.

(Dr. Nandita Chatterjee)
Administrative Member

(Bidisha Baherjee)
Judicial Member

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