

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH
HYDERABAD**

O.A. No.020/00724/2018
&
M.A.No.020/333/2019 in O.A. No.020/00724/2018

Date of Order :18.04.2019.

Between :

N.Sandhya Rani, w/o Srinivasa Rao,
Aged about 32 yrs, Occ:Bungalow Peon
(under termination), O/o Deputy Chief Accounts,
Officer/T1 Bungalow, South Central Railway,
Secunderabad, Telangana State, permanent
Resident of H.No.2-27, Parvthalapeta Village,
Siribujjala Mandal, Srikakulam District. ...Applicant

And

1. The Union of India, rep., by its
General Manager, South Central Railway,
Rail Nilayam, Secunderabad-500 025.
2. The Finance Advisor & Chief Accounts Officer,
South Central Railway, Rail Nilayam,
Secunderabad-500 025.
3. The Deputy Chief Accounts Officer/T1,
O/o the Finance Advisor & Chief Accounts Officer (T),
Lekha Bhavan, South Central Railway,
Secunderabad-500 025.
4. The Senior AFA/G, O/o PFA Office,
South Central Railway, Rail Nilayam,
Secunderabad-500 025. ... Respondents

Counsel for the Applicant ... Mr.G.Raman Goud
Counsel for the Respondents ... Mr.S.M.Patnaik, SC for Rlys.

CORAM:

**THE HON'BLE MR.JUSTICE L.NARASIMHA REDDY, CHAIRMAN
THE HON'BLE MR.B.V.SUDHAKAR, MEMBER (ADMN.)**

ORAL ORDER

(As per Hon'ble Mr.Justice L.Narasimha Reddy, Chairman)

The applicant was engaged as a Substitute Bungalow Peon by the South Central Railway in the pay scale of Rs.5200-20200/- with Grade Pay of Rs.1800/- through order dated 06.06.2017. She was issued a memo dated 12.01.2018 (wrongly typed as 12.01.2017) stating that the discharge of duties by her is not to the satisfaction of the department and despite several oral warnings, she did not improve her performance. She was required to explain within 10 days from the date of receipt of the said memo as to why her services be not terminated.

2. It appears that the applicant represented to the respondents stating that the allegations are not true and the date of memo was wrongly mentioned. On 16.01.2018, the respondents issued another letter pointing out the alleged acts of omissions. The applicant submitted a representation dated 05.02.2018, denying all the allegations. The respondents passed an order dated 12.02.2018, terminating the services of the applicant with effect from 31.01.2018. The same is challenged in this OA.

3. The applicant contends that she was appointed and placed in the scale of pay on being satisfied about fulfilling the requisite qualifications and the order of termination was issued without following the

prescribed procedure and without any verification. It is also stated that the same was issued only with a view to deprive her, the temporary status on completion of 240 days of service and that the retrospective termination is contrary to law. Other grounds also pleaded.

4. The respondents filed a counter affidavit opposing the OA. They stated that the applicant was given several oral and written warnings about the discharge of her duties and when it was found that there was no improvement in her performance, the impugned order was passed.

5. We heard Mr.G.Raman Goud, learned counsel appearing for the Applicant and Mr.S.M.Patnaik, learned standing counsel appearing for the Respondents.

6. Normally, temporary/ad-hoc arrangements are made on contractual basis. The question of allowing scale of pay would arise only when the prescribed procedure is followed. For one reason or the other, the respondents issued an order of appointment to the applicant as Substitute Bungalow Peon on 06.06.2017. She was put in the pay scale of Rs.5200-20200/- with Grade Pay of Rs.1800/- i.e., Level 01 of the VII CPC. She was also attached to one Sri Sridhar Gedela, Dy.CAO/T. The said Sri Sridhar Gedela issued a notice dated 12.01.2017 stating that the performance of the applicant was not satisfactory. 4 days thereafter, a

semblance of elaboration was given about the alleged lapses. The applicant submitted a detailed representation dated 05.02.2018 with reference to each and every allegation made in the notice. However, the impugned order dated 12.02.2018 was passed as under:

"Office Order No.021/2018 DATED 12.02.2018.

Sub:Termination of services of Smt.Sandyarani Nandigoam, Sub Bunglow Peon attached to Sri Sridhar Gadela,Dy.CAO/T – Reg.

Consequent upon recommendation of Sri Sridhar Gadela, Dy.CAO/T, the services of Smt.Sandyarani Nandigam, D/o Sri Ravi Kumar, Substitute Bunglow Peon, attached to Sri Sridhar Gadela, Dy.CAO/T, is terminated w.e.f. 31.1.2018.

In terms of Para 301 (i) of Establishment Code Vo.I the employee has been served notice of 14 days.

(Sd/- K.Rambharose)
SWR.A.F.A./G
For PFA/SC"

Neither any reference was made to the show cause notice nor to the reply submitted thereto. Added to that, termination was made with retrospective effect. This is totally impermissible in law.

7. At a time, when the rights of contractual employees and the employees appointed on consolidated pay are also protected by Courts in one form or the other, the respondents were totally unjustified in terminating the services of the applicant, which were placed in a pay scale straight away. Though a notice was issued to ensure compliance with the principles of natural justice, no mention thereof is made in the impugned order. The entire episode smacks of arbitrariness and violation of the settled principles of law.

8. We, therefore, allow the OA and set aside the impugned order dated 12.02.2018. The applicant shall be reinstated into service subject to the same conditions. We further direct that the applicant shall be entitled to the continuity of service in whatever form, but shall not be entitled to back wages. The applicant is also put on notice that if she deviates from the discipline or duties assigned to her, it shall be open to the respondents to terminate the engagement by observing the principles of natural justice.

9. The M.A.No.333/2019 also stands allowed.

10. There shall be no order as to costs.

Sd/-

Sd/-

**(B.V.SUDHAKAR)
MEMBER (ADMN.)**

**(JUSTICE L.NARASIMHA REDDY)
CHAIRMAN**

Dated: this the 18th day of April, 2019
Dictated in the Open Court

Dsn.