

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

LIBRARY

No. OA 350/00107/2014

Date of order : 5.2.2016

Present: Hon'ble Ms. Bidisha Banerjee, Judicial Member
Hon'ble Ms. Jayati Chandra, Administrative Member

KISHORI CHOWDHURY

VS

UNION OF INDIA & ORS. (E. RLY.)

For the applicant : Mr.N.Roy, counsel

For the respondents : Mr.B.K.Roy, counsel

O R D E R

Ms. Bidisha Banerjee, J.M.

Heard both the ld. Counsels.

2. It is noticed that by an order dated 8.12.14 this application was directed to be placed before the Hon'ble Chairman for constitution of a Larger Bench to decide the issue in view of the order passed in OA 595/12 (Vikash Majhi -vs- UOI & Ors.) an identical matter which was referred to a Larger Bench. Therefore the matter was adjourned sine die. However, it was not placed before the Hon'ble Chairman. In the meantime a Larger Bench was constituted in regard to Vikash Majhi, applicant in OA 595/12 wherein it was held that the applicant, who was engaged as a Bungalow Peon with a clear stipulation that the same would not confer any right or privilege as admissible to a temporary railway servant, was not entitled to any regular departmental enquiry before termination of his appointment. After the Larger Bench decided the matter, the present OA was mentioned and listed for hearing.

3. In the present OA the applicant, a Bungalow Peon has assailed his termination due to his unsatisfactory service effected from 3.1.11, vide order dated 7.1.11. He was engaged on 26.2.10 on contractual and trial basis for a period of one year at a consolidated amount of Rs.5000/- per month with a stipulation that the same would not confer any right or privilege as admissible to temporary and regular Railway employees. By virtue of the engagement order

he was even liable to be terminated from service due to his unsatisfactory service within a period of one year simply with one month's notice or emoluments in lieu thereof. The order was passed with the prior personal approval of the General Manager. Therefore the applicant never acquired any status as that of a substitute Bungalow Peon i.e. engaged as a Substitute in place of a Bungalow Peon in terms of Railway Rules for substitute employees. He was never governed by the relevant circulars applicable to a substitute Bungalow Peon. His appointment was purely contractual in nature. It had not ripened into any kind of appointment of a regular nature. Therefore the case of the applicant would be largely governed by the decision rendered by the Larger Bench in OA 595/12 being similarly circumstanced.

4. Further the applicant did not complete even one year as a Bungalow Peon, whether on contractual basis or otherwise. Therefore in terms of the policy of 13.5.08 (referred to by the Larger Bench) for engagement and absorption and discharge of Bungalow Peon, the present applicant would not have a right to continue.

5. We have also noted the true import of the impugned speaking order dated 1.6.12. In the aforesaid backdrop we found no infirmity with the same.

6. Therefore the OA is dismissed. No order is passed as to costs.

(JAYATI CHANDRA)
MEMBER (A)

Bidisha Banerjee
(BIDISHA BANERJEE)
MEMBER (J)

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