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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 7836/2002

HARSH MANI BARDULE

..... Petitioner

Through : Mr. Aditya Kumar Yadav, Adv.

versus

UOI & ORS.

..... Respondents

Through : Ms. Shipra Shukla, Adv. for
UOI.

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

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06.12.2018

1. The petitioner's grievance is that the Central Administrative Tribunal (hereafter as "CAT") by its impugned order rejected his application which had questioned the termination of his appointment as "Bungalow Khalasi" by the Indian Railways.

2. The necessary facts are that the petitioner was recommended for appointment as Bungalow Khalasi on 05.01.1998. The permission to appoint the petitioner to the said post was accorded on 23.04.1998; a formal letter was issued which stated that the appointment was purely temporary till an order of confirmation is issued. The petitioner complains that the respondents, characterising his service record as unsatisfactory, terminated him on 18.04.2001.

3. In the application before the CAT, it was alleged that the petitioner was not forewarned about his alleged unsatisfactory work but rather given a certificate on 25.08.2000 which recorded that his work was satisfactory. It was further alleged before the CAT that the officer to whom he was assigned to was of General Manager ranking, who wished to displace him in preference to some other appointee.

4. The CAT, by its impugned order, after considering the terms of the petitioner's appointment and after considering the facts, was of the opinion that the nature of appointment was temporary till it was confirmed and that during the period of such probation, as it were, his work was not satisfactory and it therefore, declined to interfere.

5. Learned counsel for the petitioner relied upon the letter issued by the Indian Railways on 25.08.2000, recording that the petitioner had satisfactorily performed his job. It is stated that in these circumstances, the allegation that he was served with a warning or notice by a letter of 04.09.2000 was incorrect. In fact, the petitioner contends that he was not given a copy of such notice.

6. It is undisputed that in terms of the petitioner's appointment letter as well as in terms of the Indian Railways Establishment Manual, the nature of his appointment was temporary. The CAT has adverted to some rulings including its own Full Bench ruling following the principle that unless a public servant is confirmed to his position, he cannot claim entitlement to continue – not in the least if his service is unsatisfactory. In the present case, the fact that the

petitioner was given a recommendation letter of satisfactory performance of duties on 25.08.2000 was not *per se* conclusive. The respondents were of the view that his subsequent conduct was not satisfactory and that he did not perform his duties, as was required or expected of him.

7. In these circumstances, the conclusion by the CAT that the petitioner was on probation whose services were terminated on account of unsatisfactory performance of responsibility or duties, was reasonable.

8. This writ petition is accordingly dismissed.

S. RAVINDRA BHAT, J

PRATEEK JALAN, J

DECEMBER 06, 2018

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