

26

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. NO.3115 OF 2002

New Delhi, this the 26th day of March, 2004

HON'BLE SHRI R.K. UPADHYAYA, ADMINISTRATIVE MEMBER

Shri Raja Ram Tiwari,
S/o Shri R.P. Tiwari,
R/o S-209, M.S. Appts.,
Nivedita Kunj, Sector 10,
R.K. Puram, New Delhi-110022.
Presently working as Production Assistant,
under respondentsApplicant
(By Advocate : Shri A.K. Behra)

Versus

1. Union of India,
Through its Secretary,
Ministry of Information & Broadcasting,
Shastri Bhawan, New Delhi.
2. The Director General,
Doordarshan,
Mandi House, New Delhi-110001.
3. The Director,
Doordarshan Kendra,
Sansad Marg, New Delhi-110001.Respondents
(By Advocate : Sh. M.K.Bhardwaj for Shri A.K.Bhardwaj)

ORDER (ORAL)

This Original Application under Section 19 of the Administrative Tribunals Act, 1985 has been filed seeking quashment of order dated 13/14.11.2002 (Annexure A/1) which requires the applicant to deposit an amount of Rs.6,036/- only. It is stated by the learned counsel that in December, 1984 the respondents prepared a panel of 15 persons including the applicant for appointment as Production Assistant through advertisement and accordingly the offers of appointment were issued. Out of 15 persons, 1 person was not appointed whereas other 14 persons were issued appointment letters. The appointment letter in respect of the applicant dated 8.1.1985 (Annexure A-II (Colly) at page 10 reads as follows:-

Ch. Ram

"Shri RAJA RAM TIWARI has been appointed as a Production Assistant in this Kondra w.e.f.29.12.1984 (A.N.) on a month to month contract and he will be paid accordingly till further intimation from this Branch. The post of Production Assistant carries the scale of Rs.125-15-500-EB-15-560-20-610-EB-20-700-25-750.

Producer (CO) is requested to arrange preparation of contract in consultation with the accounts Section and get him paid fee and allowances accordingly.

Copies of this note are being endorsed to all concerned."

2. It is further stated that the applicant was senior to Smt. Meeta Chakrabarty who was appointed vide letter dated 8.1.1985 (annexed at page No.11 of the OA) and Shri Hari Das Narang who was appointed by letter dated 8.1.1985 (annexed at page No.12 of the OA). The applicant's learned counsel states that all the three were given identical appointment letters. However, by subsequent letter dated 20.5.1995 (Annexure A-III), the applicant's juniors Smt. Meeta Chakrabarty and Shri H.D. Narang have been given benefit of grant of increment with initial date of joining, i.e., 31.12.1984 and 27.12.1984. However, when the applicant made a representation for grant of similar benefit, his claim was accepted as per order dated 5.10.20001. But subsequently, this order of 5.10.2001 has been withdrawn as per order dated 22/24.10.2002 (Annexure A-V) and the benefits of increments granted earlier have been withdrawn. This has resulted into recovery. Therefore, this OA has been filed.

Chintanam

3. Learned counsel of the applicant pointed out that the pay scale of and duties of the applicant as well as his juniors Smt. Meeta Chakrabarty and Shri Hari Das Narang are identical. The applicant has been given higher treatment in the sense that he has been appointed by letter dated 27.6.1985 (Annexure R-2) in the same pay scale for a period of three years and his appointment was on probation for a period of two years. Learned counsel of the applicant further states that the withdrawal of benefit earlier granted vis-a-vis his juniors was not in accordance with the facts as well as rules on the subject of this case.

4. The respondents have contested this Original Application and have filed their reply. According to the learned counsel of the respondents, the applicant was appointed as a regular Production Assistant w.e.f. 24.5.1985 after completion of all the formalities. Therefore, question of giving him appointment w.e.f. 29.12.1984 does not arise. However, it has been fairly stated by the respondents that the period from 29.12.1984 to 23.5.1985 has been counted for qualifying service for the purpose of pensionary benefits. Learned counsel further argued that if the date of appointment is ordered to be taken w.e.f. 29.12.1984, it will change the nature of appointment itself, which was w.e.f. 24.5.1985.

5. Heard learned counsel of the parties and perused the material available on record.

Chintanam

(1)

6. Undisputed fact is that the applicant initially started working as a Production Assistant w.e.f. 29.12.1984 as per offer dated 21.12.1984. Subsequently, he has been appointed on the same post with three years basis instead of the basis monthly contract. It is seen that the terms of appointment of the applicant and his juniors, namely, Smt. Meeta Chakrabarty and Shri Hari Das Narang are same. On the facts of this case, it is noticed that denial of benefit for the purpose of grant of increment for the period of service rendered between 29.12.1984 to 23.5.1985 was not justified. The argument of learned counsel of the respondents is that the appointment on probation for two years and contract of three years is entirely different is not acceptable. The applicant cannot be denied the benefit of service rendered by him in the same scale for the purpose of increment. Provisions contained in F.R. 26 also support this view. The respondents are, therefore, directed to extend the benefit of increment w.e.f. 29.12.1984. In this view of the matter, the order of recovery dated 13/14.11.2002 (Annexure A-I) is quashed and set aside and consequently, the order dated 22/24.10.2002 also stands quashed and set aside. Consequential order, if any, be passed within two months from the date of receipt of a copy of this order.

7. In the result, this Original Application is allowed without any order as to costs.

R.K. Upadhyaya
(R.K. UPADHYAYA)
ADMINISTRATIVE MEMBER

/ravi/