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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH NEW DELHI

O.A. No. 1617/2001

NEW DELHI, THIS *22nd January*: 2002

Hon'ble Shri Kuldeep Singh, Member (J)

Hon'ble Shri Govindan S. Tampi, Member (A)

Shri Hari Om Dubey,
27 D, DDA Flats,
Chilla Village, Mayur Vihar Phase-I
New Delhi

.....Applicant

(By Sh M K Bhardwaj, Advocate)

VERSUS

1. The Secretary,
Min. of Info. & Broadcasting,
Shastri Bhawan, New Delhi
2. The Director General,
Door Darshan Kendra, *Mandi House*
~~Parliament Street~~ New Delhi
3. The Director,
Doordarshan Kendra,
Parliament Street New Delhi
4. Sh. Vijay Kumar Sharma,
67 F, Pocket I, Phase-II
Mayur Vihar, New Delhi (Proforma party)
5. Sh. J K S Chauhan,
R/O Gaddid Suthereshah,
Jamuna Bazar, Delhi.

.....Respondents.

(By Sh. S.K. Gupta, Advocate)

ORDER *(ORAL)*

By Hon'ble Shri Govindan S. Tampi, Member (A)

Sh. Hari Ram Dubey, the applicant in this O.A.
seeks the following reliefs.: ---2

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- a) to mandate the respondents (1-3) to extend the benefit of the Order No. 19(5)96-S/19089 dated 9.10.96 to applicant also granting him the pay scale of 1400-2600 w.e.f. 21.3.94 by ante dating his regularisation as Production Assistant.
- b) to direct the respondents to fix the seniority of the applicant viz-a-viz respondents 4 & 5 correctly, as per eligibility list dated Jan 1995.
- c) to declare the act of the respondents in regularising the Jr persons from an earlier date not regularising the applicant from said date as discriminatory and arbitrary.
- d) to allow the original application with cost.
- e) to direct the respondents to extend the benefit of order dated 29.5.2000 passed by the Hon'ble Tribunal to the applicant and
- f) to pass such and further orders which their lordship of this Hon'ble Tribunal deem fit and proper in the existing facts of the case.

2. Heard S/Shri M K Bhardwaj and S K Gupta, learned counsel for the applicant and the respondents No. 1 to 3 respectively. None ^{was} present for the Private respondents 4 and 5. ^h

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3. Applicant joined the respondents organisation as a Production Assistant (Casual) on 19.5.86. Following the decision of the Tribunal in OA No. 563/86 (Anil Kumar Mathur Vs UOI & Others), filed by some of the Casual Production Assistants the respondents prepared and declared and on 9.6.92 a scheme for the regularisation of the casual staff and followed it up on 10.6.92 by issuing guidelines for implementing the same. The scheme which was made applicable to all those who were in service on 31.12.91 and who had actually worked for 120 days in a calendar year were deemed eligible for regularisation in turn, subject to their eligibility the seniority being fixed kendrawise. The guide lines scheme also proposed for fixing academic qualifications, age relaxation if any and for dealing with misconduct. It was also indicated in the scheme that till all the casual artists in a particular category who became eligible for regularisation in a particular kendra are so regularised no further recruitment should be resorted to by the particular kendra. This restriction only applied to specific category of casual Artists and engaging fresh people in any other category was not prohibited. On the basis of above scheme on 11.1.93 a list of casual Production Assistants eligible for regularisation been published which included the applicant as well. The applicant's appointment as Production Assistant was regularised w.e.f. December 1994. On 21.3.94 when a few persons including a junior J.K.S. Chauhan was regularised as Production Assistant. A few persons filed OA 699/94 before the Tribunal as the former had been placed in the ineligible list by the respondents on 24.7.93 and his services had in fact been disengaged. O.A. 699/94 was decided by the Tribunal directing the respondents to give

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the benefit of seniority to the applicants above those regularised on 21.3.94 including . On 9.10.96 JKS Chauhan and others who were regularised on 21.3.94 were granted the scale of Rs.1400 - 2600/- by antedating their appointments. This was totally incorrect as they had been engaged on casual basis much after the applicant. The applicant's representation dated 1.1.97 and 4.2.97 had not been responded to. OA 1187/98 was filed by Amar Singh and Others who were similarly placed as the applicant and the applicant was advised to wait till the disposal of the OA 117/98. The said OA was disposed on 21.5.2000 granting the concerned applicant the benefit of Rs.1400 - 2600/- w.e.f. 21.3.94 along with seniority . Following this the applicant in this OA made representations on 8.1.2001 and 21.3.2001 seeking the extension of the benefit of the order of the Tribunal but to no avail. Hence this O.A.

4. During the oral submissions Sh. M K Bhardwaj, learned counsel for the applicant forcefully reiterated the points raised in the OA and indicated that the respondents could not have denied the benefits like advancing the regularisation of his service as has been granted to those who are admittedly his juniors and those were similarly placed . He specifically mentioned the name of Shri JKS Chauhan who was placed at Srl No. 73 in the eligibility list while his position was at Sl No.50. No doubt the applicant's services have been regularised in December 1994 but juniors like JKS Chauhan and others were regularised w.e.f. 21.3.94 which was improper . As the applicant had been asked to await the decision on OA 1178/98 he could not have been denied the benefit of the decision of the Tribunal in the said OA. This denial was improper, illegal and liable to be set aside, pleads Sh. Bhardwaj.

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5. In the short reply filed on behalf of the respondents it is pointed out that order dated 9.10.96 was issued following the Tribunal's order dated 29.11.95 in OA No. 699/94 filed by P.K. Shrivastava and Others and the benefit of the same could not be claimed by the applicant. He further states that though benefits had been granted to P K Shrivastava and Others in OA 699/94 as well as Amar Singh and Others in OA 1178/98, the whole issue is under review in consultation with Ministry of Information & Broadcasting, Deptt. of Personnel & Training and Ministry of law. Therefore the final decision in this OA be held back pleads Sh. Gupta, learned counsels for the respondents..

6. I have carefully deliberated on the rival contentions. What the applicant seeks in the present OA is the advancing of his date of regularisation to 21.3.94 from December 1994, as a few others, admittedly his juniors, who have joined as Production Assistants (Casual), on dates subsequent to his joining and who have been placed in the eligibility list below him, have been given the benefit of regularisation from the said date. Respondents have not denied that JKS Chauhan was junior to the applicant. Following the decision of the Tribunal dated 29.11.95 in OA No. 699/94 filed by Sh. P K Shrivastava, the applicants in that OA were regularised correctly. This benefit was not extended to the applicant. Subsequently O.A. 1187/98 was filed by Amar Singh & Others who were similarly placed, and who were granted the benefits by Tribunal's orders dated 29.5.2000 and got their regularisation antedated to 21.3.94. The applicant had been asked to wait for the decision in OA 1187/98 but the ^{benefit of the} same has not been given to

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him. This was incorrect and deserves to be set a right. The applicant should also correctly get his regularisation from 21.3.94 with the benefit of consequent seniority. The respondents' plea that the entire issue of regularisation is under review by the Ministry of I&B and therefore the decision in this OA may be kept in abeyance does not deserve acceptance as the juniors having been given the benefits the senior should not be denied his due.

7. In the above view of the matter the OA succeeds and is accordingly allowed. The respondents are directed to grant regularisation to the applicant from 21.3.94, the date on which his juniors have been regularised, with full consequential benefits including seniority.

(Govindan S. Tampi)
Member (A)

Patwal

(Kuldeep Singh)
Member (J)