

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

(17)

O.A. NO.2266/2001

This the 9th day of July, 2002.

HON'BLE SHRI V.K.MAJOTRA, MEMBER (A)

HON'BLE SHRI SHANKER RAJU, MEMBER (J)

Lakhpur Singh Rawat S/O B.S.Rawat,
R/O B/200, Gautam Nagar, New Delhi,
working as casual Production Assistant,
CPC, Doordarshan, Khel Gaon Marg,
New Delhi-110049.

... Applicant

(By Shri S.Y.Khan, Advocate)

-versus-

1. Union of India through
Secretary, Ministry of Information and
Broadcasting, Shastri Bhawan,
Dr. Rajendra Prasad Marg,
New Delhi-110001.

2. Chief Executive Officer,
Prasar Bharati, Mandi House,
New Delhi.

3. Director,
Central Production Centre,
Doordarshan, Khel Gaon Marg,
New Delhi-110049.

... Respondents

(By Shri S. Mohd. Arif, Advocate)

O R D E R (ORAL)

Hon'ble Shri V.K.Majotra, Member (A) :

This application has been made against non-regularisation of the services of applicant on the post of Production Assistant (PA, for short) in the scale of Rs.6500-10500 claiming that he is eligible for such regularisation in terms of directions made in order dated 14.2.1994 by this Tribunal in OA No.1359/1993 along with OA No.1360/1993. Whereas applicant in OA No.1359/1993, Shri Neeraj Bhanot, who was also covered by the abovesaid directions of this Tribunal has been regularised as PA when he filed another OA No.71/1998 decided on 24.11.1998

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and CP No.84/2000, present applicant, though similarly placed, is alleged to have been discriminated against by respondents. Applicant's representation dated 3.11.2000 (Annexure A-2) has been rejected by respondents vide Annexure A-3 dated 6.2.2001 holding that he is ineligible for regularisation as per the regularisation scheme dated 9.6.1992 under which casual artists engaged prior to 31.12.1991 could be considered for regularisation. Applicant has sought quashing and setting aside of Annexure A-3 and regularisation of his services on the post of PA from the date Shri Neeraj Bhanot was regularised, with consequential benefits.

2. The learned counsel of applicant stated that applicant and Shri Neeraj Bhanot had filed OAs 1360/1993 and 1359/1993 respectively. Those OAs were decided on 14.2.1994 (Annexure A-4) in which it was held that though engagement prior to 31.12.1991 was a condition of eligibility for regularisation provided in the scheme for regularisation of casual artists, "The scheme does not exclude consideration of those Casual Artists who are engaged after 31.12.1991". It was further held, "It is thus clear that if the Scheme is worked out by the respondents and the cases of the Casual Production Assistants, to whom the Scheme is applicable, are considered and even thereafter some vacancies remain, those coming in the Doordarshan as Casual Production Assistants after 31.12.1991 would be considered for regularisation on merits and in accordance with law". Later on, Shri Neeraj Bhanot filed another OA No.71/1998 which was allowed on 24.11.1998 with the following directions :

- (i) Respondents shall consider regularising the applicant as Production Assistant in his turn strictly in terms of unit-seniority;
- (ii) Until the casual artists in a particular category in a unit eligible for regularisation are covered for the purpose of regularisation, none shall be transferred from other Units in a category to occupy regular place at the cost of those who are already awaiting regularisation in their turn in the said category."

When respondents did not regularise the services of Shri Neeraj Bhanot in terms of the orders of this Tribunal in OA No.71/1998, he filed CP No.84/2000 against respondents. Respondents immediately complied with the directions of the Tribunal and regularised the services of Shri Neeraj Bhanot, on which the CP was ordered to be closed. The learned counsel stated that applicant's case is identical to that of Neeraj Bhanot and he should also get benefit of regularisation of his services as PA. The learned counsel further brought to our notice the contents of paragraph 4.15 of the OA stating that a number of vacancies of PA have been filled up by transferring personnel from other units instead of regularising the services of applicant.

3. The learned counsel of respondents, on the other hand, stated that the services of Shri Neeraj Bhanot were regularised "due to some erroneous decisions taken by the department and the same cannot be repeated". He further submitted that at present there is no regular vacancy of PA in the office of respondent No.3, i.e., CPC. He also stated that applicant cannot be considered

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for regularisation even if a vacancy becomes available as he is ineligible for regularisation due to the fact that he had not been engaged prior to 31.12.1991 which is a condition precedent for regularisation of services of casual artists under the relevant scheme. The learned counsel did not deny that seniority of casual artists is maintained on a unit-wise basis and regularisation of their services is also done on unit-wise basis. The learned counsel informed that the services of Shri Neeraj Bhanot were regularised by transferring a post from Bhopal unit as there were no vacancies with respondent No.3. The learned counsel also maintained that applicant cannot be given the benefit of orders in OA No.71/1998 in which applicant was not a party.

4. From the facts of the case, we find that applicant and Neeraj Bhanot were similarly situate casual artists. OA No.1359/1993 filed by Neeraj Bhanot and OA No.1360/1993 filed by applicant testify that they were similarly situate and vide order dated 14.2.1994 (Annexure A-4) respondents were directed that if some vacancies remained on regularisation of services of casual PAs engaged prior to 31.12.1991, those engaged after 31.12.1991 would be considered for regularisation on merit and in accordance with law. The services of Neeraj Bhanot were regularised on the basis of decision in OA No.71/1998 and CP No.84/2000 filed by him. It was held in **Raj Pal v. State of Haryana & Ors.**, (1996) 33 ATC 292 that when persons similarly situate have already been taken into service and their services regularised pursuant to court orders, the appellant who was the only

person left-out was also entitled to the same relief. It was also held in **Ajay Jadhav v. Government of Goa & Ors.**, 2000 (1) SLJ 223 (SC) that similarly placed cannot be treated differently. Respondents are well advised to extend the benefit of judgments of courts and tribunals to all employees similarly placed and not drive each one of them to seek redressal of their grievance before courts. It is seen that number of vacancies in CPC were filled by bringing personnel from other units, as alleged in paragraph 4.15 of the OA. Respondents cannot now be allowed to maintain that there are no vacancies at present when they have deliberately filled up such vacancies by transferring personnel from outside. They have regularised the services of Shri Neeraj Bhanot by transferring a post from Bhopal and they would be well advised to take similar action in the case of applicant by transferring a post from another unit to respondent No.3 with a view to accommodate applicant whose case is no different than the case of Shri Neeraj Bhanot. Shri Bhanot has been given the benefit of orders in OA No.71/1998. The principles of natural justice require that applicant being similarly situate should also be considered for the same treatment as Shri Neeraj Bhanot and a preferential treatment vis-a-vis personnel serving in other units or fresh recruits/juniors for the purpose of regularisation. The question of cut-off date has already been considered in the order in OA Nos.1359/1993 and 1360/1993 in which it was held that those appointed after 31.12.1991 should be considered for regularisation against the remaining vacancies after accommodating all those who had been engaged prior to 31.12.1991.

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5. In these circumstances, we allow this OA with the following directions :

- (1) Respondents shall consider for regularising applicant as Production Assistant on the next available vacancy of Production Assistant as he is the only candidate awaiting regularisation in his unit. In case no vacancy is available in applicant's unit at present, one post of Production Assistant shall be transferred forthwith by respondents from elsewhere as has been done in the case of Shri Neeraj Bhanot.
- (2) Respondents shall regularise applicant's services on the post of Production Assistant from the date next following the date of regularisation of Shri Neeraj Bhanot.
- (3) Respondents shall also grant applicant all consequential benefits on his regularisation.

6. The above directions shall be implemented by respondents within a period of three months from the date of communication of this order.

S. Raju

(Shanker Raju)
Member (J)

V. K. Majotra

(V. K. Majotra)
Member (A)

/as/