

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

(2)

O.A. NO.2323/2001

This the 9th day of December, 2002.

HON'BLE SMT. LAKSHMI SWAMINATHAN, VICE-CHAIRMAN (J)

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

1. Subhash Chander,
B-585, Mangolpuri,
Delhi-110083.
2. Smt. Kiran Sharma,
R/O 1/11 Sector-1, Pushp Vihar,
M.B.Road, Saket,
New Delhi.
3. Rakesh Duggal,
WZ-26A, Bal Udyan Marg,
Uttam Nagar Extn.,
New Delhi-110059.
4. Rakesh Kumar Sharma,
D-93 Ganga Vihar,
Delhi-110094.
5. Smt. Sujata Chopra,
B-2B/262 Janak Puri,
New Delhi-110058.
6. N.K.Nathani,
DG-952 Sarojini Nagar,
New Delhi-110023.
7. Smt. Usha Jain,
C-9 Nav Rachna Apartments,
East Arjun Nagar,
Delhi-110032.
8. Smt. Meera,
A-36A, Om Vihar,
Uttam Nagar,
Delhi-110059.
9. Vinod Kumar Verma,
112F, Maya Vihar,
Phase-I, Pocket-IV,
New Delhi-110091.
10. Smt. Harsh Bala,
VP-231A, Pitampura,
Delhi-110034.
11. Smt. Nirmala,
69, Lal Bahadur Sadan,
Gole Market, New Delhi.
12. Smt. Neelam Rajput,
HPT-45, Sarojini Nagar,
New Delhi.

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13. Mangal Singh Bhati,
E-202 Madhav Marg,
Jagjit Nagar, Delhi.

14. Praveen Chandra,
F-98 Moti Bagh-I,
New Delhi.

... Applicants

(By Shri V.S.R.Krishna, Advocate)

-versus-

1. Union of India through
Secretary, Ministry of
Information and Broadcasting,
Shastri Bhawan, New Delhi.

2. Chief Executive Officer,
Prasar Bharti, BCI,
Doordarshan Bhawan,
Copernicus Marg, New Delhi.

3. Director, Prasar Bharti (BCI),
Doordarshan Kendra,
Sansad Marg, New Delhi.

4. Addl. Director General (N&CA),
Prasar Bharti (BCI),
Doordarshan News,
Central Production Centre,
Asiad Village, Khel Gaon,
New Delhi.

... Respondents

(By Shri R.N.Singh for Shri R.V.Sinha, Advocate)

O R D E R (ORAL)

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

Applicants, 14 in number, are casual general assistants engaged with respondents on contract basis and have been continuing with them for the last about 15 years. It is alleged that applicants are denied regularisation on the ground that there are no vacancies though work is available with them and respondents have engaged a large number of retired employees on the so called ground of consultancy when in fact they too perform the same duties as general assistants, like applicants.

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2. Respondents have filed an additional affidavit in terms of this Court's orders dated 20.5.2002 to clarify the position regarding regularisation of casual general assistants as also engagement of retired persons and vacancy-position in respect of LDCs to assess possibility of regularisation of applicants. Applicants have sought the following reliefs :

- "i) To call for the records of the case;
- ii) To direct the respondents to consider regularising the applicants in regular posts of LDCs since work is available in the office of the Respondents;
- iii) To direct the Respondents to continue engaging the applicants on monthly basis as at present and in preference to engagement of retired Govt. personnel and to pay to the applicants the total pay package of the post of LDC including CCA, HRA and other allowances as admissible;
- iv) To direct the respondents to issue the necessary orders of regularisation of the applicants as on the back date alongwith all consequential benefits like seniority and further promotions etc.
- v) The Hon'ble Tribunal may grant any other relief as may be deemed fit and proper under the circumstances of the case."

3. The learned counsel of applicants stated that applicants have been working as casual general assistants since 1984. Initially they were engaged on a monthly basis. Later on, they were engaged in spells of ten days. He has referred to Annexure A-2 dated 24.10.2000 which states that some of the present applicants are on the eligibility list of general assistants waiting for their regularisation and are booked on casual monthly contract basis on the minimum scale of LDC. He has drawn

our attention to Annexure R-III dated 9.6.1992 and Annexure R-IV dated 17.3.1994 which relate to scheme for regularisation of casual artists in Doordarshan. Under this scheme, separate eligibility panels have to be prepared for each category of posts Kendra-wise depending upon the length of service of casual artists. A minimum of 120 days service in the aggregate in one year has to be treated as one year's service rendered for the purpose of relaxation in the upper age limit stipulated in the recruitment rules. The service rendered for less than 120 days in a year does not qualify for age relaxation. It is also specified that till all the casual artists in a particular category eligible for regularisation at a Kendra are regularised, no fresh recruitment can be resorted to by a Kendra. Annexure R-IV specifies the formula for computing the number of days for which a casual artist is deemed to have been engaged in a month. Annexure R-II dated 13.5.1997 is scheme for assignment of work to casual artists of Doordarshan prepared in pursuance of directions in OA No.256/1995 and RA No.19/1996 (Jabalpur Bench, CAT) filed by Shri N.K.Tiwari and others. In this it has been stated that no fresh casual engagement should be made in any Kendra and in cases of exigencies or in the absence of sufficient number of regular employees, where it becomes necessary to give casual assignments at a Kendra, priority has to be given to casual artists at that Kendra who are eligible for regularisation in terms of the schemes of regularisation but could not be regularised for want of vacancies. The learned counsel stated that respondents have engaged a large number of retired employees and if


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they had not been engaged by respondents, applicants who are in the panel of eligible casual general assistants for regularisation, would have been regularised long ago.

4. Respondents have submitted a list of 16 retired persons who have been working as casual assistants in Doordarshan News. The learned counsel of applicants stated that all these persons have been previously working as assistants, head clerks or LDCs. Now they have been engaged to work in Doordarshan News to do the same work as being done by applicant-casual assistants.


5. The learned counsel of respondents stated that retired persons have been engaged on casual basis for doing a particular nature of work, such as administration and accounts. On the other hand, the general assistants like applicants were initially engaged to do typing work especially in the programme and professional sections. They are being considered for appointment on regular basis as LDC in accordance with their eligibility subject to availability of vacancies. The learned counsel stated that at present there is no vacancy in the cadre of LDCs. The learned counsel further stated that applicants have been engaged on assignment basis for not more than 10 days a month as per Annexure R-I which are instructions on engagement of outsiders on assignment basis stated in the Doordarshan Manual. The learned counsel stated that casual general assistants who were senior to applicants in the panel have been regularised and applicants will be regularised as soon as there are vacancies in the cadre of LDCs.

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6. We have considered the rival contentions. Annexure R-I is part of the Manual relating to engagement of outsiders on assignment basis. It does not relate to engagement of retired personnel. However, it can deal with the engagement of casual general assistants. Respondents have not shown us any instructions on the basis of which retired personnel have been engaged on a monthly basis and fixed honorarium which is stated to be higher than the wages of the casual general assistants. The scheme for giving casual assignment/regularisation to casual artists in Doordarshan is a policy decision taken by respondents which has the effect of modifying the instructions in the Manual. Respondents have to prepare panels for regularisation of casual artists and undertake regularisation on the basis of the length of their engagement in Doordarshan as computed in terms of the instructions. Respondents cannot engage people for casual assignments who are not in the panels prepared under the aforestated scheme. In the absence of instructions on engagement of retired persons, it is obligatory on respondents in terms of the provisions of the aforestated scheme to regularise the casual general assistants on the basis of their seniority in the eligibility list/panel, as soon as there are vacancies with respondents.

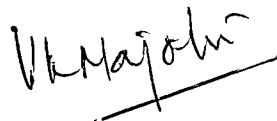
7. In our considered view, 16 retired personnel who were working as head clerks/assistants/LDCs and are doing the same work as the casual general assistants, could not be engaged by respondents in preference to the claims of applicants under the scheme. Had these retired

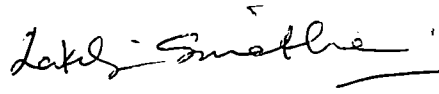


personnel not been engaged, applicants would have been considered for regularisation. Clearly, the 16 retired personnel are occupying 16 vacancies on which as many casual assistants can be regularised under the scheme. Respondents have not been able to establish the legitimacy of the engagement of retired persons as casual assistants, nor have they established how they are performing different duties than applicants or how their duties are more arduous or different in nature than those of applicants. Respondents have to stand by the provisions of the scheme prepared by them for regularisation of casual artists. They cannot appoint retired personnel in the teeth of the aforestated scheme and de hors any rules when the aforestated scheme specifically prohibits engagement of any outsiders before exhaustion of the eligible casual artists.

8. Having regard to the facts and circumstances of the case and reasons recorded above, we direct respondents to consider regularising applicants in regular posts of LDCs against 16 posts on which retired personnel have been working, in terms of the scheme referred to above. Respondents are further directed to continue engaging applicants in preference to retired personnel till their services are regularised.

9. The OA is allowed in the above terms. No costs.


(V. K. Majotra)
Member (A)


(Smt. Lakshmi Swaminathan)
Vice-Chairman (J)

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