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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

OA NO. 500/2001
MA NO. 2063/2001
MA NO. 163/2002


New Delhi, this the 18th day of January, 2002

HON'BLE SH. GOVINDAN S.TAMPI, MEMBER (A)

1. Shri Chand Singh
S/o Shri Ram Phal
r/o 427, DIZ Area, Sector-1
Block-88, Gole Market
New Delhi.
 2. Shri Jagdish Chand
S/o Shri Gariba
r/o 11, Masjid Lane
Jangpura, Bhogal
New Delhi.
 3. Shri Sanjeev Mathur
S/o Shri Bhagat Saran Mathur
r/o H.No.2602, Chatta Pratap Singh
Kinari Bazar, Delhi - 6.
 4. Shri Chakar Dhar Misra
S/o Shri Rewa Shankar Prasad
r/o VIII.& PO Sultanpuri
Pipalwali Gali, Mehrauli
New Delhi-30.
 5. Shri Sushil Kumar Gupta
S/o Late Sh. H.B.Gupta
r/o Q.No.140/A, Flat No.4/2, Phase-III
Mayur Vihar, New Delhi.
 6. Shri Subhash Chander
S/o Late Sh.Jagdish Prasad
r/o A-245, Minto Road
New Delhi-2.
 7. Shri Deepak Johri
S/o Shri G.B.Johri
r/o E/39/3 Ramavihar
Durgamandir, New Delhi-31.
- (By Advocate: Dr. J.C.Madan)Applicants

Versus

UNION OF INDIA
through

1. The Secretary
M/o Information & Broadcasting
Shastri Bhawan, New Delhi-1.
 2. Dy.Director General (A)
Doordarshan, Doordarshan Bhawan
Mandi House, New Delhi.
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3. The Director
Central Production Centre
Asiad Village Complex
Sri Fort, New Delhi-49.
4. The Asstt. Director General
(News), D.D. (News)
Asiad Village Complex
Sri Fort, New Delhi-49.
(By Advocate: Sh. S.M.Arif)

...Respondents

O R D E R (ORAL)

By Sh. Govindan S. Tampi, Member (A)

Heard Dr. J.C. Madan and Sh. S.Mohd. Arif, learned counsel for the applicant and the respondents respectively.

2. The relief sought by the applicants in the OA is their regularisation as Floor Assistants in the respondents' organisation alongwith interim direction to give them monthly contracts which are being given to those in other cadres. All the 7 applicants have been engaged since 1989, after due selection as Floor Assistants by the respondents but have been given work for only 10 days a month on assignment basis. Applicants state that since artists approached the Tribunal by filing OAs before different Benches following the decision in the case of Vasudeva & Ors Vs. U.O.I. [1991(17) ATC 679, leading to the formulation of a scheme for regularising casual artists vide OM No.2(3)/90-91 dated 09.06.1992 and letter No.2(3)/50-51 dt.01.03.1994, which had the approval of the Hon'ble Supreme Court. Further, the Tribunal deciding OA-2241/99 on 06.11.2000, directed the respondents to review the position and expedite regularisation but the same had not happened. Though a number of vacant posts are present, they are not being filled up, thus denying the applicants chances of regularisation.

2. In the grounds which have been raised, it is indicated that the respondents have failed to take timely action and hold DPC for promotion from Floor Assistants to Floor Managers and also to create posts of Floor Assistants with the result applicants who have served for over ten years have been deprived of their vested right of regularisation. This inaction on the part of the respondents have also resulted in discriminating applicants in the matter of providing monthly contract as they have been given contract but assigned work for not more than ten days a month which was harsh and violative of their rights. Dr. Madan, learned counsel, who appears for the applicants, pleads that it will be equitable and proper if they are permitted to work fully for 30 days a month and granted temporary status. According to applicants, there was sufficient work in the organisation on account of which a number of individuals who are already working ^{regularly} were assigned the work on overtime basis instead of engaging the applicants. Intervention of the Tribunal is necessary to remove this injustice to the applicants, urges Dr. Madan.

2. Replying on behalf of the respondents, Sh. S. Mohd. Arif, learned counsel points out that the regularisation Scheme dated 9.6.92 and 17.3.94 provided for the regularisation of the available casual Floor Assistant against available vacancies in the order of their seniority, which is calculated from the date of their engagements on casual basis. At present there was no vacancy in the grade of Floor Assistants. Regularisation of the casual Floor Assistants like the applicant can be considered only when vacancies arise. In terms of the policy being followed by the respondents, casual assignment is given for a period of maximum of ten days a month subject to availability of such

work. No circumstances existed for changing the policy, Sh. Arif indicates. He also points out that in terms of the directions of the Hon'ble Tribunal in the case of Sh. Bhuvan Chand and others in OA No.2241/99 the position has been reviewed by the respondents, which would be evident from their letter dated 05.03.2001, which states as follows :

"It is mentioned in this regard that the casual Lighting Assistants were not regularised by creation of posts but were regularised against the downgraded posts of Cameraman Grade III. The post of Cameraman Grade III is a promotional post for Lighting Assistant and enough vacancies were available in that grade to regularise the casual Lighting Assistants. However, the situation in the grade of Floor Manager, which is the promotional post for Floor Assistants is quite different as very few vacancies are available in this grade and moreover Hon'ble CAT, (PB) New Delhi vide order dated 8.11.99 in OA No. 168/95 has directed the Prasar Bharati (Doordarshan) to hold DPC meeting for promotion of eligible Floor Assistants to the post of Floor Manager after amending the Recruitment Rules for the post of Floor Manager to make it a 100% promotion post. Therefore, it is not possible to utilize the vacant posts of Floor Manager for regularisation of casual Floor Assistants. As regards the need for increasing the number of vacant posts of Floor Assistant by creation, it is stated that the existing sanctioned strength of Floor Assistants in all

DDKs is more than the requirement as per new ad hoc redeployment norms prepared by Ministry of I&B in consultation with Prasar Bharati. Creating more posts of Floor Assistant is therefore not considered necessary.

The applicants are eligible for regularisation and have been placed in the eligibility list of casual Floor Assistants at DDK, Delhi. Since at present there are no vacancies in the grade of Floor Assistant at DDK, Delhi (except one which has been kept vacant as the matter is sub-judice) they cannot be regularized till regular vacancies are available. The casual artists can be regularised against vacancies arising at the Doordarshan Kendras where they have been engaged, according to the regularisation schemes dated 9.6.92 and 17.3.94 and therefore the applicants cannot be regularised against the vacancies available at other Doordarshan Kendras. Although at times, vacant posts have been shifted in the past from one Doordarshan Kendra to another Doordarshan Kendra to regularise casuals but this is subject to administrative exigencies. Since there are no such administrative exigencies it has not been found possible to shift the vacant posts of Floor Assistants from other Kendras to DDK, Delhi to regularise the applicants."

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3. It is also pointed out that the services of the casual Floor Assistants can be utilised only in the Kendra where they have been engaged originally. As the said Kendra does not have any further vacancy, nothing further can be done, argues, Sh.S.Mohd. Arif. Respondents have, however, taken steps to ensure that ^{the applicants} ~~they~~ are not laid off.

4. I have carefully considered the matter. The scheme for regularisation ^{of} casual artists in Doordarshan is contained in office memorandum No. 2(3)/90-81 dated 9.6.92. The scheme directs Heads of the various Doordarshan Kendras to initiate action in accordance with the enclosed scheme in terms of which only those casual Artists who had been engaged for an aggregate period of 120 days a year (calander year) could be considered as eligible for regularisation, ignoring the break in period in between the date of engagement and disengagement, working out the number of days on actual basis. Eligibility panels are to be prepared for each category of posts, Kendrawise, depending on the length of service of the casual artists and in accordance with the seniority in the particular Kendra. It is specified that those eligible in particular Kendra will not have any right for regularisation in any other Kendra. Provisions also exist for fixing academic qualification and for relaxation of age to the extent of service already rendered. The scheme also directed that till all the casual artists of a category in a Kendra are regularised, no fresh recruitment to that category is permitted in that Kendra. Obviously, therefore, regularisation depends ultimately on the availability of the vacancies. The Tribunal had in its earlier order, directed the respondents to undertake a review which they have done on the basis of which the order dated 3.2.2001 has been issued.

Certain Kendras have already taken action while others are initiating action depending on the availability of vacancies. The Tribunal cannot issue a direction to any particular Kendra to regularise the individuals unless a specific vacancy is identified and notified and it is not within the domain of the Tribunal to order the respondents to create specific additional posts. The same is for the the Govt. to decide upon as a policy. Respondents can only be advised that those who have completed the requisite period can be considered for regularisation. It is indicated by the respondents themselves that the applicants are in the eligibility list and their services are not being terminated and their regularisation would follow when vacancies arise. This to my mind, is fair enough.

5. Second relief sought by the applicants, that they be assigned work for 30 days, is a matter purely for Kendras to consider and decide upon, with reference to availability of work. The fact that certain Kendras choose to engage their regular staff on overtime in exigencies of work is no reason for the Tribunal to issue a specific direction that the same system should be dispensed with and the applicants shall instead be given the assignment. In the rejoinder, it was specifically raised by Dr. Madan that while Lucknow Kendra was adopting the policy of giving longer assignments, which Delhi Kendra was not doing in a discriminatory manner and that a direction should be issued to the latter. The same cannot be done as all the Kendras have been given ^{autonomy} ~~attorney~~ in this matter and it is for the Kendras who are maintaining the eligibility list to decide what is the best in the interest of the Centre, also keeping in mind the fact that the applicants have been working with them for long.

6. In the above circumstances, I hold that the relief sought by the applicants for their regularisation cannot be ordered as the same is purely dependent on the vacancy becoming available in the concerned category in each Centre and as the respondents themselves have indicated that there was presently no vacancy for granting such accommodation. With regard, to the second relief the I would only make a suggestion to the respondents to examine whether the assignment of the casual Floor artists on monthly contact can be increased from the ~~present~~ ^{present} practice of ten days a month depending on work. OA is disposed of in the above terms. No costs.

GOVINDAN S. TAMPI
Member (A)

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