

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

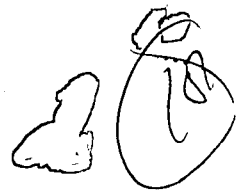
OA 2241/1999

New Delhi this the 6th day of November, 2000

Hon'ble Smt. Lakshmi Swaminathan, Member (J)

1. S/Shri Bhuvan Chand
2. Bhupinder Singh Sondhi
3. Mahipal Singh
4. Ajay Kumar Verma
5. Yashpal Singh Rawat
6. Ajay Kakkar
7. Ram Niwas
8. Narinder Kumar Dahiya
9. Anil Mathur
10. Sushil Kumar Sharma
11. Bal Raj Nagpal
12. Sudhir Kumar Sharma
13. Dileep Kumar
14. Dal Chand Kumar
15. Netra Pal Singh
16. Ganga Dutt
17. Jeet Singh
18. Dilbagh Singh
19. Vijay Pal

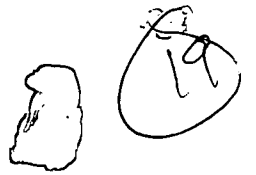
JS



20. Ajit Singh
21. Birdkhodar Singh Negi
22. Anil Kumar Sharma
23. Kailash Singh Negi
24. Satish Kumar
25. Satyabeer Singh
26. Parvez Sabir
27. Vijay Bhatiya
28. Partap Singh Rawat
29. Surender Pal Sharma
30. Hari Singh
31. Jai Pal Singh
32. Ravinder Kumar Verma
33. Surander Bahadur Lal
34. Harvinder Kumar Varma
35. Atul Risi Bhatnagar
36. Rakesh Kumar
37. Mukesh Sharma
38. Charanjeet Singh Bhatia
39. Anand Singh
40. Naresh Kumar
41. Tej Pal Singh
42. Davinder Kumar Kansotiya

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43. Bhagwat Singh
44. Vijay Kumar Mehra
45. Atul Kumar Jain
46. Ram Parshad
47. Om Parkash Singh
48. Tilak Ram Maurya
49. Muni Ram
50. John Singh
51. Vikas Gupta
52. Roshan Lal
53. Ashok Kumar Singh
54. Rashid.
55. Kishan Kumar
56. Harender Kumar Sharma
57. Ajay Kumar
58. Atul Parihar
59. Alok Saxena
60. Rajeev Kumar Shrivastava
61. Chetan
62. Anil Kumar Vaish
63. Mohan Parsad Kharwar
64. Ram Naresh
65. Trilok Chand Pandey
66. Ram Singh

B





67. Hira Lal

68. Ram Prasad

69. Rajinder Singh Bhati

All the above applicants employed
as Floor Assistants,
Director General,
Doordarshan

... Applicants

: versus :

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

2. Prasar Bharati
through its Chief Executive Officer
Doordarshan Bhavan
Copernicus Marg
New Delhi-110 001

3. Director General
Doordarshan
Mandi House
New Delhi

4. Controller Programmes,
Doordarshan
Mandi House
New Delhi...

... Respondents

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O R D E R (ORAL)

Hon'ble Smt. Lakshmi Swaminathan, Member(J).

The applicants, sixty nine in number, are working as Casual Floor Assistants (CFAs) with the respondents, some of them from various dates from 1983 onwards as given in Annexure P-I. Their grievance is that in spite of having put in long number of years as CFAs, the respondents have not regularised their services.

2. In pursuance of the directions given by the Tribunal in another case (Vasudev & Ors. Vs. Union of India & Anr. (1991(17) ATC 679)) which has been approved by the Hon'ble Supreme Court, the respondents have issued O.M. dated 9.6.1992 (Annexure P-6). This is a Scheme for regularisation of Casual Artists ~~in Group B posts~~¹³. This Scheme was later modified by O.M. dated 17.3.1994 (Annexure P-8). It is not disputed that these O.Ms, namely, the Scheme for regularisation of Casual Artists in Doordarshan are applicable to the applicants who are working as CFAs. Paragraph 3 of the Scheme provides the methodology for computing the number of days they have worked, on the basis of actual wages given to the Casual Artists in a month, divided by the minimum wage prevalent in the State during the relevant time of booking, for the purpose of regularisation. Under the Scheme, the respondents had directed all the Kendras to review the cases of eligible persons for regularisation. It is further mentioned that the regularisation in all such cases will be subject to availability of vacancies against which the eligible candidates could be considered and until such time they are to be kept on the panel for regularisation against future vacancies.

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3. In the additional affidavit filed by Shri Anis Suhrawardy, learned counsel for the applicants, he had relied on the Office Order No. 33/2000-SI(A) issued by the respondents on 1.6.2000. This order deals with regularisation of service of eligible Casual Lighting Assistants (CLAs) at DDK, Delhi. Paragraph 2 of the order mentions that 37 eligible CLAs at DDK, Delhi may be regularised against the 9 down-graded posts of Cameramen Grade-III and 28 posts shifted from other Kendras as contained in the list mentioned in the Office Order. Paragraph 4 of the Order further states that the regularisation of the eligible CLAs would be under the instructions/Scheme contained in the Directorate's O.M. dated 1.3.2000. Shri Suhrawardi, learned counsel has submitted that the Office Order dated 1.6.2000 dealing with the regularisation of CLAs should be read as covering the eligible CFAs also. He has relied on the O.M. dated 5.1.2000. This contention has, however, been controverted by Shri Mohd. Arif, learned counsel for the respondents, and rightly so because with regard to the applicants there is a separate Scheme which has been issued by the respondents dated 9.6.1992 and 17.3.1994, mentioned above. Learned counsel for the respondents has submitted that the services of the applicants can be regularised only in accordance with this Scheme. He has further submitted that the CLAs are in the feeder category of Cameramen Grade-III which is not the position with regard to the present applicants. In view of these facts, Shri Mohd. Arif, learned counsel has submitted that it cannot be held that the CLAs have been regularised in pursuance of the O.M. dated 5.1.2000 but have been done in accordance with the Scheme applicable to those set of employees. It is noticed

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from the O.M. dated 5.1.2000 that the Deputy Director (Administration), Doordarshan has merely called for certain information in respect of the categories of employees mentioned therein, including the Floor Assistants and this cannot assist the applicants.

4. In the reply to the additional affidavit filed by the respondents dated 29.8.2000, they have stated that the situation in the grade of CFAs is quite different from CLAs, who have been separately dealt with for the purposes of regularisation, against the down-graded posts of Cameramen Grade-III. It is also evident from the facts mentioned by the respondents that there are at present only 15 vacancies in other Kendras, excluding DDK, Delhi, for regularisation of CFAs whereas they have about 240 CFAs awaiting regularisation. During the hearing, learned counsel for the applicants has mentioned that in the case of the CLAs, there are about 117 eligible persons against 37 vacancies. The respondents have, however, submitted that in Doordarshan, they have no pressing requirement for CFAs and their regularisation can be done only strictly in accordance with the aforesaid Scheme dated 9.6.1992 and 17.3.1994, subject to the availability of vacancies in respect of the Kendras and fulfilment of other conditions.

5. By the Tribunal's order dated 18.7.2000, Shri Mohd. Arif, learned counsel for the respondents was asked to get instructions from the respondents regarding the submission made by Shri Suhrawardy, learned counsel that the applicants were willing to be considered for regularisation as Floor Assistants not only in the Delhi Kendra, but in any other Kendras in the country and they were also willing to go at the bottom seniority. Learned counsel has submitted

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that in the light of the present factual position, it was not administratively feasible for the respondents to consider the regularisation of the applicants in other Kendras because there are no vacancies other than the 15 vacancies mentioned in the additional affidavit. They have, however, submitted that as and when their turn comes in terms of the O.Ms. dated 9.6.1992 and 17.3.1994, the applicants will be regularised in accordance with their seniority in the eligibility list.

6. I have carefully considered the pleadings and the submissions made by the learned counsel for the parties.

7. One of the main prayers made by the learned counsel for applicants is for a direction to the respondents to regularise the applicant's services in the existing vacancies in Delhi Doordarshan Kendra or any other Kendras in which vacancies are available or may become available. They have also claimed temporary status because according to them they have completed the requisite number of days, namely, 120 days of service from the date of their initial appointments. As per the Scheme prepared by the respondents dated 9.6.1992 and 17.3.1994 by which they are covered, as there is no provision for grant of temporary status and they are not Group 'D' employees, no such direction can be granted. They have also prayed for a direction to the respondents to prohibit them from dispensing with their services and making fresh recruitments. It is noted from the submissions made by the respondents that the present applicants have already been placed in the eligibility list for regularisation according to their seniority. There is also no averment that the respondents have in fact recruited

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any one who is junior to the applicants, so as to entitle them for this direction also. In the circumstances, the prayer is not considered necessary.

8. As mentioned above, Office Order No. 33/2000 dated 1.6.2000 which deals with the regularisation of eligible CLAs does not apply to the present applicants who, admittedly belong to a different cadre, namely, the cadre of CFAs for whom a separate Scheme for regularisation exists, namely, the O.Ms dated 9.6.1992 and 17.3.1994. However, having said this it is relevant to note that the respondents have stated that while they have on their eligibility list 240 casual Floor Assistants awaiting regularisation, they have only 15 vacancies all over India against which they can be considered. Against these figures, it is relevant to note that in the case of Casual Lighting Assistants, the learned counsel for the applicants has submitted that against 117 eligible persons there were as many as 37 vacancies, which is a better ratio for the purpose of regularisation of the eligible persons. There is indeed force in the argument submitted by Shri Suhrawardy, learned counsel on this point. This will be for the respondents to review and re-consider because they have themselves stated that there are about 240 eligible CFAs as against only 15 vacancies throughout the country against which they can be regularised. This appears to be a large number of persons who are awaiting regularisation. The observations of the Hon'ble Supreme Court in CSIR & Anr. Vs. K.G.S. Bhatt and Anr. (1989(4) SCC 635) regarding the need for an employer to have a good administration for an effective promotion policy for their employees and get their best would appear to be applicable to some extent to the facts of this case. The Apex Court has held that "Every management must provide

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realistic opportunities for promising employees to move upward". As mentioned above, the ratio of the eligible persons awaiting regularisation among CLAs to the available number of vacancies appears to be far better than the position existing at present with the CFAs which position, therefore, needs to be looked into by the respondents.

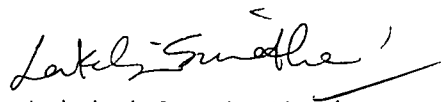
9. Learned counsel for the applicants has also drawn my attention to the order passed by Prasar Bharti dated 24.10.2000, copy placed on record. In this order, the position of General Assistants on the eligibility list who are awaiting regularisation for want of vacant posts has been dealt with. Shri Mohd. Arif, learned counsel has submitted that this order is not relevant to the present case because that order deals with the regularisation of General Assistants who are working in Administration and they are not Casual Artists who work only for 10 days, like the applicants who are CFAs/Artists. Learned counsel for the applicants has submitted that the applicants may also be considered suitably like the General Assistants in the order dated 24.10.2000.

10. In the facts and circumstances of the case, it is noted that the respondents themselves have stated that the applicants who have already been placed in the eligibility list of CFAs at DDK, Delhi, according to the provisions of the regularisation Scheme dated 9.6.1992 and 17.3.1994 will be regularised against the existing vacancies in accordance with their seniority in the list. However, as mentioned above, there is need for the respondents to review the situation whether they ought to increase the number of vacant posts for the purposes of regularisation of CFAs, keeping in view the position of other similarly situated

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persons in other cadres, like the Casual Lighting Assistants. This should be done in accordance with the relevant Rules and regularisation, as expeditiously as possible and preferably within eight months from the date of receipt of a copy of this order. In the meantime, the respondents shall consider the eligible persons for regularisation in accordance with the existing Scheme. No order as to costs.


(Smt. Lakshmi Swaminathan)
Member(J)

'SRD'