

Central Administrative Tribunal, Principal Bench

Original Applications Nos.53 & 2673 of 1999

New Delhi, this the 11th day of September, 2000

Hon'ble Mrs. Shanta Shastry, Member (Admnv)

(1)Original Application No.53 of 1999

Shri Yoginder Singh, s/o Shri Mehar Singh,
r/o Shankar Garden (Near Vikas Puri), Main
Nazaf Garh Road, New Delhi. - Applicant

(By Advocate Shri S.Y.Khan)

Versus

Union of India, through,

1. The Secretary to the Govt. of India,
Ministry of Information & Broadcasting,
Shastri Bhavan, New Delhi-110001.
2. The Director General, All India Radio,
Akashvani Bhavan, Parliament Street, New
Delhi-110001 - Respondents

(By Advocate Mrs.P.K.Gupta through proxy counsel
Shri Harvir Singh)

(2)Original Application No.2673 of 1999

Roop Singh Dagar, S/o Shri Ram Kishan, R/o
House No.560, Village, Bawana, New Delhi. - Applicant

(By Advocate Shri S.K.Gupta)

Versus

1. Union of India, through Secretary
Ministry of Information & Broadcasting,
Shastri Bhavan, New Delhi.
2. Director General, All India Radio,
Akashvani Bhawan, Parliament Street, New
Delhi.
3. Shiv Nandan Lal, Transmission Executive,
C/o Director General, All India Radio,
Akashvani Bhawan, Parliament Street, New
Delhi. - Respondents

(By Advocate Shri A.K.Bhardwaj)

Common Order

As afore-mentioned OAs were heard together;
facts and reliefs sought are identical; issue posed is
also similar, they are being disposed of by this common
order.

2. The main relief of the applicants in these OAs is to direct the respondents to regularise their services.

3. In OA 53/1999 applicant Shri Yoginder Singh was screened and approved as a casual Artiste - Farm Radio Operator (for short 'FRR') on assignment basis in 1993 and has been functioning accordingly since 1994 on the basis of number of days in a month till date. According to him he was enrolled as casual Artiste in terms of the Recruitment Rules for the post and he fulfilled all the requisite conditions. In OA 2673/1999 applicant Roop Singh Dagar was screened and approved as Compere on assignment basis on 29.1.1993, and he has been functioning accordingly since March, 1993 on the basis of number of days in a month till date. The applicants have contended that in spite of the directions of this Tribunal in various cases the respondents have not regularised their services. The main ground for denying the same is that they had not been engaged before the cut off date of 31.12.1991 as prescribed in the "Scheme for regularisation of casual Production Assistants and General Assistants in All India Radio as per the judgment of the Central Administrative Tribunal, Principal Bench, New Delhi in O.A. No.822/91 dated 18.9.92 in the matter of Sh. Suresh Sharma & others vs. UOI." (hereinafter referred to as "the Scheme for regularisation").

4. The learned counsel of the respondents submits that the applicants have been engaged by the All India Radio as and when required by the station. They have been engaged purely on contract basis for not more than

six days in a month. The terms and conditions of such contract were made known to them before they accepted the same after giving it in writing. Therefore they cannot claim any regularisation or any other relief except for the fee proportionate to the work done by them. The learned counsel further states that the post of FRR is a civil post having specific recruitment rules and the recruiting authority is the Staff Selection Commission. The applicants have not undergone any test or examination as required under the recruitment rules. They have given only a simple test for assessing their suitability to be engaged as Artiste on casual basis. They cannot claim similarity with those casual workers who are employed on daily wage basis. The Scheme for regularisation cannot be made a continuous process, if it is so, the recruitment rules will become redundant. Moreover, under the Scheme for regularisation there is a cut off date and those who were engaged up to 31.12.1991 alone are eligible for consideration and not those engaged thereafter.

5. The learned counsel for the applicants relied on a decision of this Tribunal in the case of Pramod Kumar & others Vs. The Secretary, Ministry of Human Resources Development & others, 1999(1)SLJ(CAT)172 wherein it has been held that the Government should not wait for court orders to prepare another scheme and benefits of a scheme should be given to all eligible. The learned counsel have further relied on another decision of this Tribunal in the case of Anshul Sharma & others Vs. Union of India & others, OA No.45 of 1997

decided on 29.5.2000. In that case casual Announcers of All India Radio, who were engaged in 1991, had sought for regularisation of their services on the same basis as has been done by the respondents in respect of other Casual Artists of All India Radio and this Tribunal gave a direction to the respondents to consider their regularisation.

6. I have heard the learned counsel of both sides and have given careful consideration to the arguments advanced.

7. The only moot point is that since the applicants were engaged after the cut off date of 31.12.1991, the respondents have rejected their claim for being put in the eligibility list for regularisation and further benefits. The respondents have stated that the Scheme for regularisation is not applicable to the applicants because the applicants in the case of Sh. Suresh Sharma (supra), on the basis of which the Scheme for regularisation was framed, had performed duties related to sanctioned posts of Staff Artistes whereas the applicants ^{in India} have neither been engaged as casual FRR nor the duties performed by them related to the post of Compere. The respondents have also tried to justify the cut off date.

8. It is to be noted that the respondents have not stopped engaging casual Artistes on assignment basis after the cut off date of 31.12.1991. It is evident from the facts that the applicants and several others have been engaged after that date. Nearly eight years are over since the Scheme for regularisation was formulated in 1992. In spite of such a long lapse of

period the respondents still seem to be in need of casual Artistes on assignment basis. There is also no denying that the work is available.

9. My attention has also been drawn to the judgments in the cases of Manoj Kumar Pathak & 13 others Vs. Union of India and others, O.A. No.541 of 1997 decided by Patna Bench of the Tribunal on 3.12.1991 and Shri Nasir Ali Zaidi & 3 ors Vs. Union of India & others, O.A. No.182 of 1999 decided by Jodhpur Bench of the Tribunal on 16.3.2000. In these OAs similar claims as made by the present applicants were raised. The Patna Bench has given the following directions:-

"10.....we dispose of this O.A. with the directions to the Respondents to consider the case of the applicants for regularisation and eventual absorption against the regular vacancy in due course in terms of the scheme formulated for regularisation of casual production Assistants and General Assistants in the All India Radio pursuant to the judgment of the Principal Bench of the Central Administrative Tribunal in OA-822/91 dated 18.9.92, as at Annexure-A-3, or according to the scheme to be formulated and implemented by the Respondents for regularisation of the eligible candidates in the light of the schemes already formulated by the Department pursuant to the aforesaid orders passed in OA No.563/86 and in OA No.822/91 by the Principal Bench of the Central Administrative Tribunal, within a period of four months from the date of receipt of a copy of this order."

The Jodhpur Bench of the Tribunal in the case of Shri Nasir Ali Zaidi(supra) also gave the similar directions.

10. I find that in the case of Manoj Kumar Pathak (supra) the applicants are casual Artistes performing work of Announcers/ Comperes and other allied work for various period from 1974 to 1996. Thus, it is evident that the Patna Bench extended benefit of the Scheme for regularisation of casual Artistes to even those who had

been engaged up to 1996. This being so, the applicants in the present cases who were engaged in 1994 cannot be discriminated against. They also, therefore, will have to be considered for being put in the eligibility list for regularisation.

11. In my view the respondents are not justified in resisting the claim of the applicants for regularisation on the plea that due to cut off date the Scheme cannot be made applicable to the applicants and no scheme can be framed for regularisation as the nature of duties is not such as to justify regularisation of their services. It is necessary to extend the benefit of the Scheme for regularisation framed in 1992 to the applicants who were engaged after 31.12.1991 or to frame a fresh scheme to consider the applicants and similarly placed casual Artistes for regularisation as has been directed by the Tribunal in the cases of Shri Nasir Ali Zaidi (supra) and Manoj Kumar Pathak (supra).

12. It is further observed that it is not that the scheme for regularisation has been framed once. In the past also the scheme for regularisation was formulated in 1980 and thereafter a further scheme was formulated in 1992. Even thereafter the enrolling of fresh casual Artistes on assignment basis has not come to a halt. On the contrary more and more such casual Artistes have been engaged. One has to bear in mind the spirit and objective with which the scheme was formulated. Since the basic objective remains the same harping on the cut off date will not serve the purpose. In the facts and circumstances of the cases I am of the opinion that the

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applicants' case should also be considered for regularisation.

13. Before I may part, in OA 2673/99 the applicant has also sought a relief to quash and set aside the appointment of Shri Shiv Nandan Lal, respondent no.3. It is to be stated that respondent 3 was engaged after proper selection and he is not on the same footing as the present applicants, therefore, I am not inclined to interfere with the appointment of respondent 3.

14. In the result, the OAs are disposed of with a direction to the respondents to consider regularisation of the applicants under the existing Scheme for regularisation without insisting ~~on~~ the cut off date of 31.12.1991 or a scheme to be formulated further for regularisation of casual Artistes in AIR on the same lines as per the directions given by the Tribunal in the cases of Shri Nasir Ali Zaidi (supra) and Manoj Kumar Pathak (supra). The respondents are also directed to grant age relaxtion to the applicants to the extent of their service with the respondents. This may be done within a period of three months from the date of receipt of a copy of this order. In the facts and circumstances of the case the parties in both the OAs shall bear their own costs.

(Mrs. Shanta Shastry)
Member (Admnv)

rkv.

Original order placed on OA 53/99