

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No. 71/1998

(2)

New Delhi, this 24th day of November, 1998

Hon'ble Shri T.N. Bhat, Member (J)
Hon'ble Shri S.P. Biswas, Member (A)

Shri Neeraj Bhanot
Type III/71, NCRT Campus
Sri Aurobindo Marg, New Delhi .. Applicant

(By Advocate Shri A.K. Behera)

versus

Union of India, through

1. Secretary
Ministry of Information & Broadcasting
Shastri Bhavan, New Delhi
2. Director General
Doordarshan, Mandi House, New Delhi
3. Director
Central Production Centre, Asiad Village
Siri Fort Road, New Delhi .. Respondents

(By Advocate Shri S.M. Arif)

ORDER

Hon'ble Shri S.P. Biswas

The applicant, a casual Production Assistant (PA for short), is aggrieved by alleged arbitrary and discriminatory actions of the respondents in not considering and posting him against the regular post of PA in spite of vacancies in that grade being available. Consequently, applicant seeks reliefs in terms of issuance of directions to the respondents to regularise him in the said post of PA retrospectively from April, 1994 when the process for regularisation started pursuant to directions of this Tribunal in OA 1359/93 with all consequential benefits. He also seeks to have a declaration made to the effect that instructions

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under order dated 23.5.96, as at A-1, be made inoperative so far as his claim for regularisation is concerned.

(B)

2. It is the case of the applicant that he had earlier filed OA 1359/93 praying, inter alia, that the applicant be treated as having worked on regular basis as PA with effect from 1.1.92. That OA, decided by this Tribunal vide its order dated 14.2.94, was disposed of with the following directions:

"It is thus clear that if the Scheme is worked out by the respondents and the cases of casual Production Assistant, 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".

3. Pursuant to the directions of the Supreme Court as well as the Principal Bench of the Tribunal, particularly in OA No.563/86 (case of Anil Kumar Mathur Vs. UOI) decided on 14.2.92 respondents decided to consider regularisation of all casual artists against available vacancies in the erstwhile staff artists category in accordance with the Scheme dated 9.6.1992 meant for regularisation as approved by the Government of India. The details of the said scheme are at Annexure 1 OM dated 9.6.1992. The relevant portion of the Scheme, applicable to the facts and circumstances pertaining to applicant's claim therein, is as under:

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"9. Till all the casual artists in a particular category eligible for regularisation at a Kendra are regularised, no fresh recruitment would be resorted to by Kendra concerned"

(A)

4. The respondents also issued certain guidelines for implementing the Scheme vide their subsequent OM dated 10.6.1992 and the relevant portion necessary for our purpose is extracted hereunder:

"In case after the regularisation of all the eligible casual artists, certain vacancies still remain unfilled, the action may be initiated to fill up those vacancies through normal recruitment channel".

5. The applicant would argue that he has completed more than 120 days in one year continuously for several years in the establishment of the respondents and is still continuing as casual PA and has preferential right over the outsiders/freshers. Respondents have done wrong in absorbing a man in the category of PA recently by transferring the man from outside Kendra/Production Unit.

6. It is also the case of the applicant that all the casual artists working in the production side engaged upto 31.12.91 have been regularised and after their regularisation also, there are a few posts of PA vacant. Another vacancy in the same category is likely to come up on 31.3.99 on superannuation of Ms. Jyostyna Mishra. In spite of the above, respondents are not inclined to consider the case of the applicant for regularisation as PA. On the contrary, in complete violation of the provisions of the Scheme, judgement and order of

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the Tribunal dated 14.2.94, respondents have appointed one Mr. Prashant by transferring from Aizwal DDK as PA in CPC by Directorate's order dated 12.8.98. Applicant has further argued that the respondents have taken a wrong stand solely on the ground that the applicant has joined the Centre after 31.12.91 i.e. on 1.1.92. He would argue that all these facts have been taken into account by the Tribunal in its earlier judgement and after having considered the relevant factors respondents were directed to regularise the applicant if vacancy existed after regularisation of casual artists working on the production side engaged upto 31.12.1991.

(5)

7. Respondents have resisted the claim and have now come out with the plea that the applicant was working on monthly contract basis on lump sum amount of fee of Rs.2000 which was later on enhanced to Rs.4000 per month. That Scheme was also applicable for persons engaged upto 31.12.91. Respondents have further contended that in the background of directions of this Tribunal in OA 1359/93, the case of the applicant will be considered on merits as per Rules and also as and when vacancies in general category are available with R-3.

8. We find that following the order dated 14.2.94 of this Tribunal in OA 1359 and 1360/93, respondents had communicated vide their letter dated 13.4.94 to the applicant indicating that "your name is being considered for regularisation

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against the available vacancies at this Centre". Applicant was also ordered to submit the necessary credentials in support of his claim. In the light of this, the name of the applicant for regularisation cannot be ignored by the respondents. It would be apposite at this stage to extract from the judgement of the Hon'ble Supreme Court in the case of Ramana Dayaram Shett v. International Airport Authority (1979) 3 SCC 489 which is as follows:

(16)

"It is well settled rule of administrative law that an executive authority must rigorously hold to the standards by which it professes its action to be judged and it must scrupulously observe those standards on point of invalidation of an act in violation of them."

9. Responsible respondents like the Ministry of Information & Broadcasting are bound by their commitment dated 13.4.94. It is seen that applicant's claim has not been denied by the respondents. In fact, in their counter dated 26.6.98, respondents have indicated that "claim of the applicant shall be considered for regularisation as per the directions in OA 1359 and 1360/93 dated 14.2.94 by the Hon'ble Tribunal". We find that besides the directions in para 7 of OAs 1359 and 1360/93 decided by this Tribunal on 14.2.92, the applicant's claim gets covered in terms of instructions in para 6 of OM dated 17.3.94. At the time of the pleadings, learned counsel for the respondents fairly conceded that in the background of the guidelines and instructions issued by them from time to time, this OA could be disposed of with a suitable direction. Since the

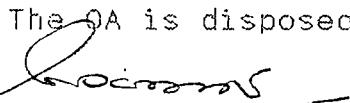
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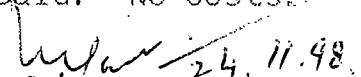
respondents have already decided that eligible candidates would be kept on the panel for regularisation against future vacancies including those arising on or after 26.8.95, respondents's stand as in OM dated 25.3.96 to get these vacancies filled up through SSC could be to the detriment of those already in the panel since long. Principle of natural justice would require that those already in the panel for years could be considered for preferential treatment vis-a-vis fresh recruits/juniors for the purpose of regularisation, subject to suitability conditions.

10. In these circumstances, we allow this OA 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;

The OA is disposed of as aforesaid. No costs.


(S.P. Biswas)
Member (A)


24.11.98
(T.N. Bhat)
Member (J)

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