

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

OA No. 1115/97

New Delhi, this the 5th day of June, 1998

HON'BLE SHRI T.N. BHAT, MEMBER (J)
HON'BLE SHRI S.P. BISWAS, MEMBER (A)

In the matter of:

1. Sohan Lal Pasi
s/o Late Sh. Kishan Lal Pasi,
R/o C-1/7, Lawrence Road,
Keshaw Puram,
New Delhi.
2. Martin Kher
s/o Late Shri Mohan Lal Kher
R/o 309, Double Storey,
Kabool Nagar,
G.T. Road, Shahdra.
3. Rajesh Kumar
R/o 143, Samman Bazar,
Jungpura Bhogal,
New Delhi.
4. Raj Kamal
r/o A/89,
S.B.M. Colony,
Shivaji Marg,
New Delhi.
5. Jagdish Singh Behanwal,
R/o 374, Type II, Meer Dard Lane,
L.N.J.P. Hospital Campus,
New Delhi.
6. Shiv Kumar
r/o No. 1113, Sector-5,
R.K.Puram, New Delhi.

...Applicants

(By Advocates: Shri E.X. Joseph and Sh. A.K. Bhardwaj)

Versus

Union of India through

1. Secretary,
Govt. of India,
Ministry of Information & Broadcasting,
Shastri Bhawan,
New Delhi.
2. The Director,
Song & Drama Division,
Ministry of Information & Broadcasting,
Soochna Bhawan, 10th-11th Floor,
C.G.O. Complex, Lodhi Road,
New Delhi.

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3. The Deputy Director,
Song & Drama Division,
Ministry of Information & Broadcasting,
Soochna Bhawan, 10th-11th Floor,
C.G.O. Complex, Lodhi Road,
New Delhi.

4. The Deputy Director (SH),
Song & Drama Division,
Ministry of Information & Broadcasting,
15/16, Subhash Marg, Daryaganj
New Delhi.

..... Respondents

(By Advocate: Shri R.P. Aggarwal)

O R D E R

delivered by Hon'ble Shri T.N. Bhat, Member (J)-

The applicants who ^{have been} ~~were~~ working as Actors (Artists) in the Song and Drama Division of the Ministry of Information & Broadcasting have come to the Tribunal seeking their regularisation or appointment on regular basis. Although it is claimed by the applicants that they were appointed on the recommendations of a duly constituted Screening/Selection Committee for appointment on regular basis, it is now admitted that their engagement was only on casual basis. The applicants have accordingly sought directions to the respondents to engage their services as Casual Artists till a final decision for giving them regular appointment as Actors is taken. In this regard they are particularly aggrieved by the fact that after 31.3.1997 the respondents had not engaged them while fresh persons who were junior to the applicants were given engagement. It is also further stated by the applicants that in the Ministry of Information & Broadcasting itself in sister organisations like the Department of Doordarshan and Films Division Casual Artists have been regularised. Reliance is also

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placed upon some judgements of the Hon'ble Supreme Court as also this Tribunal wherein Casual Artists have been declared to be holding civil posts.

2. Applicant Nos. 1, 2 & 4 were engaged as Casual Artists between the years 1977 and 1980 while the remaining applicants passed a selection held sometime in the year 1993 for which selection the respondents obtained applications from applicants No. 1, 2 & 4 also. According to the applicants the Selection Committee selected all the applicants and the applicants were accordingly empanelled in the Select List. The grievance of the applicants is that despite their selection regular appointment was not being granted to them and when they raised an objection the respondents stopped engaging them even as Casual Artists. It is averred by the applicants that the respondents have all along treated the applicants as regularly appointed Actors in all matters except in the matter of payment of salary and that for the reasons best known to the respondents the applicants have not been granted regular appointment.

3. The respondents have taken the plea that the applicants were not screened for appointment on regular basis and that their selection was only for the purpose of bringing them on the panel of Casual Artists to be engaged occasionally for performing shows at different places. It is further averred by the respondents that according to the recruitment rules framed in 1996 there are only 652 posts of regular Staff Artists who are recruited in accordance with these rules. In addition to regular Staff Artists the Song and Drama

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Division also utilises the services of Artists from private registered Troupes to cope up with the programme demand received by the Division from time to time and that is why a Scheme for empanelment of Casual Artists was introduced in the year 1993, and under that Scheme Casual Artists were empanelled for various categories such as Actors, Actresses, Dancers and Instrumentalists etc. According to the respondents the applicants were empanelled under that Scheme and were not selected for employment on regular basis.

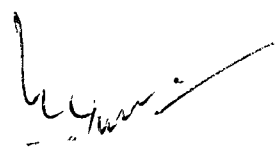
4. The applicants have filed a rejoinder to the counter filed by the respondents in which they have taken the plea that for the vacancies which arose before the framing of the 1996 Rules the applicants should be deemed to have been selected under the old Rules. The other averments made in the O.A. have also been reiterated in the rejoinder.

5. We have heard Shri E.X. Joseph, Senior Counsel for the applicants assisted by Shri A.K. Bhardwaj and Shri R.P. Aggarwal, learned counsel for the respondents.

6. It is no longer disputed by the learned counsel for the applicants that the selection of the applicants in pursuance to the advertisement notice of 1993 was for their empanelment as Casual Artists and not for their regular employment. Learned counsel for the respondents seeks to make much capital out of this and argues that the applicants cannot claim employment on regular basis merely on the ground that they have been

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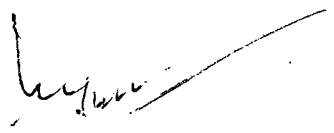
working for a long time as Casual Artists. It is further urged by the respondents' counsel that there are no post against which the applicants and similarly placed other casual artists can be accommodated. We are afraid the contention that the respondents are helpless in the matter cannot be accepted. When the recruitment rules of 1996 were framed the respondents already had before them the cases of several casual artists and had the respondents really wanted to do something for them they could have made a provision in the recruitment rules for the regularisation of the casual artists or at least given them some quota for appointment on regular basis. The fact that a quota has been given to direct recruits under the rules would not, in our considered view, suffice so far as the cases of casual artists are concerned. In this regard one may take note of the fact that as far back as 4.1.1991 a Bench of this Tribunal had in Ms Urmil Khanna & Ors. Vs. Union of India & Ors. (OA-945/88) given directions to the respondents to consider the cases of similarly placed persons in the Song and Drama Division itself, who had been working on contractual basis as Copyists for conversion of their contractual posts to civil posts on the lines already adopted in the sister wings, namely, All India Radio and Doordarshan. The respondents in that case were further directed to consider the further promotional avenues to the applicants therein. We do not know whether the Copyists in the Song and Drama Division have been regularised and whether any Scheme has been framed for this purpose as was directed in the judgement (Supra). But we do have before us a copy of the judgement passed by the Apex Court in Y.K. Mehta & Ors. Vs. Union of India & Anr.



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(reported in 1988 (2) ATJ 406. The Apex Court had in the aforesaid case relating to three categories of Staff Artists of Doordarshan under the Ministry of Information & Broadcasting declared the Staff Artists engaged on contractual basis as persons holding civil posts. In that case as well the respondents, namely, Government of India and the Doordarshan Department had raised the plea that Staff Artists of Doordarshan are not government servants as they are engaged on contract basis. The Apex Court held that a view had earlier been taken in Union of India Vs. M.A. Chaudhary (AIR 1987 SC 1526) that Staff Artists of All India Radio hold civil posts and as there is no distinction between the Staff Artists of all India Radio and those in the Doordarshan, the Staff Artists in Doordarshan also are holding civil posts. In the operative portion of the judgement in Y.K. Mehta (Supra) the Apex Court gave directions to the respondents to give the pay scale of Recordist in the Films Division to those petitioners in the Writ Petition who were working as Sound Recordists in Doordarshan. Similarly, it was directed that Cameramen Gr.II shall be given the pay scale of Cameramen of the Films Division while the Lighting Assistants working in Doordarshan should be given the pay scale of Assistant Cameramen working in the Films Division.

7. We may also refer to some observations made by the Apex Court in Daily Rated Casual Labour Employed under P&T Department vs. Union of India Ors. reported in JT 1987 (4) SC 164. The Apex Court held that keeping casual labourers for years without regularisation is unfair, unjust and unreasonable. Similarly in Rattan



Lal & Ors. Vs. State of Haryana & Ors., reported in (1985) 4 SEC 43, the Hon'ble Supreme Court disapproved of the policy of the State Government of Haryana in appointing teachers on an ad hoc basis at the commencement of an academic year and terminating their services before the commencement of the next summer season or even earlier to that. It was further held that the State Government could not be allowed to adopt 'hire and fire' policy and that the policy of adhocism followed by the State Government for a long period had led to the breach of Articles 14 & 16 of the Constitution.

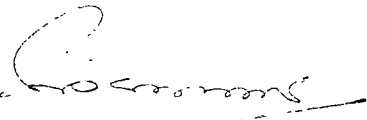
8. We are really astonished to find that despite a catena of judgements from the Apex Court on the subject, particularly in relation to the other departments of the Ministry of Information & Broadcasting itself, the respondents never considered it necessary to frame a Scheme for regularising the services of the Staff Artists, more particularly the Casual Actors in the Song and Drama Division. Respondents have admittedly been engaging such Casual Artists even after framing of the relevant recruitment rules and they have been working for a large number of days in each month. In such circumstances the respondents ought to have made some provisions for regularising them, of course after prescribing the necessary eligibility conditions. The respondents could have even amended the recruitment rules to make provision for that purpose.

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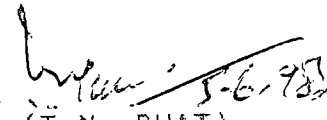
9. In view of what has been held and discussed above we are of the considered view that this O.A. must be partly allowed and appropriate directions issued to the respondents.

10. In the result, this O.A. is partly allowed and the respondents are directed to frame a Scheme for considering 'Casual' Actors in the Song and Drama Division for their appointment as regular Staff Artists, by amending the recruitment rules, if necessary, and till that is done to continue to engage the Casual Actors as before. This shall be done by the respondents within a period of four months from the date of receipt of a copy of this judgement. Needless to say that till this judgement is fully implemented the applicants shall be given engagement according to their seniority in the panel and the fact that they had approached the Tribunal or had been disengaged from 31.3.1997 shall not act as a bar for the applicants' re-engagement on casual basis.

11. In the facts and circumstances of this case, the parties are left to bear their own costs.


(S. P. BISWAS)
Member (A)

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(T. N. BHAT)
Member (J)