

2

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.1473/2000

New Delhi this the 5th day of September, 2001.

HON'BLE MR. SHANKER RAJU, MEMBER (JUDICIAL)

Mr. Ajeet Kumar Verma,
S/o Sh. S.N. Verma,
R/o R.No.312, Jhelam Hostel,
J.N.U., New Delhi-110 067

22

-Applicant

(By Advocate Shri S.Y. Khan)

-Versus-

1. Union of India through
Secretary,
Ministry of Information & Broadcasting,
Govt. of India, Shastri Bhawan,
New Delhi-110001.

2. Chief Executive Officer,
Prashar Bharti Corporation,
Akaswani Bhawan, Parliament Street,
New Delhi-110001.

3. Director General,
News Services Division,
All India Radi, B,Casting House,
Parliament Street,
New Delhi-110 001.

...Respondents

(By Advocate Shri A.K. Bhardwaj)

O R D E R (ORAL)

By Mr. Shanker Raju, Member (J):

Heard the learned counsel for both the parties.

2. The issue in the present OA is whether the News Reader-cum-Translator employed with the respondents are legally entitled for regularisation as done in various other categories of Artists as per the Schemes framed by the respondents in pursuance of the decisions of this Court?

3. Briefly stated, the case of the applicant is that having fully qualified in all respects he has been engaged on an assignment basis to perform the duty of News Reader-cum-Translator. It is stated that in pursuance of

the decision of this Court in Anil Mathur's case a scheme was framed by the respondents whereby after 1992 all the employees of the respondents appointed on contractual basis have been accorded the status of Government servants. By drawing my attention to the nomenclature of News Reader-cum-Translator it is stated that the same has been classified in the category of Artist. The learned counsel of the applicant has drawn my attention to a decision of this Court in Vasudev & Ors. v. Union of India & Ors., 1991 (17) ATC 679, wherein the respondents have been directed to frame a scheme for regularisation of the casual Artists, who were the applicants therein. Further placing reliance on a decision of this Court in Suresh Kumar Sharma & Ors. v. Union of India, OA No.822/1991 decided on 18.9.92 the Production Assistants and General Assistants working of casual assignment basis have been accorded the regularisation in the scheme to be framed by the respondents. It is stated that in pursuance of the said decision a scheme was framed in the year 1995 wherein all the casual Artists appointed on casual assignment basis have been regularised. It is also stated that some of the categories which have been left over in the scheme have approached this Court in various petitions and the court was pleased to direct framing of scheme to consider regularisation. In one such case the applicant has drawn my attention to OA-45/1997, Anshul Sharma & Ors. v. U.O.I. & Ors., decided on 29.5.2000, wherein casual Announcers who have approached this court for redressal of their grievances directions have been issued to the respondents to frame a scheme or to apply the scheme already in vogue for regularising their services. It is also stated that there is no mention of the cut off date

(2A)

and the same has been impliedly overruled in this case. It is also stated that being a casual artist the applicant cannot be meted out a discriminatory treatment which would be violative of Articles 14 and 16 of the Constitution of India. It is stated that since seven years he had been performing the work of the same nature, which a regular incumbent is performing, but yet he is to be regularised.

4. On the other hand, the learned counsel for the respondents, strongly rebutting the contentions of the applicant stated that the decisions cited by the learned counsel of the applicant are distinguishable and would not apply to the facts and circumstances of the present case. It is stated that in all other cases where the scheme was to be framed for casual artists they were in group 'C' posts and as the selection process was restricted to Department the directions have been issued to frame a scheme. By referring to the decision on the basis of which the scheme has been framed in 1995, it is stated that it is limited to Production Assistants and General Assistants, but does not, inter alia, include, News-Reader-cum-Translator. The learned counsel for the respondents has further drawn my attention to Rule 6 of the CCS (CCA) Rules, 1965, where as per the pay structure the posts of News-Reader-cum-Translator has been classified as Group 'B' post. Further drawing my attention to the recruitment rules for the post it is stated that the same is a gazetted Group 'B' post for which the consultation of UPSC is mandatory and further by drawing my attention to the judgment of the High Court of Jammu & Kashmir dated 4.8.92, bearing SWP No.2526/91, Iftikahar Hussain v. U.O.I. it is stated that in the event the consultation of

UPSC is to be taken there is no question of regularisation.

The learned counsel of the respondents has also further stated that they have, on the basis of the scheme, prepared a panel out of which the applicant is to be engaged in case the regular incumbent is on leave or otherwise not available. It is also stated that there cannot be any causal appointment against a gazetted post. The learned counsel of the respondents, by referring to the ratio of State of Haryana v. Piara Singh, AIR 1992 (3) SLJ 34 and more particularly referring to para 27 stated that there is nothing wrong with the Government to prescribe a particular date, i.e., cut off date, for regularisation and as such in the instant case the same has been described in the scheme framed in the year 1995 and it is upto 31.12.91 and as the applicant has been engaged later on the scheme is not applicable to him. The respondents have further stated that in the event the applicant who is fully eligible, as claimed by him, under the recruitment rules apply directly for the post he would be considered alongwith others and has to face selection process and as far as relaxation is concerned, he may be accorded the relaxation to the extent he has served with the respondents.

5. Reiterating the contentions of the applicant the learned counsel for the applicant in rejoinder stated that there cannot be any question of cut off date as in Anshul Sharma's case (supra) the aforesaid issue has not been countenanced and the scheme was made applicable even after 31.12.91.

6. I have carefully considered the rival contentions of the parties and perused the material on record. In my considered view the claim of the applicant for regularisation on the basis of the decisions of this court in Vasudev (supra) and Suresh Kumar Sharma (supra) and his resort to take benefit of the scheme is not justifiable and is also not legally sustainable. The applicant has been engaged on assignment basis as News-Reader-cum-Translator only in the year 1994 whereas the respondents have regularised the entire cadre in 1992 and thereafter the posts of News-Reader-cum-Translator has been classified as Group 'B' gazetted for which the regular selection process is to be held and the UPSC is to be consulted. In other categories of Artists like Announcer, Production Assistant etc. the posts have been classified as Group 'C' for which only the departmental selection process is involved as such keeping in view the directions of this court the scheme was framed but in case of News-Reader-cum-Translator they cannot be regularised de hors the rules, as the recruitment rules hold the field and are in vogue, the UPSC is to be consulted and the applicant has to under go a selection process as envisaged in the rules. The contention of the applicant that he has been discriminated under Articles 14 and 16 of the Constitution of India is also not legally tenable as discrimination can be alleged if two persons are similarly circumstance. Unequals cannot be treated equally. As the other categories of General Assistant, Production Assistant etc. are holder of Group 'C' posts the schemes have been framed for them in pursuance of the directions of the Court and directions for framing of scheme for Announcer has been passed, which is still under consideration. Apart from it,

Rule 6 of the CCS (CCA) Rules, 1965 also classifies the post as per its pay structure as Group 'B'. In this view of mine, I am fortified by the ratio of the decision of the J&K High Court (supra) wherein it has been held that in case where consultation of the UPSC is necessary the regularisation cannot be done, without resorting to the regular process of selection. Furthermore, the interest of the applicant would not be jeopardised in any manner as he is being put in a panel and whenever there is availability of work he is being engaged. Otherwise also the applicant is at liberty to participate in the selection, as claimed by him that he is fully eligible in all respects. The only impediment is of age, which would be taken care of by according him relaxation to the extent he has served with the respondents. But, in my considered view, the claim of the applicant to seek parity with Production Assistants or Announcers and benefit of the scheme framed in 1995 is not justifiable and cannot be countenanced.

7. In this view of the matter and having regard to the reasons recorded, the OA is found bereft of merit and the same is accordingly dismissed but with a direction to the respondents that if the applicant participates in the regular selection, as provided under the recruitment rules and conforms to the eligibility criteria, age relaxation to the extent of his having worked with the respondents shall be granted. No costs.

S. Raju
(Shanker Raju)
Member (J)

'San.'