

(10)

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH  
NEW DELHI

OA 45/2000

New Delhi this the 5th day of December, 2000

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

Sh.Mohinder paswan,  
S/O Shri Basant paswan,  
K-425, Mongol Purj  
New Delhi-

.. Applicant

(By Advocate Shri B.S.Oberoi)

Versus

1.Union of India through  
Director General, Doordarshan,  
Mandi House, Copernicus Marg,  
New Delhi-1

2.Director, Delhi Doordarshan Kendra,  
New Delhi-1

.. Respondents

(By Advocate Shri S.M.Arif )

O R D E R (ORAL)

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

The applicant has filed this application praying for a direction to the respondents to engage him and grant 'Temporary Status' from the date he had completed the requisite number of days of work as per the Scheme framed by them dated 17.3.1994.

This Scheme relates to regularisation of Casual Artists in Doordarshan(Annexure A-2). Applicant also claims for <sup>a B.</sup> further direction to the respondents to pay him the arrears of wages for the intervening period at the rate which is being paid to other workers doing the same duties with interest at the rate of 18% per annum.

2. I have heard Shri B.S.Oberoi, learned counsel for the applicant and Shri S.M.Arif, learned counsel for the respondents.

B.

(11)

I have also perused, the pleadings, documents on record as well as the written submissions made on behalf of the applicant, copies placed on record.

3. The brief relevant facts of the case are that the applicant states that he has been employed as casual worker/artist with the respondents from 18.11.1996 to 13.12.1997. According to him, he had been verbally engaged by them and utilised for the duties of Group'D' employees in different sections as required by them. Shri A.M.Arif, learned counsel for the respondents has submitted that the O.M. dated 17.3.1994 which provides the Scheme for regularisation of casual artists in Doordarshan applies to Group'C' employees and not <sup>to K.</sup> Group'D' employees. He has, therefore, submitted that the claim of the applicant for grant of 'Temporary Status' under this Scheme does not arise.

4. While learned counsel for the applicant has contended in the written submissions that the application is not barred by limitation, although as a matter of abundant caution, he has filed M.A. 42/2000 praying for condonation of delay. Shri S.M.Arif, learned counsel, on the other hand, has submitted that as per the own averment of the applicant that he has been disengaged by the respondents on 13.12.1997 and this OA has been filed more than two years late, it suffers from laches and delay and is barred by the provisions of Section 21 of the Administrative Tribunals Act, 1985. Shri B.S. Oberoi, learned counsel has relied on the judgement of the Delhi High Court in Shish Pal Singh and Ors Vs. Union of India and Ors (2000(1)ATJ 153), copy placed on record.

18/

12

5. On the merits of the case, according to the applicant, he is fully entitled for the claims mentioned above, including granting of 'Temporary Status' on his completion of 240 days of work in a year in accordance with the OM dated 17.3.1994. These claims have been controverted by the respondents. The respondents have submitted that they do not possess the applicant's records as he is not covered by the DOP&T Scheme dated 10.9.1993 for grant of 'Temporary Status' to casual workers. They have submitted that they have not violated any provisions of law as contended by the learned counsel for the applicant. The respondents have stated that the applicant is an employee of <sup>the</sup> Contractor, namely, M/s Navnidh Carriers who had booked him for work and payment has been made by the respondents to the Contractor. He has also submitted some documents relating to <sup>the</sup> Contractor, which are, however, of later date and therefore, need not be dealt with by me at this stage. Learned counsel has, however, contended that they do not have the records of the applicant working with them as he has not been appointed directly by the respondents and at best he might have been employed through <sup>the</sup> Contractor, namely, M/s Navdidh Carriers. Learned counsel has also submitted that these averments made in the reply have not been denied by the applicant in his rejoinder. I am unable to agree with the contention of the applicant in the rejoinder that the respondents have not given the name of the party because it is clearly stated in Paragraph 1 of the reply. On behalf of respondents it has also been submitted that after the applicant was disengaged from service, as alleged by him.

js

13

w.e.f. 13.12.1997, he had not submitted even a single representation to the respondents along with the details of his service records which also confirm their contention that he had never been employed by them at any time. Learned counsel has also submitted that the OM dated 17.3.1994 does not apply to the engagement of the applicant, <sup>who is</sup> if at all <sup>is in a</sup> Group 'D' post, as this <sup>applies to</sup> casual artists who are engaged in Group 'C' posts. For these reasons Shri S.M.Arif, learned counsel for the respondents has submitted that there is no merit in the application, apart from the fact that it is barred by limitation. He has, therefore, prayed that the OA may be dismissed.

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

7. According to the applicant's own averment in the OA, he had worked as casual worker/artist with the respondents from 18.11.1996 to 13.12.1997. This OA has been filed on 22.12.1999. In the facts of the case, I am unable to agree with the contention of Shri B.S.Oberoi, learned counsel that this OA is within limitation or that the applicant has <sup>a</sup> continuous cause of action. The judgement of the Delhi High Court in Shish Pal Singh's case (Supra) cannot assist the applicant in the present case, having regard to the provisions of Section 21(3) of the Administrative Tribunals Act, 1985. Besides, I have also seen the grounds taken by the applicant in MA 42/2000 and this again does not disclose any 'sufficient cause' which satisfies Sub-section (3) of Section 21 of the Administrative Tribunals Act, 1985, to condone

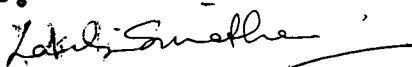
13/

14

the delay. Therefore, in the facts and circumstances of the case the OA is liable to be dismissed on the ground of laches, delay and, <sup>as per</sup> barred by limitation under the relevant provisions <sup>the</sup> of Administrative Tribunals Act, 1985.

8. Apart from the above, I have also considered the case on merits. It is relevant to note that no documents have been placed by the applicant on record to show that he had been directly engaged by the respondents as <sup>a</sup> casual worker, during the aforesaid period from 18.11.1996 to 13.12.1997 as alleged by him. The specific averments made by the respondents that he was employed by a Contractor, namely, M/s Navdish Carriers and booked by that Contractor, <sup>as per</sup> ~~on payment~~ as per demand placed by the respondents as and when they required such services have not been dispelled by the applicant in the rejoinder. In the facts and circumstances of the case, therefore, the judgements relied upon by the applicant in the written submissions will not assist him as he cannot be held to be a Govt. servant, to enable him to file this application under the provisions of Sections <sup>2, 14</sup> 14 and 19 of the Administrative Tribunals Act, 1985. Gate passes issued to the applicant for entry into the Doordarshan building will not assist the applicant to establish that he is a Govt. servant. The other relevant factor <sup>also</sup> has <sup>any</sup> not been <sup>a</sup> denied by the applicant that he had not filed representation to the respondents to consider re-engaging him as casual labourer so as to satisfy the provision of Section 20 of the Administrative Tribunals Act, 1985. Therefore, this application is not maintainable in the Tribunal.

9. In the result for the reasons given above, the OA fails. The same is accordingly dismissed. No costs.

  
(Smt. Lakshmi Swaminathan)  
Member(J)