

**CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH**

No. OA 663 of 2017

Present: Hon'ble Mr.Swarup Kumar Mishra, Member (J)
Hon'ble Mr. C.V.Shankar, Member (A)

Smita Jena, aged about 44 years, W/o Sri Prasant Kumar Parida, At-Charigaon Polosahi, PO-Indupur, PS-Dist-Kendrapara, presently working as Casual Technician Assistant at LPT TV Centre, Baripada Doordarshan Maintenance Centre, At/PO- Baripada, Dist-Mayurbhanja, Odisha.

.....Applicant

VERSUS

1. Union of India represented through its Secretary, Ministry of Information and Broadcasting, Shastri Bhawan, New Delhi – 110001.
2. Director General, Doordarshan, Copernicus Marg, Mandi House, New Delhi-110001.
3. Chief Engineer (E.Z)AIR & Doordarshan, 4th Floor, Akashbani Bhawan, Eden Garden, Kolkata-700001.
4. Additional Director General (E) (EZ), All India Radio & Television, Akashbani Bhawan, Eden Garden, Kolkata-700001.
5. Deputy Director General, Doordarshan Kendra, Chandrasekhpur, PO-Sainik School, Bhubaneswar, Dist-Khurda-751005.
6. Station Engineer, Doordarshan Maintenance Centre, At-Bhimpura, Dist-Balasore-756003.
7. Prasar Bharati represented through its Chief Executive Officer, Prasar Bharati Secretariate, Prasar Bharati House, Copernicus Marg, New Delhi-110001.

.....Respondents

For the applicant : Mr.D.P.Dhalsamant, counsel

For the respondents: Mr.M.R.Mohanty, counsel

Heard & reserved on : 27.1.2021 Order on : 19.03.2021

O R D E R

Per Mr.Swarup Kumar Mishra, J.M.

The applicant has filed the present OA under Section 19 of the Administrative Tribunals' Act, 1985 seeking the following reliefs :

“8.1 That direction be issued to the respondents particularly respondent No.6 to regularize the service of the applicant in the post of technician.

8.2 And further be pleased to pass any order/order(s) as deemed fit and proper to give complete relief to the applicants.”

2. The facts of the case in a nutshell are that pursuant to an open advertisement dated 15.12.1993 for filling of the posts of Technician, the

applicant appeared in the interview on 26.2.1994. From 29.4.1994 she was allowed to work as Technician on casual basis at LPT Paradip, she was shifted to LPT Kendrapara on 1.1.1996 and to Baripada on 2.4.2003. After 12 years of casual service as Technician, the applicant has neither been appointed nor offered an appointment of Technician on regular basis nor her services has been regularized. The applicant being aggrieved by the inaction on the part of the respondents approached this Tribunal in OA 520/2006 which was disposed of on 30.6.2006 with a direction to the respondent No.2 to treat the OA as a representation and pass a reasoned order within 45 days. The respondents rejected the representation of the applicant vide order dated 30.10.2006. Against such order of rejection the applicant filed OA 229/2007 before this Tribunal which was dismissed vide order dated 3.10.2007 on the ground of lack of jurisdiction. Against the order of this Tribunal dated 3.10.2007 the applicant approached Hon'ble High Court in WP(C) No. 15863/2007 which was disposed of on 18.3.2011 (Annexure A/1) with the observation that as and when the respondents will take steps for appointment to the post of Technician on regular basis either by way of recruitment or by way of regularization, the case of the applicant shall be considered and over age, if any, shall be condoned. Pursuant to the directions, while taking steps for regularization/recruitment, the CEO directed that the posts of Technician are to be filled up through Staff Selection Commission. Being aggrieved the applicant again moved this Tribunal in OA 20/2013 which was disposed of vide order dated 17.1.2013 (Annexure A/10) with a direction to the respondents to consider the case of the applicant against the vacancies shown by the Prasar Bharati and strictly in accordance with the order of Hon'ble High Court of Orissa and communicate the decision within a period of six months. On 10.10.2013 the applicant was informed that her case shall be considered by Prasar Bharati. But the applicant has not yet been regularized. Hence she has filed the present OA.

3. The respondents have filed their Counter stating that in the merit panel list for filling up 6 vacant posts as per the advertisement dated 15.12.1993, the

applicant was placed at Sl. No.18. Thereafter no sanctioned post was vacant and the panel expired after the scheduled period of one year and the merit list became invalid. The applicant was thereafter engaged on contract basis as and when required by Doordarshan Kendra, Bhubaneswar and posted at LPT Paradip w.e.f. 29.4.1994. It is stated that in pursuance of the order of this Tribunal in OA 520/2006, the representation of the applicant was considered as per rules and rejected vide order dated 1.11.2006. It is further submitted that to comply the Hon'ble High Court's order dated 18.3.2011 passed in WP(C) No. 15862/2007, the respondent No.5 forwarded the order to the appropriate authority and accordingly action was initiated by the respondent No.6 to list out the vacancy position of Technicians in the field offices and forward the same to the competent authority seeking approval for sanction of 4 posts of Technician, but no approval was received. As per recommendation of the "TASK FORCE" Committee, Respondent No.2 made a circular to fill up all the vacancy of Technicians and Engineering Assistants all over the network of Akashvani and Doordarshan set up by conducting the examination through SSC and accordingly successful candidates of SSC were appointed. Since the applicant did not appear in the SSC examination which was mandatory as per the Prasar Bharati Recruitment Rule, the case of regularization of applicant's service in the post of Technician could not be acceded to. It is further submitted by the respondents that the prayer of the applicant in the present OA has already been decided by this Tribunal and Hon'ble High Court of Orissa and if the respondents have not complied with the orders of Hon'ble High Court, then contempt proceeding should have been initiated against the respondents. But the applicant without doing so, has filed one MA 2178/2012 praying for fixation of time limit in order to consider the applicant's case and Hon'ble High Court vide order dated 20.7.2012 dismissed the MA as not pressed. After the dismissal of the said MA, the applicant has filed another OA 20/2013 and after disposal of the said OA, has filed the present OA. Therefore the present OA is not at all maintainable and is liable to be dismissed being devoid of any merit.

4. Learned counsel for the applicant has relied on the following decisions in support of his case –

- i) OA 449/2007 [Fakir Charan Nayak –vs- UOI] of CAT, Cuttack Bench
- ii) TA 34/2009 (Pradipta Kumar Das –vs- UOI), TA 4/2013 (Bijay Kumar Majhi –vs- UOI) and TA 5/2013 (Ashok Kumar Das) of CAT Cuttack Bench
- iii) Rajendra Kumar Nayak –vs- Orissa Mining Corporation LTD. & Ors. [2017 (II) ILR-CUT-912]

Learned counsel for the respondents has relied on the following decisions in support of his case :-

- i) Secretary State of Karnataka -vs- Uma Devi & Ors. [(2006) 4 SCC 1]
- ii) Surendra Prasad Tewari –vs- Uttar Pradesh Rajya Krishi Mandi Parisad & Ors. [Civil Appeal No. 3981 of 2006]

5. We have heard both the learned counsels, perused the pleadings on record and considered the citations relied upon by the learned counsels for both the parties.

6. The applicant has not been engaged as per the recruitment rules and has also not been engaged against any sanctioned post. Hon'ble High Court as per their order vide Annexure A/1 dated 18.03.2011 have mentioned that "*It is almost not known on what basis the petitioner having secured 18th position in the merit list was employed on casual basis in the year 1994? The validity of the select list having come to an end, we find no justification to allow the prayer of the petitioner for regularization in the post of Technician. However, it is observed that as and when the opposite parties take steps for appointment to the post of Technician on regular basis either by way of recruitment or by way of regularization, the case of the petitioner shall be considered and over age, if any, shall be condoned. The writ petition is disposed of accordingly*".

7. The applicant has not applied to the post in question in question pursuance to subsequent advertisement dated 23rd February – 1st March 2013 and has not participated in selection process for filling up the post. Subsequently OA No. 20/2013 filed by the applicant has been disposed of on 17.01.2013 as per annexure A/10 with the following order "*In view of the above, this OA is disposed of with direction to the Respondents to consider the case of the applicant against the vacancies shown in Annexure A/8, strictly in*

accordance with the order/direction of the Hon'ble High Court of Orissa and communicate the decision to the applicant within a period of six months from the date of receipt of this order.” In pursuance to the said order passed by this Tribunal, the respondents have passed and communicated the speaking and reasoned order as seen from Annexure A/11 dated 17.10.2013 wherein it has been mentioned that “*In view of above, it is to inform that the case of Smt. Smita Jena shall be considered by Prasar Bharati strictly in accordance with the order/direction of the Hon'ble High Court of Orissa and the decision shall be communicated to her as and when the recruitment process is complete*”.

8. Subsequently CP No. 32/2013 has been dropped on 19.05.2014 taking into consideration the said speaking order and show cause dated 13.01.2014. The respondents have issued a letter dated 04.12.2013 to the applicant to intimate roll number, date of birth etc of SSC examination for onward transmission to Prasar Bharati Secretariat as well as to Directorate. The applicant had submitted in her reply mentioning therein that she has already challenged the SSC examination before CAT Cuttack Bench. Accordingly the case of the applicant was not considered as she was not an applicant in the SSC examination for direct recruitment to the post of technician.

9. In view of the facts and circumstances this Tribunal finds that there is no justification or necessity for giving any further direction in this case and specifically in view of direction given by Hon'ble High Court. The applicant is at liberty to approach appropriate forum in accordance with law.

10. Accordingly the OA is disposed of but in the circumstances without any cost.

(C. V. SANKAR)
MEMBER (A)

(SWARUP KUMAR MISHRA)
MEMBER (J)