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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

Regn.No. OA-2902(A)/91

Date of decision: 5.6.92

Shri Mahipal Applicant

Versus

Union of India through Respondents
Secy., Miny. of I & B
& Others

For the Applicant Shri T.C. Aggarwal, Advocate

For the Respondents Shri P.H. Ramchandani, Advocate

CORAM:

The Hon'ble Mr. P.K. Kartha, Vice-Chairman (Judl.)

The Hon'ble Mr. I.K. Rasgotra, Administrative Member.

1. Whether Reporters of local papers may be allowed to see the Judgment? *Yes*
2. To be referred to the Reporters or not? *No*

(Judgement of the Bench delivered by
Hon'ble Mr. P.K. Kartha, Vice-Chairman)

The applicant, who has initially worked as a
Casual Labourer *&* and thereafter, as General Assistant *&*
Casual Labourer in the office of the Chief Engineer

(North) under the Directorate General, All India Radio
and Doordarshan on daily-wage basis, filed this application
under Section 19 of the Administrative Tribunals Act, 1985,
seeking the following reliefs:-

- (i) to direct the respondents to regularise
him in an appropriate post;

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- (ii) to direct them to pay him the scale of the regular post retrospectively with all benefits and bonus; and
- (iii) to direct them not to terminate his services till he is regularised.

2. On 5.12.1991, when the application was admitted, an ex parte interim order was passed directing the respondents to maintain status quo as regards the continuance of the applicant as casual worker. They were further directed not to fill up the vacancies of General Assistant without considering the suitability of the applicant and persons similarly situated. The interim order was passed on the basis of the statement made by the learned counsel for the applicant that the applicant has worked as a casual worker for about three years and that he was still continuing in service.

3. There is divergence in the versions of the applicant and the respondents as regards the nature of engagement of the applicant and the period thereof. According to the applicant, he was appointed on daily-wage basis initially for Class IV job on 1st January, 1989 and thereafter, he was promoted as General Assistant, which is a Class III post, in August, 1989. According to him, he fulfils the eligibility conditions for appointment to the post of General Assistant and there is also a vacancy in the said post. He has relied upon a catena of decisions in support of his contentions.

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4. According to the respondents, the applicant was engaged simply as a casual labourer on daily-wage basis w.e.f. 25.8.1989 in connection with the execution of the work of refurbishing project of All India Radio at Broadcasting House, New Delhi, against the labour provisions made in the detailed technical estimate prepared for the purpose. They have contended that the work on which he was engaged, is over and there is no work for him. In view of this, he abstained from work after 30.11.1991 on his own volition without prior intimation/permission. They have stated that no written order for his engagement was given. They have also stated that there is no regular sanctioned post of General Assistant in the project in which he was engaged.

5. We have gone through the records of the case and heard the learned counsel for both the parties. The learned counsel for the respondents has placed before us the detailed technical estimate of the refurbishing project of the various years from which it would appear that the post of General Assistant had been included among the posts sanctioned for the project. The respondents have not, however, produced the latest estimates under which there is no need for the post of General Assistant. *a*

6. The learned counsel for the applicant has produced before us a copy of the Doordarshan Manual, Vol.3, containing the rules and regulations regarding the various posts. It will be seen from the said Manual that the post of General Assistant/Copyist (Senior Grade) is filled up 100 per cent by promotion on the basis of seniority subject to the rejection of the M.P. Junior Grade General Assistants/Copyists with at least three years' service in the grade, are eligible for promotion.

7. There is also a post of Clerk, Grade I/Storekeeper which is filled up by promotion to the extent of 25% on the basis of seniority-cum-fitness from amongst Clerk, Grade II/Telephone Assistant/Teleprinter Operator and General Assistant/Copyist/Tapes Librarian (Junior Grade), erstwhile category of Staff Artist of All India Radio and Doordarshan and also Floor Assistant with five years' regular service in the grade. The remaining 25 per cent will be filled by promotion from amongst the Clerks Gr.II/Teleprinter Operator/Telephone Assistant and General Asstt./Copyist/Tape Librarian (Junior Grade), erstwhile category of Staff Artists of All India Radio and Doordarshan and Floor Assistant with three years' regular service in any of the grades on the basis of a competitive examination.

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8. On going through the Doordarshan Manual, we are of the opinion that the posts of Clerk Grade I/Storekeeper and of General Assistant/Copyist are to be filled up by promotion of eligible persons in the feeder category. Such persons are regular employees and not casual workers.

9. In the instant case, there is no order of appointment of the applicant as General Assistant though he has performed the duties of General Assistant while he has worked in connection with the project in which he was engaged on daily-wage basis. The mere fact that he has worked from August, 1989 onwards as General Assistant in that manner, would not make him eligible for appointment to regular post under the relevant recruitment rules. The applicant has not placed before us any material to indicate that he is eligible for appointment in a Group 'D' post on regular basis. According to the details contained in the chart dated 19.12.1990 issued by the Installation Officer under the respondents and produced as Annexure A-2 to MP-647/92 filed by the applicant, the applicant was not employed through the Employment Exchange. However, his name is registered with the Employment Exchange. It would, therefore, appear that at the time of his initial engagement, he was not sponsored through the Employment Exchange for engagement as a casual labourer. Similarly, there is

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nothing on record to indicate that he was appointed as a General Assistant on the basis of sponsorship by the Employment Exchange.


10. After hearing both sides, we are of the opinion that a daily-wage worker who has been engaged in connection with the work of a project and paid wages out of the budget sanctioned for the said project, cannot claim regularisation in regular posts of the Ministry/Department concerned. There have been arguments at the Bar as to whether the work in connection with the project is over or not. We see no reason to disbelieve the version of the respondents that there is no further need for the post of General Assistant in connection with the project though it has not been fully wound up. In case, the respondents do not need the services of a General Assistant in connection with the project, the Tribunal cannot give a direction to them to continue his engagement as General Assistant in the project concerned.


11. There has also been argument at the Bar as to whether the applicant has worked after 30.11.1991, the learned counsel for the applicant contending that he had worked upto 7.12.1991 and the respondents denying the same version. The applicant has produced a photo-copy of the Attendance Register along with MP-647/92 indicating that the applicant has worked upto 7th December, 1991. The

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respondents have contended that as a casual worker, the applicant's name figured only in the muster roll and no attendance register is required to be kept in the case of casual workers. The respondents have produced photo-copy of the muster roll in which it is indicated that the applicant has worked only upto 30.11.1991 and that he has been paid wages for the said period. We see no reason to disbelieve the version of the respondents in this regard.

12. In the light of the foregoing, the only limited relief to which the applicant would be entitled, is to consideration for engagement as a casual labourer in case the respondents need the services of the casual labourers and if persons with lesser length of service than the applicant as casual labourer have been retained in service. The applicant should also be considered along with candidates sponsored by the Employment Exchange for engagement as General Assistant in case the respondents have any other on-going project for which there is sanction for engaging a General Assistant on daily-wage basis. The application is disposed of as above with no orders as to costs.


(I.K. Rasgotra) 5/6/1992
Administrative Member


5/6/92
(P.K. Kartha)
Vice-Chairman(Judl.)