

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA 2922/2004

New Delhi, this the 7th day of April, 2005

Hon'ble Mr. Shanker Raju, Member (J)
Hon'ble Mr. S.K. Malhotra, Member (A)

Shri Abbas Asif Jah, S/o
Mr. Mohd. Munawwar, R/o
5043, Gali Anna Wali, Kucha
Rehman, Chandni Chowk, Delhi - 6.

...Applicant.

(By Advocate Shri T.C. Aggarwal)

Versus

Union of India, through:

1. Secretary,
Ministry of Information & Broadcasting,
Shastri Bhawan,
New Delhi - 110 001.
2. The Press Information Officer,
Press Information Bureau,
Shastri Bhawan, New Delhi - 110 001.

...Respondents.

(By Advocate Shri Tiger Singh)

ORDER

By Shri S.K. Malhotra, Member (A) :

The applicant is working as casual Calligraphist in Press Information Bureau under the Ministry of Information and Broadcasting since 1994 and has filed this OA for regularization and directing the respondents to pay the arrears of wages to him since March, 2004 and also the difference of the wages at higher rate from March, 2001.

2. The facts of the case in brief are that the applicant was appointed as casual Calligraphist in PIB on 9.8.1994. He claims that he is the senior-most Calligraphist and although regular post is available, his services have not been regularized, despite his putting in more than 10 years' of service. He has also not been paid his wages since March, 2004 and the arrears for the revision in the

Q

rate have also been denied to him. He has been approaching the department but to no avail. Hence the present OA.

3. The respondents have filed their counter reply in which they have stated that the applicant is not their employee as such. In the organization, there is a "head" called "Professional Services" and the funds in this 'head' are allocated to meet the requirement of PIB for engagement of persons on assignment basis, against out-sourcing of miscellaneous works. The persons engaged under this "head" are allowed to be paid a fixed amount of fee. The services of the applicant are being engaged and payment is being made to him from this 'head' on casual assignment basis. He was neither appointed against any regular or sanctioned post nor his services are being utilized on regular basis. His services are requisitioned as and when necessary depending on the work load for a period of 15-20 days in a month, with breaks for half days. It is also mentioned that apart from the working in PIB, he has been working as Calligraphist in Doordarshan as well, on assignment basis and is, therefore, not on the regular roll of the PIB. The question of regularization, therefore, does not arise.

4. As regards payment, he was initially being paid a fixed amount of Rs.10/- per stencil. The rates were later increased to Rs.100/- for half day upto 1000 words and Rs.200/- for full day upto 2000 words and all the fee due to him has already been released.

5. We have heard both the counsel for the parties and have also gone through the pleadings available on record.


6. The main argument advanced by the learned counsel for the applicant was that he should be treated as casual Artist at par with artists being engaged by Doordarshan for 10 days in a month. Doordarshan, which is also under the Ministry of Information and Broadcasting had drawn a scheme for the regularization of such casual Artists. He should also be considered for regularization under a similar scheme. In this connection he referred to a judgement of Principal Bench of this Tribunal reported as [(1991) 17

Administrative Tribunals Cases 679] in the case of Vasudev and others vs. Union of India and Another, in which directions were issued to the respondents to frame a scheme for absorption of casual Artists who had worked for a period of one year and more. Besides, another judgment of the Hon'ble Delhi High Court in the case of Yogendra Prasad vs. State of Manipur [2000 (2) ATJ 92] was also cited, in which LDCs appointed on daily wages were ordered to be re-instated against the available vacancies. In another case of Gujarat Agricultural University vs. Rathod Labhu Bechar [2001 (2) SCT 394], the Hon'ble Supreme Court had held that the workers working on the class IV posts for more than 10 years should be absorbed and regularized even by relaxation of qualification on the basis of their long service.

7. Learned counsel for the respondents, however, vehemently opposed the arguments advanced by the learned counsel for the applicant, stating that no master-servant relationship exists between the respondents and the applicant, as the applicant has neither been appointed against any regular post nor he is on temporary/ adhoc/ contract service. His professional services as a Calligraphist are being requisitioned depending on the requirement. He is being paid for his services based on work done by him as Calligraphist on page-wise basis. He is not on the regular pay rolls of the respondents and works for two-three hours in a day and with breaks. No appointment letter has ever been issued to him. Apart from PIB, he is also working as Calligraphist for Doordarshan. He cannot, therefore, compare himself with the category of casual staff Artists which includes Floor Assistants, Production Assistants, Painters, Cameramen etc., whose services are required on daily basis for production of programmes in Doordarshan. He cannot, therefore, be considered for regularization nor he has any legal right for absorption based on his casual assignment with the respondents department. In so far as the payment is concerned, the same has been paid in full and there are no dues against the respondents.

8. After hearing the rival contentions of both the parties, we are convinced that the applicant is not on the regular rolls of the respondents. He is a Urdu Calligraphist whose services are engaged on assignment basis, as and when the need arises and he is paid a fixed fee on assignment basis. The applicant has also not produced any order in respect of his appointment in PIB as such he cannot, therefore, claim any parity with the casual staff Artists who are engaged by Doordarshan on regular basis for production of various programmes. The judgements cited by him are, therefore, of no advantage to him as these judgements pertain only to those casual workers who have been working on a regular basis with the organization and are on their regular rolls, which is not the case in so far as the applicant is concerned.

9. Considering the above aspects of the case, we do not find any merit in the OA and the same is accordingly dismissed. No costs.


(S.K. Malhotra)
Member (A)


(Shanker Raju)
Member (J)

/gkk/