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**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

O.A. NO.2934/2004

New Delhi, this the 2nd day of May, 2005

HON'BLE MR. SHANKER RAJU, MEMBER (J)
HON'BLE MR. S.K. MALHOTRA, MEMBER (A)

1. Veenu Bajaj,
S/o Shri K.L. Bajaj,
Aged about 27 years,
R/o 4, South Anarkali Extn.,
P.O. Lane, Som Bazar,
Krishna Nagar, Delhi – 110 051
 2. Bhanu Prakash,
S/o Late Shri Gopal Chandra Mittal,
Aged about 25 years,
R/o 1/225, Sector-1, Vaishali,
Ghaziabad
 3. Vipil Arora,
S/o Shri Vijay Arora,
Aged about 28 years,
R/o 45, Kaziwara, Sikandrabad,
Bulandshahr, Uttar Pradesh
- ... Applicants

(By Advocate : Shri A.K. Behera)

Versus

1. Union of India,
Through the Secretary,
Ministry of Information & Broadcasting,
Shastri Bhawan, New Delhi-110 001
 2. Director General,
Doordarshan,
Mandi House,
New Delhi – 110 002
 3. Director,
Central Production Centre,
Doordarshan, Asiad Village Complex,
New Delhi – 110 049
 4. Director,
DD Bharti,
Akashvani Bhawan,
Parliament Street,
New Delhi – 110 001
- ... Respondents

(By Advocate: S/Shri Madhav Panicker, Vikrant Yadav & S.K. Sinha)

ORDER

BY HON'BLE MR. SHANKER RAJU, MEMBER (J) :

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Applicants have sought the following reliefs : -

- (i) Direct the respondents to regularize the applicants as Production Assistants/Resource Persons under the 1992 scheme as modified from time to time with effect from the due date and accord all consequential benefit to the applicants; or

Direct the respondents to include the work of Resource Persons within the purview of the 1992 scheme and thereafter to regularize the applicants as Resource Persons with effect from due date with all consequential benefits; or

Direct the respondents to frame a scheme for regularization of the applicants and similarly situated persons engaged after 31.12.1991 within a specified time frame in the line and analogy of 1992 scheme and grant the benefit of the same to the applicants by regularizing them as Resource Persons/Production Assistants w.e.f. due date;

- (ii) Direct the respondents to give all consequential benefits to the applicants on the basis of prayer (i) above.
- (iii) Direct the respondents to pay the cost of litigation to the applicants.

2. Applicants have been initially appointed as casual Resource Persons in February/March/April, 2002 and were shifted to Prasar Bharti. It is contended by Shri Behera that though the nomenclature of the applicants in so far as their designation is concerned, is Resource Persons, but they have been performing the duties and responsibilities of Production Assistant.

3. By resorting to the Scheme of 9.6.1992 promulgated for regularization of casual Artists, it is stated that though the Production Assistants are covered under this scheme, Resource Persons performing the duties and responsibilities of Production Assistants have not been brought into the ambit of this Scheme. Learned counsel states that the Bench of the Tribunal at Patna ordered framing of a Scheme for regularization of Artisan Staff who were left over in the 1992 Scheme and accordingly in pursuance of the directions of the Tribunal in OA No.606/1998 and OA No.541/1997 respondents had prepared a Scheme and on challenge of the decision before the Hon'ble High Court of Patna in CWJC Nos. 8362 of 2000 and 1368 of 2001, by an order of 4.2.2003 the directions of the Tribunal have been affirmed. It is stated that merely because the respondents have assailed the order of the Patna High Court before the Apex Court in SLP (Civil) No. 9555/2004 wherein a stay has been granted on 5.5.2004 in the light of

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the decision of the Full Bench of the Tribunal in Ganga Ram vs. Union of India {Full Bench (CAT) Vol. II Bahri's Brothers 41}. The decision of the Patna Bench would still be treated as a precedent unless over turned.

4. On the other hand, respondents' counsel vehemently opposed the contention and stated that in view of the stay, the scheme framed has not been implemented and stated that the applicants are only Resource Persons and there is no sanctioned posts of Resource Person available in any Kendras of Doordarshan. Their employment is purely on casual and occasional basis. They are booked for 5 assignments intermittently and have to work under the supervision of Production Assistants. Accordingly, it is denied that there is any parity between Production Assistants and Resource Persons.

5. Moreover, while referring to a decision of Hon'ble High Court of Delhi in CWP 319 of 2001 in Union of India & Others vs. Ms. Anshul Sharma & Others decided on 13.2.2002, it is contended that as per the classification and categorization in AIR Manual regarding definition of Staff Artists, Resource Persons are not included in it. And moreover, in the light of the observation of the Delhi High Court that Tribunal has no jurisdiction to frame any scheme for regularization contrary to the Constitution this Court has no jurisdiction to issue any direction.

6. By way of an interim order, status quo regarding working of applicants has been maintained.

7. On careful consideration of rival contentions, we are of the view that till the decision of the Hon'ble High Court is modified or reversed, the same does not cease to be a precedent and has a precedent value.


8. However, it is also trite law that the decision of the Hon'ble High Court under whose jurisdiction the Tribunal is functioning is binding and when there is a decision of another High Court, the same has to give way to the decision. However, in case of any conflict between the two High Courts, nothing precludes the Tribunal to arrive at its own reasoning to come to a conclusion.


9. It is no more res integra that direction of the Hon'ble High Court directing the Tribunal to frame a scheme has been held to be contrary to the law, has been affirmed by the Apex Court while rejecting the SLP (Civil) No.11855 in limine on 11.7.2002. This has attained finality between the parties. However, the decision of the Patna Bench of the

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Tribunal wherein directions have been issued to frame a scheme and in fact, respondents had framed a scheme, the implementation has been kept in abeyance by virtue of a stay granted by the Apex Court. In the fitness of things, when the issue of jurisdiction to frame a scheme regarding regularization of the category which has not been included in the definition of Staff Artists though by parity in functioning and in discharging duties the category thus falls within the definition of Staff Artists, yet no positive direction can be issued to frame such a scheme in case of Resource Persons till the issue is finally settled by the Apex Court.

10. In the result, for the foregoing reasons, the OA is disposed of at this stage with liberty to the parties to revive it at the appropriate stage subject to the final outcome of the decision to be rendered by the Apex Court on challenge to the decision of the Patna Bench of the Tribunal. However, till then as there is a requirement which has not been disputed for functioning of Resource Persons status quo shall be maintained. No costs.


(S.K. Malhotra)
Member (A)


(Shanker Raju)
Member (J)
2/5/05

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