

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI.

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OA No.1137/93

Date of decision: 22/10/93

Shri Vir Singh ...

Petitioner

vs.

Union of India through
Secretary,
Ministry of Information and Broadcasting,
New Delhi & ors. ..

Respondents

For the Petitioner ..Sh.A.K.Behera, Counsel.

For the Respondents..Shri M.L.Verma, Counsel.

CORAM:

THE HON'BLE MR.JUSTICE S.K.DHAON, VICE-CHAIRMAN(J)
THE HON'BLE MR.B.N.DHOUNDIYAL, MEMBER(A)

JUDGEMENT

(BY HON'BLE MR.JUSTICE S.K.DHAON, VICE-CHAIRMAN)

The petitioner who was engaged as a casual staff artist to work as Production Assistant(News and Current Affairs) has come to this Tribunal with the principal prayer that the respondents may be directed to regularise his services as Production Assistant(News and Current Affairs) in Doordarshan.

2. The regularisation of the services of the petitioner is admittedly governed by a scheme prepared by the Doordarshan in accordance with the directions given by the Principal Bench of this Tribunal in OA Nos.894/1990, 2322/1990 and 1775/1990 and by the Lucknow Bench in OA No.174/89. The scheme, as prepared, was scrutinised by the Principal Bench in OA Nos.563/86, 977/86 and 2514/89 decided on 14.2.1992. In OA No.563/86 and connected cases, a direction was issued to the respondents to modify paragraph 2 of the scheme original framed, as follows:

" Only those Casual artists who had been engaged for an aggregate period of 120 days in a year(it is for respondents

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to fix the year as calendar year or financial year) will be eligible for regularisation. The broken period in between the engagement and disengagement will be ignored for the purpose. The number of days is to be computed on the basis of actual working days in the muster rolls or attendance sheets or Q-Sheets."

3. Paragraph 2 of the scheme now reads:

" Only those Casual Artists who had been been engaged for an aggregate period of 120 days in a year(Calendar Year) will be eligible for regularisation. The broken period in between the engagement and disengagement will be ignored for the purpose. The number of days is to be computed on the basis of actual working days in the muster rolls or attendance sheets or Q-sheets."

4. In the counter-affidavit, in the fore-front, the plea taken is that the petitioner is not entitled to the benefit of the aforequoted paragraph 2 of the scheme as he had not been engaged for an aggregate period of 120 days in a calendar year.

5. In the rejoinder-affidavit filed, the petitioner has not only stated but also demonstrated that the during the year 1992(beginning from 1.1.1992), he had rendered service for the period of 120 days or more.

6. The learned counsel for the respondents has urged that paragraph 2 of the scheme will not be attracted to the case of the petitioner even though he rendered 120 days' service during the calendar year,1992. The sheet-anchor of his submissions is para 1 of the scheme which is being extracted:

" This scheme would be applicable to all those Casual Artists who were employed on casual basis on 31.12.1991 including those who were on the rolls of the Doordarshan though they may not be in service now will will be eligible for consideration. Those who are engaged on casual basis after 31.12.1991 will not be eligible for consideration."

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7. It is an admitted position that the scheme was enforced with effect from 9.6.1992. We find no force in the submission of the learned counsel for the petitioner that for the purpose of para 1 of the scheme, the petitioner should not be deemed to have been engaged on casual basis after 31.12.1991 as admittedly, he was employed on casual basis during broken periods in the preceding years. According to the petitioner's own case, he was engaged as Casual Artist and then disengaged and thereafter reengaged during the broken periods. A combined reading of paragraphs 1 & 2 of the scheme can lead to no other conclusion except that a casual worker to be entitled to the benefit of para 2 should have rendered 120 days' service in a calendar year on or before 31.12.1991. The learned counsel for the petitioner conceded at the Bar that the petitioner was not eligible to be considered for regularisation on the day when the scheme was enforced.

8. Paragraph 2 of the scheme came up for consideration before a Division Bench of the Principal Bench of this Tribunal (HOn'ble Chairman and Hon'ble Shri S.R. Adige, Member(A)) in OA No. 3058/92 dated 16.9.1993. This Bench held:

"The clear effect of paragraph 2 is that a person will become eligible for consideration for regularisation only if he had worked in any one calendar year for an aggregate period of 120 days before 31.12.1991."

We respectfully agree with the interpretation given by the Division Bench to paragraph 2 of the scheme.

9. There is no force in this OA. It is dismissed

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but without any order as to costs.

B.N. Dhoundiyal
(B.N.DHOUNDIYAL)
MEMBER(A)

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S.K. Dhaon
(S.K.DHAON)
VICE-CHAIRMAN(J)