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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

O.A.No.1197/93

New Delhi this the 16th Day of September, 1994.

Hon'ble Mr. Justice S.K. Dhaon, Acting Chairman
Hon'ble Mr. B.N. Dhoundiyal, Member(A).

Shri Lal Singh Rawat,
S/o Sh. Sultan Singh,
R/o 1654, Krishipunj,
Near Inderpuri,
New Delhi-12.

Applicant

(through Mrs. Meera Chhibber)

versus

1. Director General,
Doordarshan Bhawan,
Mandi House,
New Delhi.
2. Director,
Delhi Doordarshan Kendra,
Parliament Street,
New Delhi.
3. Addl. Director General(News),
Doordarshan Kendra,
Akashwani Bhawan,
Parliament Street,
New Delhi.

Respondents

(through Sh. M.L. Verma, counsel)

ORDER

delivered by Hon'ble Mr. B.N. Dhoundiyal, Member(A)

This O.A. has been filed by Shri Lal Singh Rawat challenging reduction in his emoluments and seeking regularisation to the post of CG/Digipromptor, Operator.

The applicant was initially engaged as a general Assistant in March 1985 and from April 1985 to March 1986 he was given work only for 10 days in a month at a consolidated rate of Rs.280/- which was increased later in April 1986 to Rs.313/-.

He was sent for training as Digipromptor Operator and after his return he was made to work for the whole month as Digipromptor Operator but on papers

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he was shown as on 10 days contract every month.

The rate of payment varied from time to time ranging between Rs.70-100 per day during 1987 to 1989.

From April 1989 onwards, he was asked to work as C.G.Operator. The earlier practice of taking work for the whole month but showing a 10 day contract on paper was continued. The rate varied from Rs.150/- per day to Rs.200/- per day and he was asked to cover the Parliament Sessions. In April 1991, sanction was received to book the applicant on monthly basis on the ground that he was an experienced operator. On papers he was still shown on 10 days contract only. The same practice of taking work for the whole month but showing contract for a limited number of days was followed from December 1991 to February 1992. In February 1992, special sanction was taken for a fresh contract for the Parliament session for 20 days at the rate of 150/- per day. From June 1992 to November 1992 he worked in Doordarshan for full month though on paper he was shown on contract for 10 days only. Against in December, 1992 he was assigned to Parliament for the whole month. In January 1993 he was brought back to Doordarshan and again a contract for 10 days for Rs.1500/- was given to him. In February 1993, a special sanction was again taken to book him as C.G. Operator at the rate of Rs.2000/- per month. He continued to work on this basis till April 1993. After May 1993 his emoluments were reduced to Rs.700/- per month although he was still doing the same work for which special sanction was taken for Rs.2000/- per month.

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The following reliefs have been claimed:-

(a) to pay wages @ Rs.2000/- for 10 day contracts from April 1993 onwards;

(b) to pay the applicant for actual number of days he has been made to work @ Rs.200/- per day atleast from February 1993 onwards;

(c) to declare that applicant was engaged to work as C.G. Operator in relaxation of the recruitment rules of 1987;

(d) to set aside order dated 12.3.1993 of the Deputy Director General, Doordarshan directing all Doordarshan Kendra's to stop forwith engagement of casual artists.

On 28.5.93, this Tribunal restrained the Director General, Doordarshan from giving effect to the impugned order dated 12.3.93 in case of the applicant. On 10.6.93, this order was modified and the respondents were directed to continue to pay the applicant at the rate of Rs.200/- per day. The interim order continues till date.

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In the counter-affidavit filed on behalf of the respondents, the main averments are these. The applicant is not an artist and was essentially engaged for typing work on mutually agreed terms of contract. No extra work was taken and mutually agreed fee has always been paid to him. He was found ineligible to be regularised under the approved scheme as he was over-age even after allowing prescribed relaxation. ^{3w} In accordance with the directions given by the Tribunal in the case of Sh. Anil Kumar Mathur & Others (OA-563/86), the department has regularised casual artists working in different disciplines strictly upto the extent of vacancies available and in order of seniority. Those who were not eligible can no longer be engaged on contractual basis without any work. Accordingly, the engagement of such casual workers was discontinued.

We have gone through the records of the case and heard the learned counsel for the parties. It is an admitted fact that the applicant was engaged as a casual worker (General Asstt./Typist) ^{br} and has been working off and on since 1985. A number of so called contracts have been filed by the applicant invariably bearing a caption like "Artist on assignment to provide copies of News Bulletins for VIPs and Parliament House". During 1985-1986 most of these contracts show working for 10 days at different rates of emoluments. A job contract from 11.11.1987 to 30.11.1987 is for 20 days and shows that it is "Assignment to work as ~~Supper-visor~~ ^{b/w} ~~Supper-visor~~" ^{br}

Digit Promptor at the rate of Rs.70/- per day". Another contract for 10 days in January 1993 is for assignment basis to work as C.G. Operator. The respondents have themselves stated in the counter that "the applicant was a good typist and thus he was trained for Digi Promptor Operator which is a job of good typist to produce typing work in large-bold letters". The Scheme for regularisation of Casual Artists in Doordarshan prepared in accordance with the directions of this Tribunal in O.A.No.563/86 dated 12.2.92 (Anil Kumar Mathur & Ors. is applicable to all casual artists who were employed on casual basis on 31.12.1991 for the aggregate period of 120 days in a year (Calender year) after ignoring the broken periods. They should possess the requisite educational qualification and experience as stipulated in the Recruitment Rules. The following provision has been made regarding the age:-

"The upper age limit would be relaxed to the extent of service rendered by the casual Artists at the time of regularisation. A minimum of 120 days service in the aggregate, in one year, shall be treated as one year's service rendered for this purpose. The service rendered for less than 120 days in a year will not qualify for age relaxation."

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The learned counsel for the respondents has drawn our attention to para 4.25 of the counter which shows that when the regularisation was being considered on 9.6.92, the applicant had worked for 314 days i.e. 134 days in 1985 and 180 days in 1986 and was thus entitled to a relaxation for age for two years only. He was over 33 years of age and was ^{dw} considered average even after allowing the period of service. From 1.1.1987, he changed his booking against Civil Post of Character Generator Operator for which the Scheme for regularisation is not applicable. The learned counsel for the applicant drew our attention to a circular dated 17.3.1994 wherein the respondents have admitted that though casual artists were required to work during the whole month, they were shown as contracted for 10 days only in pursuance of an office order dt. 28.3.1993 issued by Director General, Doordarshan. In recognition of this fact, a formula for calculating the actual number of days was provided for the purpose of regularisation. The learned counsel for the applicant has also argued that as held in the case of Central Inland Transport Corp. Vs. Bras Nath (AIR 1986, 1607), the respondents should not have taken undue advantage of their dominant position.

It is clear that though engaged as casual artist (General Asstt./Typing)), the respondents found his work good enough for training him for the job of C.G. Operator which requires higher typing skills. He continued to work as such during 1987 onwards. We therefore hold that the ^{dw}

total number of years for which the applicant has worked either as General Assistant/Artist or Digipromptor Operator should be taken into account for granting him age relaxation. We direct the respondents to regularise his services as General Assistant Typing on this basis.

The other relief sought by the applicant is that he should be deemed to have been engaged to work as C.G. Operator in relaxation of recruitment rules. The arguments is that these recruitment rules came into in existence in 1987 and having taken work from the applicant as a C.G. Operator from 1987 onwards, he cannot be thrown out on the ground that he does not fulfill the requirement of the Recruitment Rules. In this connection, our attention has been drawn to the rules notified under Article 309 of the Constitution dt. 23.9.87. These rules are called 'Typist for Character Generator Recruitment Rules, 1987'. In column-12 attached to the schedule, it is shown that the post is to be filled up on the basis of transfer on deputation from Clerk Grade-II/General Assistant of Doordarshan and AIR, borne on the respective Zonal Cadre to which the vacancy is relevant with a minimum typing speed of 40 w.p.m. The period of deputation is to be for three years.

We have already noted that the respondents have themselves admitted in para 4.3 of the counter that the applicant was a good typist and thus he was trained for Digipromptor Operator which is a job of a good typist to produce typing work in

large-bold letters. Once the applicant is regularised as General Assistant, there should be no difficulty in his continuing to work as Digipromptor Operator on the basis of transfer/deputation.

In view of the aforesaid discussions, this O.A. is allowed and is disposed of with the following directions:-

(i) The total service rendered by the applicant from 1987 onwards either as General Assistant or Digipromptor Operator on casual basis shall be taken into account while calculating the number of years for which relaxation can be given to him. On this basis he shall be regularised as General Assistant, if eligible.

(ii) After regularisation as Digipromptor Operator, in case the respondents require his services as Digipromptor Operator, he shall be treated as on deputation. In that event he shall be entitled to regular scale of pay prescribed for this post.

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There shall be no order as to costs.

B.N. Dhyal
(B.N. Dhoundiyal)

Member(A)

S.K. Dhaon
(S.K. Dhaon)

Acting Chairman

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