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8

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI.

O.As No.1359 of 1993 & 1360 of 1993

New Delhi, this the 14th day of February, 1994.

Hon'ble Mr Justice S.K.Dhaon, Vice Chairman

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

OA No.1359/93

Shri Neeraj Bhanot
S/O Shri Dharam Vir,
R/O Type III/71, NCERT CAMPUS,
Sri Aurbindo Marg,
New Delhi.

... .. Applicant.

(through Mr Jog Singh, Advocate).

OA No.1360/93

Shri Lakhpat Singh Rawat
S/O Shri B.S.Rawat,
R/O 1476, Laxmi Bai Nagar,
New Delhi.

..... Applicant.

(through Mr Jog Singh, Advocate).

vs.

1.Union of India
through the Ministry of Information & Broadcasting
Shastri Bhavan, New Delhi.

2.Director General,
Doordarshan, Mandi House, New Delhi.

3.Director,
Central Production Centre, Asiad Village,
Siri Fort Road, New Delhi.Respondent
(in both the O.As).

(through Mr M.L.Verma, Advocate).

ORDER(ORAL)

PER JUSTICE S.K.DHAON, VICE CHAIRMAN

These two O.As have been heard together
as the controversy raised in them is similar. Therefore
they are being disposed of by a common judgment.

2. In both the cases, the reliefs claimed
are substantially the same. We are taking the
relevant facts from O.A.No.1359 of 1993 -
(Neeraj Bhanot vs. Union of India and others).

3

9

3. The applicant has come up with the case that he has been working with the respondent No.3 since the year 1992 as a Casual Production Assistant.

The reliefs claimed are these:

- a) this Tribunal may extend the benefit of the operation of the judgment delivered in Anil Kumar Mathur's case (OA No.563 of 1986), decided on 14.2.1992, to the applicant; and
- b) the respondents may be directed to treat the applicant as if he has been working on regular basis on the post of Production Assistant since January, 1992 and be allowed consequential benefits.

4. The Scheme is before us. Clauses (1) and (2) of the same are relevant for the present case. They are;

- (1) this Scheme would be applicable to all those casual artists, who were on the rolls of Doordarshan from 1.1.1980 onwards though they may not be in service now, will be eligible for consideration. Those engaged after 31.12.1990 will not be eligible for consideration.
- (2) Only those Casual Artists, who had been engaged for an aggregate period of 120 days each in atleast two ^{from 1.1.1980} calendar years will be eligible for regularisation.

The broken period in between the engagement and disengagement will be ignored for this purpose.

5. In the counter affidavit filed on behalf of the respondents, it is specifically averred that the applicants were not engaged for an aggregate period of 120 days in a year. This allegation has been strongly refuted in the rejoinder affidavit. In ^{about} view of the order ~~we are~~ to pass, it is not necessary for us to enter into this controversy.

3

The applicants have themselves come out with the case that they were engaged in 1992. The scheme is clear and specific. It reads that only those casual artists, who were engaged before 31.12.1990, would be entitled to the benefit of the Scheme. Admittedly, none of the applicants were engaged as casual workers on or before 31.12.1990. Therefore, on the face of it, the Scheme is not applicable to them. The learned counsel for the applicants has urged that the cut off date fixed in paragraph 1 of the Scheme is illusory and arbitrary, and, therefore, the same should be struck down as it is hit by Article 14 of the Constitution. Before entering into this argument, we may state that the Scheme has a previous history. Earlier, the Principal Bench of this Tribunal and a Bench of this Tribunal at Allahabad had formulated a draft Scheme and directed the authorities concerned to frame a final Scheme on the lines suggested by them. This was subject to the approval of a Bench of this Tribunal. Accordingly, the draft Scheme was prepared by the Tribunal itself and in that Scheme, it was laid down that the Scheme would be applicable to casual artists who were on the rolls of Doordarshan from 1.1.1980 onwards though they may not be in service now. Those who are engaged on casual basis after 31.12.1990 will not be eligible for consideration. The respondents, while preparing the Scheme, substantially maintained condition No.1 of the said Scheme. That scheme was approved by this Tribunal in OAs No.563/1986, 977/1986 and 2514/1989. This Tribunal, while considering paragraph 1 of the scheme, observed: "....Further since the Scheme is being finalised only now, it would be

82

proper to take 31.12.1991 as the outer date for the purpose of eligibility for consideration. Of course, eligibility for regularisation will be governed by conditions that follow in subsequent paras. We are, therefore, of the opinion that para 1 should be modified on the following terms..." Terms have been referred above. We may emphasise at this stage again that under the terms of the Scheme only those casual artists who were employed on casual basis on or before 31.12.1991 would be eligible for being considered for regularisation.

6. We do not find any arbitrariness in the contents of paragraph 1 of the Scheme. The classification made between those Casual Production Assistants, who were on the rolls of Doordarshan on or before 31.12.1991 and who are to be engaged thereafter is based on an intelligible differentia. The differentia has a nexus with the object of this Scheme. The object of the classification, apparently is to screen those who have been working in the Doordarshan since very long. A line has to be drawn somewhere. Therefore, 31.12.1991 was chosen as the dead line or the cut off date. Every cut off date cannot be termed as arbitrary. There is always an element of discrimination in every classification. The only requirement is that the classification should not be arbitrary or it should have nexus or rational relationship with the object sought to be achieved. We, therefore, repel the contention that paragraph 1 of the Scheme infringes Article 14 of the Constitution.

7. The Scheme does not exclude consideration of those Casual Artists who are engaged after

87

31.12.1991. Paragraph 1 of the Scheme merely provides that those engaged on or after 31.12.1991 would not be eligible for regularisation under the Scheme. It is thus clear that if the Scheme is worked out by the respondents and the cases of the Casual Production Assistants, to whom the Scheme is applicable, are considered and even thereafter some vacancies remain, those coming in the Doordarshan as Casual Production Assistants after 31.12.1991 would be considered for regularisation on merits and in accordance with law.

8. On 29.6.1993, this Tribunal passed an interim order directing the respondents not to terminate the services of the applicants as long as vacancies exist and in preference to their juniors and outsiders. The interim order, as it was passed ex-parte, clearly proceeds on the assumption that the applicants are in service. In the counter affidavit filed, it is alleged that the petitioners are not in service and they are engaged on contract basis for a particular serial/production. On the material on record, we are not in a position to record a definite finding as to whether the petitioners are really in service. We, therefore, direct that whenever the Doordarshan proposes to telecast a serial/production, it shall consider the case of the applicants for giving them work on contract basis in a particular serial/production. While doing so, they shall give the applicants preference over freshers and juniors.

9. With these directions, the Q.A. stands disposed of but with no order as to costs.

(B.N.Dhondiyal)
Member(A)

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(S.K.Dhaon)
Vice Chairman