

RESERVED

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH

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Allahabad This the day..... 6th day of Nov. 1997

CORAM : Hon'ble Dr. R.K.Saxena, Member (J)
Hon'ble Mr. D.S.Baweja, Member (A)

ORIGINAL APPLICATION NO.1644 OF 1992

Kaushal Kumar Mishra, S/o Sri Chandra Lal
Mishra, R/o House No. D-53/14, C6, Laxa Road,
Ramkund, Varanasi (U.P.)

(By Advocate Shri V.K.Goel) Applicant

Versus

1. Union of India through Secretary
Ministry of Information & Broadcasting
Central Secretariate, New Delhi.
2. The Director General, All India Radio,
New Delhi
3. Station Director, All India Radio, Varanasi

..... Respondents

(By Advocate Shri Vikram Gulati)

ORDER (RESERVED)

BY HON'BLE DR. R.K. SAXENA, MEMBER (J)

1. The applicant Kaushal Kumar Mishra has approached this Tribunal under Section 19 of the Administrative Tribunals Act, 1985 to seek the relief that the respondents be directed to treat the services of the applicant as Announcer in the pay-scale of Rs.1400-2600 w.e.f.29.5.92, as regularised; and the direction be also given to pay the salary in the said Grade to the applicant with consequential benefits including regular increments.

2. The case of the applicant in brief is that the applicant was engaged on contract basis as an Artist in All India Radio, at Varanasi on 1.9.83. He used to be given the work of an Artist as and when required; and in this way, he continued to work under the respondents after executing an agreement. In the year 1985, an advertisement for the vacancy of Announcer was made by All India Radio, Varanasi. The applicant had applied for the post in pursuance of the said advertisement. He was put to Voice-test on 24.5.85 and the Selection Committee found the applicant suitable for Announcer in Hindi. The decision of the Section Committee was communicated to the applicant which is annexure-VI. Despite the applicant ^{having been} found suitable for the post of Announcer in Hindi in the year 1985, no appointment was given to him. He was, however, regularly engaged on short-term contract basis.

3. It is contended on behalf of the applicant that there had been litigation for regularisation of the Staff Artists of All India Radio. The National Union of All India Radio had filed a Writ Petition no.13636 of 1983 with the relief that all the Staff Artists including Staff Artists on contract basis, be treated Government Servants. It is stated that the Hon'ble Supreme Court had decided the said Writ Petition on 5.4.90 directing the respondents No.1 & 2 in the said case, to appoint a High Power Committee for examining [&] the terms & conditions of the said Staff Artists; and to frame a Scheme regarding their engagement. The directions were further given to formulate service conditions. The contention of the applicant is that in pursuance of the said direction, the Scheme was formulated and a letter no.45011/29/91-B(A) dtd.29.11.91 was issued. It was provided in the said Scheme that all Staff Artists who were covered under the Scheme of 1992 and were in service on 6.3.82 or appointed thereafter, would be deemed as

Government Servants. On the basis of this Scheme, the applicant has pleaded that his services should be regularised and he should be appointed as Announcer in the pay-scale of Rs.1400-2600 w.e.f. 29.5.92.

4. The respondents have contested the case by filing the Counter Affidavit of one S.C.Mishra, Superintending Engineer, All India Radio, Varanasi. It has been pointed out that the applicant had already instituted an O.A.No. 609 of 1992 K.K.Mishra V/s.Union of India & others and since the said case was still pending, the present O.A.no more remains maintainable. The respondents, as regards basic question of regularisation of services of the applicant, have come with the plea that the case of the applicant does not fall within the category of Staff Artist. He was engaged as a casual announcer on contract basis and he was required to perform the duties as and when necessary.

5. The respondents have also averred that the regularisation of the services is done only of such staff artists who are recruited against any specific vacancy and through certain tests. Similarly, the adhoc appointment is made under different rules and the applicant is not covered even under the rules of adhoc appointments. As regards selection of the applicant as Announcer in Hindi through Voice-test, it is contended that, only a panel of casual announcers, to meet the requirement of the Station, was made. That selection does not confer any right to the applicant to become fulfilled Government Servants. It is also urged that the continuity of an engagement as a casual labour also does not entitle the applicant for regular engagement as Government Servant. The respondents have also pointed out that there is no specific provision for the regularisation of the services rendered by the casual ^{artist} ~~artist~~.

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6. The applicant has submitted rejoinder in which almost those very facts which were narrated in the O.A., had been repeated.

7. We have heard Shri V.K.Goel, Counsel for the applicant and Shri Vikram Gulati, Counsel for the respondents. We have also perused the record.

8. The main question for decision in this case is whether the applicant who had worked as casual Staff Artist in All India Radio, Varanasi; and who was placed in the panel of casual announcer in Hindi, can claim regularisation of his services. There is no dispute that the applicant had been engaged as casual Artist and he used to discharge such duties as and when required. For his engagement, a contract used to be written and sent by the respondents. Thus, it is clear that engagement of the applicant was not governed by any Service Rules but was governed by a contract which was for a specific time and purpose. Learned Counsel for the applicant laid much emphasis on the Scheme Annexure-IV which was issued vide letter dated 29.11.91. What appears from perusal of this Scheme is that it related to those Artists who were employed casually on contract basis or otherwise but on or before 6.3.82. An option was given to such Artists of All India Radio & Doordarshan either to opt the Scheme or to opt out of the same. In case those who did not opt for the Scheme, it was laid down that they would continue to be governed by their existing contractual terms & conditions. Those who had opted the Scheme, they were deemed to be Govt. Servants. It nowhere speaks of the persons who may be engaged in future. It is also revealed from the perusal of this Scheme that both categories of Staff Artists namely those who were appointed or treated as Govt. Servants, and those

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who were engaged on contract basis, continued. This applicant as is mentioned in para 4(L), was engaged to make announcement for the first time on the basis of an agreement on 1.9.83. Thus, he was a casual Staff Artist based on contract only w.e.f. 1.9.83. His case is, therefore, not covered by the Scheme Annexure-IV.

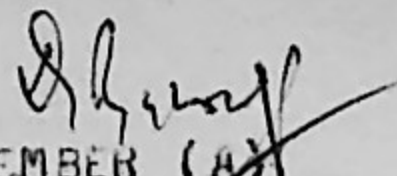
9. The applicant has also claimed his regularisation as announcer because his voice was tested and he was found fit to be an announcer in Hindi. The learned counsel for the respondents has argued that a panel of casual announcers was prepared and those casual Artists are given the work of ~~an~~ announcers as and when required. This fact could not be controverted. The applicant has nowhere mentioned any rule which may entitle him to be regularised as Govt. Servant on the basis of his contractual casual engagement. The very basis of Annexure-IV is also of no help to the applicant.

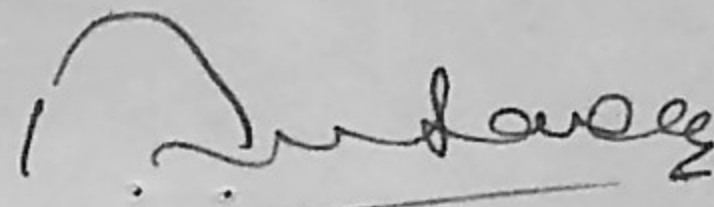
10. The respondents had raised the question of non-maintainability of this O.A. because one more O.A.No.609 of 92 K.K.Mishra V/s.Union of India & Others, was already pending in this Tribunal. This point has not been argued at the time of final hearing. Anyway, it may be inferred that the respondents wanted to say that this O.A. is in the line of multiplicity of the cases on the same cause of action. Learned counsel for the applicant, on the other hand, had stated that the earlier case O.A.No.609 of 92 was in the process of withdrawal because an application to that effect was already moved. He did not bring any material in his support. On the other hand, the Counsel for the respondents moved Misc. Application alongwith the Annexures and annexure-VI was the order which was passed by this Tribunal on 11.4.94 permitting the applicant to withdraw the O.A.no.609 of 92. It is mentioned in this Order that the application was moved for withdrawal of the petition with ^{permission} ~~argument~~ to file a fresh application and the same was allowed.

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It means that O.A. was allowed to be withdrawn and permission to file fresh O.A. was also given. In this way, the question of non-maintainability of the O.A. is no more tenable.

11. On the consideration of the facts & circumstances of the case, we find that there is no merit in this case. The O.A. is, therefore, dismissed. No order as to cost.


MEMBER (A)


MEMBER (J)

/rsd/