

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
 AHMEDABAD BENCH
 XXXXXXXXX

O.A. No. 299 OF 1988.
 XXXXX Nox

DATE OF DECISION 13-7-1990.

JAGDISH AMUDHARBHAI CHAUHAN, Petitioner

MR. J.J. YAGNIK

Advocate for the Petitioner(s)

Versus

THE UNION OF INDIA & ORS. Respondent(s).

MR. J.S. YADAV FOR MR. J.D. AJMERA, Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. M.M. SINGH, ADMINISTRATIVE MEMBER

The Hon'ble Mr. N.R. CHANDRAN, JUDICIAL MEMBER.

1. Whether Reporters of local papers may be allowed to see the Judgement? Yes
2. To be referred to the Reporter or not? Yes
3. Whether their Lordships wish to see the fair copy of the Judgement? No
4. Whether it needs to be circulated to other Benches of the Tribunal? Yes

X V

Jagdish Amudharbhai Chauhan,
residing at 332/1672, Bapunagar,
Opp: Bapunagar Post Office,
Ahmedabad - 380 024. Petitioner.

(Advocate: Mr. J.J. Yagnik)

Versus.

1. Union of India
To be served through
The Secretary,
Ministry of Information
and Broadcasting,
New Delhi.

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

3. Director,
Doordarshan Kendra,
Ahmedabad.

.... Respondents.

(Advocate: Mr.J.S.Yadav for
Mr. J.D. Ajmera)

J U D G M E N T

O.A. NO. 299 OF 1988

Date: 13-7-1990.

Per: Hon'ble Mr. M.M. Singh, Administrative Member.

H

The issues for adjudication in this application are: (i) whether the non-consideration of the applicant for appointment to the post of Film Projectionist in Doordarshan Kendra, Ahmedabad for which post, pursuant to the advertisement dated 12.10.87 inviting applications, the applicant had applied by his application dated 20.10.87 addressed to the Director of the Kendra was justified; and (ii) whether his reversion from the post of Film Projectionist which he held on purely ad hoc basis to his substantive post of Helper with effect from 30.4.1988 (A.N.) was illegal.

2. The two issues arise thus : The applicant had started his career in Doordarshan Kendra, Ahmedabad on 1.9.1977 as a Helper on a regular basis. He was called upon to discharge duty as Film Projectionist from time to time on ad hoc basis as the posts were vacant from 1980 onwards. In 1982 one Amit Mehta was appointed as a Film Projectionist but he left service in 1984. Thereupon the applicant was again called upon to work as Film Projectionist and continuously worked as such till he was reverted by order dated 30.4.88. In the meantime, the Director Doordarshan Kendra, Ahmedabad, Respondent No.3, vide order dated 27.7.87 (Annexure A-1) appointed the applicant as Film Projectionist on purely temporary ad hoc basis with effect from 27.7.87 without any claim to regular appointment or seniority in the grade for promotion, confirmation, for six months from the date or till regular appointment is made whichever is earlier. The applicant was continued as Film Projectionist even after the expiry of six months. 15 temporary ad hoc appointees continued in this manner as Film Projectionists in Doordarshan Kendra, Ahmedabad as seen from memorandum dated 28th November, 1987 of Doordarshan Kendra, Ahmedabad (Annexure A-2) in which the applicant figures at Sr.No.5 of the list. Respondent No.3 issued an advertisement in a daily newspaper dated 12.10.1987 inviting applications for various vacant posts including one post of Film Projectionist. The applicant applied for this post as he satisfied all the required qualifications except of age. His application was not considered on the ground that he was overage. According to the applicant, provisions in Doordarshan Manual Vol.III

Clause (f) (Annexure A-5) provide for age relaxation upto 35 years in case of departmental candidates applying for posts against outside quota subject to the condition that they have put in three years service in the posts which are in the same line or allied cadres (line). As the applicant has experience of five years as Film Projectionist, his contention is that he was entitled to age relaxation in accordance with the provision of the manual and therefore he was wrongly not considered for the post. The selection panel prepared from other candidates remained on paper as none in the panel agreed to accept the offer of appointment. Thus despite the fact that no regular appointment could be made, the applicant was reverted to his substantive post of Helper vide order dated 30.4.88. Thus the applicant's contention is that he was entitled to be continued in the post of Film Projectionist on ad hoc basis as the post continued vacant.

3. The stand of the respondents with regard to the first issue is that the applicant did not fulfil the required qualifications and being 33 years old, he was overage also. The respondents do not dispute that for departmental candidates applying for posts against outsiders quota age is relaxable to 35 years subject to their conditions fulfilling other prescribed in this regard, namely that of three years of service in the posts which are in the same line or allied cadre which the applicant does not as he was appointed as Film Projectionist on purely temporary ad hoc basis with effect from 27.7.1987 and did not qualify for age relaxation upto 35 years. Prior to 27.7.1987, the applicant

was discharging duties as Helper which is not in the same line or allied cadre. The respondents disown the certificate dated 30.4.88 (Annexure A-6) signed by Ramesh Kotak, Producer, to the effect that the applicant has been working as Helper/Film Projectionist for last five years.

4. Regarding the second issue, the contention of the respondents is that the applicant was appointed as Film Projectionist on purely temporary and ad hoc basis with effect from 27.7.1987 and was liable to be reverted at any time without any notice or reason and the tenure of his appointment was for a period of six months or till regular appointment was made whichever was earlier and reversion to the substantive post in such an arrangement is permissible. According to the respondents, the applicant had filed O.A.No. 588/87 which was rejected by this Tribunal. The prayer in that O.A. was to quash and set aside the order reverting the applicant and that he may be confirmed in service. Thereafter, the applicant preferred Review Application No. 596/87 which was dismissed in default. The applicant then filed M.A.No. 291/88 for restoration of M.A.No.596/87 which being rejected the applicant filed M.A.No. 339/88 for restoration of M.A. 596/87. This **MA** was allowed to be withdrawn and the present OA on the same subject is untenable.

5. We have heard the counsel for the parties and perused the record. At the hearing, the respective pleadings came to be further elucidated and strongly urged.

6. With regard to the first issue, it is undisputed that departmental candidates applying for posts against outsiders quota are eligible for age relaxation upto 35 years of age subject to the condition that they have put in three years service in the posts which are in the same line or allied cadre (Line). The certificate dated 30.4.88 given to the applicant by Ramesh Kotak, Producer, on which the applicant heavily relies is to the effect that the applicant has worked for ~~last~~ five years as Helper/ Film Projectionist. This certificate therefore does not say that he has worked as Film Projectionist for five years. He was appointed as Film Projectionist vide order dated 27th July, 1987 and was reverted to his substantive post of Helper with effect from 30.4.88 A.N. This shows that the applicant held the post of Film Projectionist on purely temporary ad hoc basis from 27.7.87 A.N. to 30.4.88 A.N. The total duration of this appointment is less than one year. With regard to ~~zerox~~ copy of work schedule record of 1984 annexed with the rejoinder of the applicant, even if it is believed that the evidence is with regard to his working as Film Projectionist, that record is only for few days in 1984 and does not, added to the period from 27.8.87 to 30.4.88, come to three years. Admittedly, when the applicant applied for the post of Film Projectionist, his age was much over 30 years (date of birth : 14.11.1953). It is not the averment or claim of the applicant that his work as helper is also "in the same line". His claim for age relaxation rests solely on the spells he worked as Film Projectionist the total duration of which does not clearly come to three years. Thus the respondents were justified in not considering the candidature of

the applicant for the post as he had crossed the normal age limit for an outside candidate and had not completed three years service in the post as Film Projectionist to become eligible for relaxation of age upto 35 years as departmental candidate applying for post against outsiders quota.

7. Regarding the second issue, it is clear from Annexure A-2 that 15 persons were working as Film Projectionist and the applicant figured at Sr.No.5 in it. It is not the claim or submission of the applicant that the names are arranged according to seniority. Had the names been arranged according to seniority, with applicant at Sr.No.5 in it, it could appear unjust to revert, when only one person was to be reverted, the applicant instead of reverting the junior-most. With the applicant not claiming for continuation on the post of Film Projectionist on ad hoc basis on the basis of his seniority, and with the respondents having already launched steps, including correspondence with the regularly selected outside candidates, the respondents will be justified to start terminating ad hoc appointments made. The applicant having been reverted to his substantive post as part of that administrative process, he has no rightful claim for continuation on the post of Film Projectionist on ad hoc basis. It is long settled that this Tribunal or Courts are not to interfere in the administrative steps and work unless the legal right of an employee is violated. No such right of the applicant is shown to have been violated.

10 11

8. As a result, we find that the application does not have any merit. It is dismissed with no order as to costs. We, however, clarify that this order shall not come in the way of the respondents considering the applicant's case for ad hoc appointment as Film Projectionist in the future in case need for such an arrangement is administratively visualised by them.

N.R. Chandran

(N.R. CHANDRAN)
JUDICIAL MEMBER

M. M. Singh

(M.M. SINGH) 1377
ADMINISTRATIVE MEMBER

13-7-1990.