

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

O.A.No.366 of 1988.

Date of decision - 25th August, 1989.

Hemanta Kumar Tripathy,
Son of Chaitanya Charan Tripathy,
At- Jajang, P.O./P.S.Kendrapara,
District-Cuttack, At present-
Staff Artist Instrumentalist
Violin Player, All India Radio,
Jeypore, District-Koraput(Orissa) .

.... Applicant

Versus.

1. Union of India, represented through the Secretary, Ministry of Information and Broadcasting, Government of India, New Delhi.
2. Director General, All India Radio, Akashavani Bhawan, Sansad Marg, New Delhi-110 001.
3. Deputy Director General, Eastern Zone, All India Radio, Akashavani Bhawan, 3, Floor, Calcutta-700 001.
4. Station Director, All India Radio, At, P.O.- Jeypore, Dist-Koraput(Orissa).

... Respondents

For Applicant

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In person

For Respondents

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Mr. Ganeswar Rath,
Sr. Standing Counsel(Central)

C O R A M :

THE HONOURABLE MR. B.R. PATEL, VICE - CHAIRMAN

A N D

THE HONOURABLE N. SEN GUPTA, MEMBER (JUDICIAL)

1. Whether reporters of local papers may be allowed to see the judgment ? Yes
2. To be referred to the Reporters or not ? No.
3. Whether Their Lordships wish to see the fair copy of the judgment ? Yes.

J U D G M E N T.

N. SEN GUPTA, MEMBER (JUDICIAL). The applicant has prayed for a relief of directing the respondents to issue an order allowing him (applicant) to join the post of Music Composer (junior grade) in All India Radio at Jeypore on promotion as "Staff Artist Category" and to continue upto the age of retirement on attaining 58 years and and also for a direction to pay all the arrear dues to him since 26.10.81 in the cadre of Music Composer(junior grade) with usual seniority.

2. The facts stated briefly are that the applicant was appointed as a Violin Player in the Jeypore Station of All India Radio on 8.7.76. In 1981 there was an advertisement for appointment of a Music Composer(junior grade) at that station of All India Radio. A test was held and the applicant stood first. He was offered appointment on 26.10.81 but he was asked for four advance increments on the ground of

*Mr. Sen
1/2/84*

higher qualification and also for the climate at Jeypore. His representation was not replied to but one Smt.K.Bhanumati was appointed as Music Composer (junior grade) in May, 1983. Against this appointment of Smt.K. Bhanumati, he made a representation but as no reply was received, he filed another O.A. being No.91/87 which was disposed of on 19.5.88, a copy of the judgment is annexed to the counter as Annexure-R/2. In that case this Bench observed that a sympathetic view was to be taken on the applicant and in case there were still vacant posts, the case of the applicant ~~to~~ be considered favourably against one of such posts. After that judgment, the applicant was offered the post of Music Composer (junior grade) on 19.7.88 for a period of five years on contract basis as Smt. K. Bhanumati was transferred from Jeypore to Cuttack. The applicant though reported to duty and worked for about two and half months, as he did not execute the contract he was not allowed to continue further in that post of Music Composer.

3. The case of the respondents is that according to the circular No.18/3/83-SVIII dated 12.6.85, a copy of which is at Annexure-R/1, Staff Artists on contract basis would be appointed and the applicant had no justification to refuse to serve on contract basis. The other facts alleged in the counter need not be set out.

4. In the course of hearing, the applicant who has appeared in person, has produced a copy of recent circular dated 8.8.89 bearing No.10/9/85-SVII(Vol.IV) issued by the Director General, All India Radio, New Delhi, by which all

*Manohar
15/1/89*

the Staff Artists were treated as temporary Government servants vide order dated 10.11.86 and all those persons who were appointed after 6th March, 1982 were to be treated as such temporary Government servants and all benefits like age of retirement etc. as applicable to regular civil Government servants would be applicable to them in lieu of the existing conditions of service as Staff Artists. Sri Rath learned Senior Standing Counsel(Central) submits that he does not have a copy of the said circular nor he is aware of such an order. The grievance of the applicant is that in view of the recent circular, it would not be necessary nor is it proper to ask him to enter into a contract for only five years. Since the genuineness of this particular circular has not been admitted by Sri Rath and as if such a circular really exists, on the applicant's joining the post even on a contract basis, he may be considered to be a regular Government servant. So, in our opinion, since the applicant had really stood first in the test and he offered himself to join as a Music Composer(junior grade), on his executing a contract and joining service as such, he will be given benefits in the light of the circular produced by him, if that be there. On his joining the post the order of cancellation of his appointment shall stand automatically cancelled and on his joining, the applicant may be given appropriate seniority as per the rules.

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5. The application is accordingly disposed of,
learing the parties to bear their own costs.

M. Patel
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25-8-89.

MEMBER (JUDICIAL)

B.R. PATEL, VICE-CHAIRMAN.

I agree.

Ramachandran
.....
25-8-89

VICE - CHAIRMAN.



Central Administrative Tribunal,
Cuttack Bench, Cuttack,
The 25th August, 1989/ Jena, Sr.P.A.