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CENTRAL ADMINISTRATIVE TRIBUNAL,

CUTTACK BENCH, CUTTACK.

ORIGINAL APPLICATION NO.71 OF 1994

Cuttack, this the 14th day of January, 1998

Manoranjan Das

Applicant.

Vrs.

Union of India and others Respondents.

FOR INSTRUCTIONS

1. Whether it be referred to the Reporters or not? Yes.

2. Whether it be circulated to all the Benches of the Central Administrative Tribunal or not? No.

Somnath Som
(SOMNATH SOM)
14.1.98
VICE-CHAIRMAN

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CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH, CUTTACK.

ORIGINAL APPLICATION NO.71 OF 1994
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CORAM:

HON'BLE SHRI SOMNATH SOM, VICE-CHAIRMAN

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Manoranjan Das, aged about 38 years
son of Motilal Das,
At-Budhichandi Lane,
Tulsipur,
Cuttack-753 008
Dist.Cuttack

Applicant.

By the Advocates -

M/s A.Deo,
B.S.Tripathy &
P.Panda.

Vrs.

1. Union of India,
represented by Director General,
Doordarshan,
Doordarshan Bhavan,
Mandi House,
New Delhi-110 001.

2. Director, Doordarshan Kendra,
PO-Sainik School,
Town-Bhubaneswar,
District-Khurda.

3. Minister, Information & Broadcasting,
Government of India,
New Delhi

Respondents.

By the Advocate -

Mr.Ashok Mohanty,
Sr.C.G.S.Counsel.

O R D E R

Somnath Som, Vice-Chairman

In this application under Section 19 of

Administrative Tribunals Act, 1985, the applicant has prayed
for regularisation of his services in the post of General

Assistant in Doordarshan Kendra, Bhubaneswar.

2. Facts of this case, according to the applicant, are that on being sponsored by the Employment Exchange, he appeared at an interview and was selected by the respondents. He was engaged in order dated 30.6.1982 on casual basis to work as General Assistant from 1st July to 16th July, 1982 on a consolidated pay of Rs.273.15 for the above period. Thereafter he was given casual work on different dates as is seen from Annexure-2 which is an order dated 28.7.1986. At Annexure-3 is a certificate dated 11.8.1986 issued by the Programme Executive certifying that the applicant has been assigned work of General Assistant on casual contract from 1.7.1982. The departmental authorities have formulated a Scheme for absorption of casual workers. The Scheme has been issued in Office Memorandum dated 9.6.1992 and is at Annexure-4. The details of the Scheme are in the enclosure to Annexure-4. At Annexure-5 is a circular dated 10.6.1992 giving the guidelines for implementation of the scheme for regularisation of the services of casual workers. The applicant's case is that according to the Scheme, those who were appointed after 31.12.1991 are not entitled to be regularised and any one who had been engaged for an aggregate period of 120 days in a year is eligible for regularisation. According to the applicant, he is covered by

*Somnath Sam,
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the Scheme and his services should be regularised. But in spite of this, his services have not been regularised. That is why he has come up before the Tribunal with the aforesaid prayer.

3. Respondents in their counter have submitted that the applicant worked as casual General assistant for the first time in 1982 and he was discontinued after 13.8.1986. Respondents have submitted that the applicant did not come through Employment Exchange nor was he appointed as a General Assistant. He was engaged on casual contract basis as is seen from Annexure-1 filed by the applicant himself. On the question of regularisation, respondents have stated that the applicant has been found over-aged for the purpose of regularisation and as such he has not been regularised. The respondents have further stated that in accordance with the decision of the Principal Bench in Anil Kumar Mathur v. Union

Somnath v. U.O. of India and others (O.A.No.563 of 1986 - decided on 14.2.1992) a Scheme for regularisation was prepared and this Scheme was also scrutinised by the Principal Bench and thereafter the Scheme was circulated. According to the Scheme, a person has to complete 120 days of work in a calendar year to be entitled to be considered for regularisation. The applicant had worked on contract basis for 39 days in 1982, 109 days in 1983, 119 days in 1984, 141 days in 1985 and 88 days in 1986. Moreover, upper age limit

prescribed for the post of General Assistant is 25 years and this age limit can be relaxed to the extent of one year for every 120 days' engagement in a calendar year. Taking this into account, the applicant is eligible for one year relaxation as he had completed 141 days in 1985. On 9.6.1992 he was more than 35 years of age and therefore, even with age relaxation he has not been found suitable for regularisation.

4. I have heard the learned lawyer for the applicant and the learned Senior Standing Counsel, Shri Ashok Mohanty appearing on behalf of the respondents, and have also perused the record. Learned Senior Standing Counsel has filed the decision of Hon'ble Supreme Court of India in the case of Union of India v. Sarat Kumar Das, (C.A.Nos.2127-30/96 - decided on 3.4.1997) in which the prayer for regularisation of two persons who were working in Doordarshan Kendra, Bhubaneswar, on casual basis, was rejected on the ground that even after giving the age relaxation, according to the Rules those applicants were age-barred. In the above decision, the learned lawyer for the two respondents submitted before the Hon'ble Supreme Court that subsequent to the decision of the Tribunal, Director-General of Doordarshan has issued an order on 17.3.1994 giving a different basis for calculating age relaxation. The Hon'ble Supreme Court decided that if the two respondents are eligible in accordance with the subsequent

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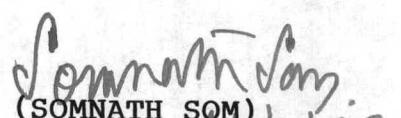
circular, then they should get the benefit. This subsequent circular has been mentioned as one issued on 17.3.1994. This circular has been filed at the time of hearing of the petition. I have looked into the circular and I find that this circular does not help the petitioner in any way. In this circular, it has been ordered that the number of days for the purpose of regularisation shall be computed on the basis of actual wages given to the casual staff artist in a month and the minimum wage subject to the condition that such days should not exceed 25 days in a month. In this case, it is not in dispute that in the year 1985 the applicant has put in more than 120 days in a calendar year. This circular of 17th March, 1994 has no bearing on age relaxation. According to the Scheme, even after giving the age relaxation to the applicant, he is over-aged in terms of the Recruitment Rules and therefore, his case has rightly not been considered by the respondents. Hon'ble Supreme Court in the case of State of Himachal Pradesh v. Suresh Kumar Verma and another, AIR 1996 SC 1565, has observed as follows:

Summary from 17.1.1985

".....The appointment on daily wages cannot be a conduit pipe for regular appointments which would be a back-door entry, detrimental to the efficiency of service and would breed seeds of nepotism and corruption. It is equally settled law that even for Class IV employees recruitment according to rules is a pre-condition....."

In this case, Recruitment Rules for the post of General Assistant prescribe the upper age limit as 25 years. Even with concession of one year the upper age limit becomes 26 years for the applicant as against which he was aged 35 years on the relevant date. In consideration of the above, I hold that the application is without any merit and is liable to be rejected.

5. In the result, therefore, the Original Application is rejected but without any order as to costs.


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15/1/98
VICE-CHAIRMAN

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