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ORIGINAL APPLICATION NO.413 OF 2004

Order dated 6.5.2005

All these four applicants have been continuing in the Doordarshan Kendra ^{at} Bhubaneswar, under Respondent No.4, on casual basis as General Assistant/Copyists being engaged ranging from 18.11.1988 to 28.7.1990. As is revealed from the materials placed on record, after intervention by the Tribunal in different Original Applications, finally the Respondents drew a list of such Casual General Assistants/Copyist under Annexure-1; wherein the names of these applicants find place at Sl.No.9, 17, 14 and 18 respectively. Respondents have issued a scheme of regularization of casual employees on 17.3.1994 under Annexure-2. It is the case of the applicants that vide letter dated 5.1.1996, they were intimated that they were found eligible for regularization against the vacancies as and when available. It is the further case of the applicants that willingness of the applicants were called for by the Respondents to be absorbed in any other Door Darshan Kendra, other than the Kendra they were working; to which the applicants exercised their willingness. When no action was taken by the Respondents for regularization, they approached the Tribunal in O.A.Nos. 441 and 562 of 1992 and in O.A. No.368 of 1992 and 8/94 disposed of on

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16.11.1993 and 25.5.1994, with direction to regularize the applicants as per the scheme. It appears from the record that the Respondents-Department had carried the matter in appeal in SLP(C) No.12025/96 before the Hon'ble Supreme Court, which was dismissed on the basis of the submission made by the Department that all the applicants were regularized in accordance with the direction contained in OM dated 17.3.1994. In fact, the applicants were not regularized for which they again approached this Tribunal in O.A.No.195/97, which was also disposed of on 14.1.1998 with direction that the services of the applicants have to be regularized in accordance with the scheme when their turn comes under Annexure-A/3. In the present case, the applicants have come to this Tribunal that it is not known when their turn will come for regularization. They have already put in number of years on such casual basis, but they have been allowed to work 10 to 12 days per month and by virtue of this not only they are facing hurdles to maintain their livelihood with the meager amount of wages, but also they will be deprived of their legitimate claim of pension and pensionary dues due to lack of qualifying service. It is also their case that they have been substituted by other casual hands and even though there are vacancies in other Door Darshan Kendras in all over the country in the grade of General Assistants/Copyists their cases have not been considered against those

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vacancies for regularization. No endeavour has also been shown to adjust the applicants against the other vacancies available in Door Darshan Kendra, Bhubaneswar. In the above said premises, they have prayed for direction to Respondents to allow the applicant to continue as General Assistants/Copyists in Door Darshan Kendra, Bhubaneswar continuously till their services are regularized and/or at least 30 days work in a month *should* ~~shall~~ be provided to each of the applicants.

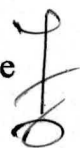
Per contra the Respondents have filed their counter stating therein that the Applicants are found eligible as per the regularization scheme and they would be considered for regularization under the regularization scheme when their turn comes. As there is no vacancy available in the grade in which the Applicants are to be regularized, according to the need, they are allowed to perform their duties on rotational basis. By stating so, the Respondents have prayed for dismissal of this O.A.

Heard learned counsel for both sides and perused the materials placed on record. Learned counsel appearing for both sides reiterated their stands taken in the pleadings.

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As the grievance of the Applicants with regard to regularization has already been safeguarded by the order of this Tribunal (referred to above) the only question that remains for consideration in this O.A. is to allow them to continue in the present assignment in order to mitigate the hardships till their regularization. In order to adjudicate this point, it is not necessary to refer to the old and stale arguments put forward by either of the parties. The un-controverted fact of the matter is that all the Applicants could have been regularized but for the non availability of vacancies at DDK, Bhubaneswar. They have already put in unblemished service for a number of years on casual basis and by the efflux of time, they have now become over aged. The Respondents have not disputed the fact that they were asked to give their willingness to be regularized in any other Kendras. Similarly they have also not disputed the fact that at present there are vacancies existing in other grades in Doordarshan Kendra, Bhubaneswar, against which the Applicants can be accommodated and/or allowed to continue till their turn comes. One can not lose sight of the fact that now a days it is difficult to manage with the meager amount which the Applicants are now getting as remuneration for having rendered 10 to 12 days casual work in a month. The networking system in Door Darshan Kendra is expanding day by day. All the Kendras in all over the country are



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under the administrative control of Director General, Doordarshan(Res.1). Although the applicants are working in DDK, Bhubaneswar, it cannot be said that they are not the employees under Res.1, on whom a duty is cast to see that his employees are not put to financial stringency. It is not known nor has it been canvassed by the learned Addl. Standing Counsel appearing on behalf of the Respondents as to what steps the Res.4(i.e., Director, DDK, Bhubaneswar) has taken in the matter of availability of vacancies against which the applicants could be accommodated and/or regularized. In other words, if this state of affairs is allowed to continue, then, ~~the applicants~~ one day or the other, the casual service of the applicants will come to an end as such.

In the said premises, since it is the admitted case of the parties that the Applicants are eligible to be regularized against the regular vacancies that may arise in future or in their turn, the Respondent No.1 is hereby directed to make all out efforts to see that the Applicants are regularized as quickly as possible, if not in DDK, Bhubaneswar, but in any of the Kendras under his jurisdiction in pursuance of their willingness. Till such regularization, the Respondents will be well advised to continue the

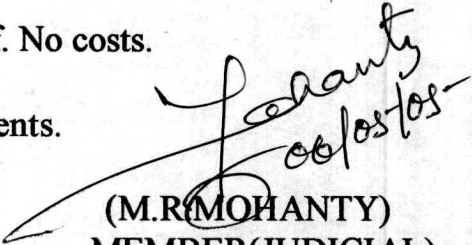
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applicants as such or against any other vacancies in DDK, Bhubaneswar; for which the applicants may be found eligible.

In the result, the O.A. is thus disposed of. No costs.

Send copies of this order to the Respondents.


(M.R. MOHANTY)
MEMBER(JUDICIAL)