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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH

O.A.NO.955 of 2004
Cuttack, this the *1st* day of *July* 2009

Sri Rabi Narayan Haldar Applicant

Vrs.
Union of India and others..... Respondents

FOR INSTRUCTIONS

- 1) Whether it be referred to the Reporters or not?
- 2) Whether it be sent to the P.B., CAT, or not?


(C.R. MOHAPATRA)
ADMINISTRATIVE MEMBER


(K. THANKAPPAN)
JUDICIAL MEMBER

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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO.955 OF 2004

Cuttack this the *1st* day of *July* 2009

CORAM:

HON'BLE SHRI JUSTICE K.THANKAPPAN, JUDICIAL MEMBER

AND

HON'BLE SHRI C.R.MOHAPATRA, ADMINISTRATIVE MEMBER

...

Shri Rabi Narayan Haldar, aged about 42 years, S/o. Ramakrushna Haldar, resident of Khatbinsahi, PO-Tulasipur, PS-Lalbag, Town/Dist-Cuttack

...Applicant

By the Advocates: M/s. A.K. Bose, P. Das, D.K. Mallick

-VERSUS-

1. Union of India represented by the Director, Doordarshan Kendra, Copernicus Marg, Mandi House, New Delhi-1
2. Director, Doordarshan Kendra, PO-Sainik School, Bhubaneswar, Dist-Khurda

...Respondents

By the Advocates: Mr. U.B. Mohapatra, SSC

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ORDER

JUSTICE K.THANKAPPAN, JUDICIAL MEMBER:

This is the 2nd round of litigation by the applicant before this Tribunal. The applicant had earlier approached this Tribunal in O.A.No.586/98 praying inter alia therein for regularization of his service as Lighting Assistant. On the submission made by the learned counsel for the Respondents that the post of Lighting Assistant in Prasar Bharati would be abolished as and when the posts were vacated by the



incumbents' promotion, this Tribunal held the prayer of the applicant unsustainable and resultantly, dismissed the O.A. as per order dated 8.8.2002.

2. By filing the present Original Application has sought for the following relief:

- a)The applicant be provided opportunity to get training in camera work and paid stipend equal to ten days wages per month as provided in Office Memorandum dated 23.2.1999.
- b)The applicant thereafter be considered to be regularized as downgraded post of Cameraman Grade-III in the scale of pay of Rs.4500-125-7000/-.
- c)Any other order be passed or direction be made for which this Hon'ble Court deems just and proper
- d)The Original Application be allowed with cost.

3. The Respondents have filed their counter-reply resisting the prayer of the applicant. The sole ground urged by the Respondents in their counter is that the applicant being over-aged is not eligible as per the Regularization Schemes 1992 and 1994 and accordingly, they have submitted that the applicant is not entitled to the benefit of Memorandum dated 23.2.1999. With these submissions, the Respondents have prayed that the O.A. being devoid of merit is liable to be dismissed.

4. We have heard Shri A.K.Bose, learned counsel for the applicant and Shri U.B.Mohapatra, learned Senior Standing Counsel for the Respondents and perused the materials on record.



5. On a reference being made to Annexure-A/7, it reveals that the applicant has been declared ineligible casual Lighting Assistant as per the Regularization Scheme dated 17.3.1994, but to our utter dismay, the applicant has not challenged the legality or validity of the same herein. Be that as it may, Paragraph-6 of the said Regularization Scheme, in the matter of age relaxation, reads as under:

“The upper age limit would be relaxed to the extent of services rendered by the Casual Artists at the time of regularization. A minimum of 120 days service in the aggregate, in one year, shall be treated as one year's service rendered for this purpose. The service rendered for less than 120 days in a year will not qualify for age relaxation”

6. Though it is admitted in the counter that the applicant has rendered 120 days service in a calendar year, yet the Respondents have not made any corroborative statement that while computing the age of the applicant they have taken into account this extent of service rendered by him and having so worked out the applicant is held ineligible being over-aged. Rather, in our considered view, Annexure-7 runs contrary to this provision. In addition to the above, we feel it proper also to quote the relevant provision in Paragraph-1 of the Regularization Scheme, which reads thus:

“The scheme would be applicable to all those Casual Artists who were employed on casual basis on 31.12.1991 including those who were on the rolls of the Doordarshan, though they

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may not be in service now will be eligible for consideration. Those who are engaged in casual basis after 31.12.1991 will not be eligible for consideration".

7. In harmony with the above provision, for the purpose of regularization, Paragraph-3 of Office Memorandum dated 17.3.1994(Annexure-R/2), reads as under:

"The number of days for the purpose or regularization will be computed on the basis of actual ages given to the Casual Staff Artist in a month, divided by the minimum wage prevalent in the State during the relevant time of booking, for example, if a Casual Staff Artist has been paid an aggregate sum of Rs.1500 in a month whether for working for 10 days or for 2 – 3 assignments in a month and the minimum wage prevalent in the State at the relevant time was Rs.50, the staff artist would be deemed to have worked for 30 days in a month (i.e. Rs.1500 divided by 50) subject to the condition that the days so computed would not exceed 25 days in a month".

8. Having regard to the laid down provisions in the regularization scheme for age relaxation and also the instructions contained in Paragraph-3 of the Office Memorandum dated 17.3.1994(supra) in the matter of computation of casual service in a month, year and so on, we are unable to persuade ourselves that by scrupulously following the above provisions and instructions, the Respondents have declared the applicant ineligible for regularization being over-aged inasmuch as the counter-reply filed does not throw any light in that behalf.




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9. In consideration of the above, we direct the Respondent No.2 to reconsider the matter regarding eligibility of the applicant for regularization, keeping in view the provisions of the scheme as well as Office Memorandum dated 17.3.1994 (supra) and accordingly, refer the matter to the Directorate as laid down in Paragraph-4 of the said Office Memorandum for taking a decision on merit. The said decision shall be taken and communicated to the applicant as expeditiously as possible, at any rate, within a period of 45 (forty-five days) from the date of receipt of this order. For the purpose of technicality, we quash the impugned Annexure-A/7 to the extent it declares the applicant ineligible for regularization. Ordered accordingly.

10. With the above observation and direction, this O.A. is disposed of.

No costs.


(C.R. MOHAPATRA)
ADMINISTRATIVE MEMBER


(K. THANKAPPAN)
JUDICIAL MEMBER