

28

CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH, CUTTACK

**O.A.No.768 OF 2010**

Cuttack this the 7<sup>th</sup> day of October, 2013  
CORAM

HON'BLE SHRI A.K.PATNAIK, MEMBER(J)  
HON'BLE SHRI R.C.MISRA, MEMBER(A)

...

Artatrana Behera  
Aged about 38 years  
Son of Bhramar Behera  
At/PO-Rajapur  
Ersama Gada  
District-Jagatsinghpur  
At present working as Group-D employee on casual basis  
With Temporary Status in the Doordarshan Kendra  
Bhubaneswar

...Applicant

By the Advocate(s)-Ms.S.Mohanty

-VERSUS-

Union of India represented through

1. The Secretary,  
Ministry of Information & Broadcasting  
Sashtri Bhawan  
New Delhi-110 001
2. Prasar Bharati Broadcasting Corporation of India  
Represented through  
The Chief Executive Officer  
Prasar Bharati Secretariat  
2<sup>nd</sup> Floor  
PTI Building  
Parliament Street  
New Delhi-110 001
3. The Director General  
Doordarshan  
Copernicus Marg  
Mandi House  
New Delhi-1
4. The Dy.Director(Administration)  
Doordarshan  
Copernicus Marg  
Mandi House  
New Delhi-1

29

5. The Director,  
Doordarshan Kendra  
PO-Sainik School  
Bhubaneswar  
District-Khurda
6. The Station Engineer  
Incharge of all DDMC, HPT & LPT of Orissa  
PO-Sinik School  
Bhubaneswar,  
Dist-Khurda
7. Sri Fakir Charan Nayak,  
Aged about 39 years  
Son of late Birabhadra Nayak  
At/PO-Barunadiha,  
PS-Rajkanika  
District-Kendrapara

...Respondents

By the Advocate(s)-Mr.U.B.Mohapatra  
Mr.D.P.Dhalasamant(Res.No.7)

**ORDER**

**HON'BLE SHRI R.C.MISRA, MEMBER(A):**

The applicant in the present Original Application has prayed for direction to be issued to the Official Respondents to regularize him according to the principles laid down in Temporary Status Scheme of the Government of India dated 10.9.1993, the Office Memorandum issued by the Director General, Doordarshan dated 11.10.1993 and in compliance of the order of this Tribunal dated 19.8.2008, before regularizing Respondent No.7.

2. The facts of the case in brief are that the applicant is working as Casual Labourer since 1.12.1991 in Doordarshan Kendra, Bhubaneswar. The applicant along with similarly placed casual workers made several representations before the Official Respondents for their regularization in

R  
Resc

30

1993

accordance with O.M. of the Government of India dated 10.9.2003 relating to grant of Temporary Status and Regularization of Casual Workers working in different Central Government Offices and also in accordance with O.M. dated 21.10.1993 of the Director General, Doordarshan, which was issued in pursuance of the O.M. dated 10.9.1993. Since the representations were not responded, the applicant along with other similarly situated persons had approached this Tribunal by filing several Original Applications which were heard together and disposed of on 19.8.2005 with a direction to the Respondents to consider the grievance of the applicants therein pertaining to regularization of their services as against the vacancy available in different HPTs and LPTs in the State of *Odisha* and also against the vacancy of Khalasi available in DDK Bhubaneswar according to their position and placement in the seniority list prepared by the Department, within a period of 120 days from the date of receipt of the order. This order of the Tribunal has allegedly not been implemented and the matter of regularization of 26 casual workers with Temporary status is still lying with the official Respondents even after the direction issued by this Tribunal in the year 2005. On the other hand, the official Respondents are going to regularize a much junior employee, viz. one Fakir Charan Nayak(Res.No.7 in the O.A.) who has not been allowed with Temporary Status. The said Shri Nayak had approached this Tribunal and the Tribunal vide order dated 1.7.2009 directed the Respondents therein to explore all possibilities of getting a regular post of Helper/Watchman for LPT, Kendrapara sanctioned against which keeping in view his long standing casual service as Helper/Watchman purely on contract basis to the Department and also the fact that he had

31

been selected for the post of Helper through a regular process of selection but could not be appointed due to dearth of vacancy, the applicant could be accommodated. The official Respondents are going to regularize Respondent No.7 as per the orders of this Tribunal passed on 1.7.2009 whereas the applicant is waiting for regularization since last 19 years and this Tribunal has also directed for his regularization along with other similarly placed persons from the year 2005. The Respondents have not regularized the 26 number of casual workers with Temporary Status till date in spite of the availability of 57 vacancies in the State. Whenever the applicant along with others approached the Director, DDK, Bhubaneswar(Res.No.5) with regard to the matter of regularization, a plea has been taken by Res.No.5 that this matter is pending with Prasar Bharati Board and they are awaiting the decision of the Ministry of Information & Broad Casting whereas the fact remains, for regularization of Group-C and Group-D employees the Director of the concerned Doordarshan Kendra is the competent authority. The applicant has further submitted in this O.A. that there is no objection for regularization of Respondent No.7 but 26 casual workers with Temporary status should be regularized first in obedience to the Tribunal's orders in the year 2005 and in case further vacancies are available, then Res.No.7 can be regularized.

3. The Official Respondents by filing a counter affidavit have averred that the applicant who was initially engaged as Casual Worker in DDK, Cuttack was conferred with Temporary Status with effect from 1.4.1995. Out of Temporary Status casual workers, six have been regularized against clear vacancies that were available. The applicant will also be regularized



32

when further vacancy is available and his turn comes. It has been stated by the official Respondents that the case of Res. No.7(Shri Fakir Charan Nayak) is different from the case of the applicant, as Shri Nayak appeared in the interview and was selected as an outside candidate whereas the applicant is a Temporary Status worker waiting to be regularized. Moreover, there is an order of this Tribunal for regularization of Res.No.7. The matter of regularization of the applicant has been referred to Prasar Bharati Board and is still under consideration. The claim of the applicant that clear cut vacancies of 57 posts are lying vacant with the Director, DDK, Bhubaneswar is false and baseless. In fact, at present, only five clear vacancies are available. Therefore, the case of the applicant for regularization will be considered in accordance with the Rules. As per the Scheme of the DOP&T for regularization of casual workers, revised in the year 1993, the casual labourers who have been granted Temporary Status have to be regularized against the vacancy arising in the post of Group-D cadre subject to fulfillment of eligibility criteria mentioned in the Recruitment Rules of each post by the casual labourer(TS) at the stations where they are engaged. Every 2 out of 3 vacancies are to be utilized for the regularization. There are 203 casual labourers with Temporary Status still awaiting regularization at various Kendras. As per the existing scheme, casual labourers can only be regularized against the forthcoming vacancies at the stations where they were engaged. At present the situation is that at certain stations, eligible casual workers are awaiting regularization, but there is no vacancy.

Likewise, there <sup>are</sup> ~~are~~ certain Kendras where vacancies are available, but there are no Temporary Status casual laboures to be considered. In consideration of

Ranjan

33

this peculiar situation, the proposal has been sent to Prasar Bharati to allow deviation in the scheme to the effect that where vacancies are available, casuals may be regularized and if casuals are more than the vacancies available, they may be regularized in other Kendras after obtaining the option and undertaking from the casuals that they will have no objection to this. The approval of the Prasar Bharati is still under consideration and once the proposal is approved by the Board and concurred by the Ministry of I & B, action will be taken to consider regularization of eligible casual workers with Temporary Status in Doordarshan Kendra. The basic thrust of the counter affidavit filed by the official Respondents is that the applicant will be given the appropriate relief when his turn comes and the vacancy is available. In so far as the comparison with the case of Res.No.7 is concerned, the counter affidavit has made it clear that this case stands on a different footing from that of the applicant.

4. The learned counsel for the applicant has submitted a written note of submission, wherein it has been brought out that in the year 2005, all the Temporary Status employees came before this Tribunal for regularization of their services including the present applicant, by filing O.A.No.675 of 2005 and O.A.Nos.703 to 725 of 2005. While disposing of these OAs though a common order, this Tribunal directed the Respondents to consider the case of regularization against the vacancies available in different HPTs and LPTs in the State as also against the vacancies of Khalasi available in DDK, Bhubaneswar according to their position in the seniority list prepared by the Department within a period of 120 days. According to

Ranu

information obtained under RTI Act, 54 posts of Helper and 3 posts of Khalasi are lying vacant in the East Zone, in spite of which the Respondents are not considering the case of regularization of the applicant, although, only 24 employees with Temporary Status are left to be regularized. In spite of the direction of this Tribunal since the year 2005, the Respondents are sitting <sup>tight</sup> ~~tie~~ over the matter. Subsequently, in O.A.No.631/2010, this Tribunal has also again directed for the same on 30.7.2012 and in O.A.No.707/2010, the Tribunal gave the same direction on 28.8.2012, but the Respondents have put those orders and directions in the cold storage and have refused to give relief to the applicant despite repeated orders of this Tribunal.

5. Having heard the submissions made by the learned counsel for the parties, we have also perused the records. On perusal of the records of O.A.No.675/2005, we find that the present applicant was the applicant No.14 therein, in which a prayer was made to direct the Respondents to regularize the services of the applicants against the vacancies available in the HPTs and LPTs as per the information obtained under the RTI Act. We also find that the O.A.No.675/2005 was disposed of by order dated 19.8.2005, in which the following directions were issued by the Tribunal.

"Having heard Mr.Samarendra Patnaik, learned counsel appearing for the applicants and Mr.Bimbisar Dash, learned Additional Standing Counsel for the Union of India (on whom a copy of this Original Application has already been served) and on perusal of the materials placed on record, in all fairness of things, this Original Application is disposed of with direction to the Respondents to consider the grievances of the applicants (as raised in Annexure-A/19 series and in this O.A.; pertaining to regularization of their services as against the vacancies available in different HPTs/LPTs in the state of Orissa as also against the vacancies of

35  
at 2

Khalasi available DDK at Bhubaneswar according to their position in the seniority list prepared by the Department) within a period of 120 days from the date of receipt of copies of this order".

6. It is quite clear that the direction was issued by the Tribunal to consider regularization within a period of 120 days from the date of receipt of copy of the order. However, this order has so far after gap of a long period has not been complied with. It is also found that CP No.8/2006 was filed by the applicant of O.A.No.675/2005 on account of the alleged non-compliance of the order dated 19.8.2005. The Respondents had submitted in that CP that they have been making earnest attempt in getting regularization of the applicants done in accordance with the rules and since all the applicants could not be accommodated in the same office where they were engaged, the case has been referred to DOP&T for their concurrence to have them accommodated in other related offices coming under the same Ministry. Having regard to the above submission made by the Respondents, the Tribunal passed the following orders.

"Taking judicial note of the same, the CP is dismissed and the notices are discharged. Respondents shall earnestly make attempt to ensure that due concurrence of the DOP&T is obtained and action for regularization taken as expeditiously as possible"

7. This order was passed on 28.9.2007. Therefore, at this stage the facts are very clear. Vide order dated 19.8.2005, the Tribunal directed the Respondents for consideration of regularization of the applicants within a period of 120 days and in CP No.8/2006, which was filed in view of the non-compliance of the above said orders, the Respondents made a submission



that the matter is being pursued with the DOP&T for their concurrence with regard to certain deviations and therefore, the Tribunal dismissed the CP with a direction to the Respondents to earnestly make attempt to ensure that due concurrence of the DOP&T is obtained and action for regularization taken as expeditiously as possible. Therefore, even after the order of the Tribunal on 28.9.2007 in the CP, the Respondents have not complied with the orders of the Tribunal dated 19.8.2005. At present by filing the counter, they have taken a stand that the matter is under consideration by the Prasar Bharati and also the Ministry of I & B for approval and concurrence to certain <sup>minor</sup> ~~mannor~~ <sup>l</sup> of deviation in the scheme for regularization. It is to be noted that while in the CP No.8/2006, the Respondents had submitted that the matter was being pursued with the DOP&T now a plea has been taken that the matter is being pursued with Prasar Bharati and the Ministry of I & B. There is no doubt that a very long time has passed for implementation of the Tribunal's order even taking into account the fact that the direction of the Tribunal in the CP was to implement the order as expeditiously as possible.

8. It has been the plea of the applicant also that one Fakir Charan Nayak is going to be regularized by the official Respondents even though the direction for his regularization was given by the Tribunal on 1.7.2009 in O.A.No.449/2007 overlooking the case of the applicant whose case is pending since the year 2005. On perusal of the order of the Tribunal, it is found that the applicant, viz., Shri Fakir Charan Nayak in that O.A. was selected to the post of Helper through a regular process of selection and although all formalities for such appointment were completed, he could

not be appointed due to lack of vacancy. He has been continuing as Casual Helper and Watchman purely on contract basis since the year 1995. The Tribunal after hearing both the parties directed the Respondents in that case to explore all possibilities to get a regular post of Helper/Watchman for LPT, Kendrapara sanctioned against which, keeping in view his long standing casual services as Helper/Watchman purely on contract basis to the Department and also the fact that he had been selected for the post of Helper through a regular process of selection, but could not be appointed due to dearth of vacancy, the applicant could be accommodated. From the orders of this Tribunal in O.A.No.449/2007, it is quite evident that the case of Shri Fakir Charan Nayak stands on a different footing and therefore, the applicant need not draw comparison of his case to that of Shri Nayak. The official Respondents will have to carry out the direction of this Tribunal in order dated 1.7.2009 in O.A.No.449/2007.

9. Coming again to the facts of the case in the present O.A., the Respondents do not deny the claims of the applicants and also the other similarly placed persons. But they have submitted that the matter is still under consideration and the proposal is being considered in the Prasar Bharati & the Ministry of I & B for identification of vacancies in which the applicant and other similarly placed persons will be regularized. It is, however, also evident that this matter of consideration has been quite prolonged by now and even considering the orders of the Tribunal in CP 8/2006 that this matter should be expeditiously done, the process has taken a very long time. In the CP, the Respondents had submitted that the matter was being sent for concurrence of the DOP&T, whereas now in the

38

counter affidavit in the present O.A. it has been submitted by them that the matter is being considered in the Prasar Bharati and the Ministry of I & B. There is, therefore, a clear <sup>inference</sup> *b* gap drawn that the Respondents are not paying <sup>adequate</sup> attention to this issue of regularization and also the implementation of the orders of this Tribunal even though they do admit the claim of the applicant and other similarly placed persons for regularization. Undue delay in the process of rendering appropriate administration of justice by way of regularizing them in available vacancies will give rise to various grievances. Taking a judicial note of the process <sup>that</sup> *b* and the submissions made by the Respondents that it would take some more time, the Tribunal had dropped the CP and given a clear direction to the Respondents that they will make earnest attempt to ensure that due concurrence of DOP&T is obtained and action for regularization taken as expeditiously as possible. From the submissions made by the Respondents in this case, we are not getting an impression that any such earnest attempt has been made. We concede that the process of regularization will require identification of suitable vacancies and compliance with the various rules and regulations, but this cannot be allowed to be put in dead *b* lock in the garb of bureaucratic process. It is, therefore, considered proper that a time limit should be fixed for completing this exercise.

10. Considering the present state of affairs of the process, we allow a period of six months' time from the date of receipt of this order to the official Respondents to consider the case of the applicant and other similarly placed persons for regularization of their services, in pursuance of the orders dated 19.8.2005 in O.A.No.675/2005 and also the directions

*R. B.*

issued by this Tribunal in CP No.8/2006 (arising out of O.A.No.675/2005).

The official Respondents shall however, file a report of compliance in this regard before this Tribunal after expiry of the above period of six months

With the observations and directions as aforesaid, this O.A. stands disposed of. No costs.

  
(R.C.MHSRA)  
MEMBER(A)

  
(A.K.PATNAIK)  
MEMBER(J)

BKS