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O.A.No. 144 of 2010

Chittaranjan Mohanty & Ors..... Applicants

V

Union of India & Others .... Respondents

Order dated 15-04-2011

CORAM:

THE HON'BLE MR.C.R.MOHAPATRA, MEMBER (A)

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THE HON'BLE MR.A.K.PATNAIK, MEMBER (J)

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Heard Mr.D.P.Dhalsamanta, Learned Counsel

appearing for the Applicants and Mr.P.R.J.Dash, Learned ASC  
appearing for the Respondents and perused the materials placed  
on record including the order dated 07-03-2011 of the Hon'ble  
High Court of Orissa in WP (C) No. 14173 of 2010 filed against the  
order dated 23.7.2010 of this Tribunal on MA No. 378 of 2010.

2. Prayer of the Applicants in this OA, filed U/s.19 of the  
A.T. Act, 1985 is to quash the Annexure-A/9 and to direct the  
Respondents to regularize their services in the post of  
Announcers/Comperes with effect from 5.5.2009 with grant of all  
consequential service and financial benefits retrospectively.  
Respondents had filed their counter, objecting to the aforesaid  
prayer of the Applicants on various grounds one of which is that  
as similar matter is pending before the Hon'ble Apex Court, this  
OA is liable to be dismissed. Also it was the stand of the  
Respondents that similar matter came up before this Tribunal in

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OA No. 452 of 2006 (Sapath Kumar @ Sapat Mohapatra v Union of India and others) and after being informed about the pendency of the matter before the Hon'ble Apex Court, this Tribunal did not interfere in the matter. Since the present case is similar to that of the case of Sapath Kumar (supra), in the light of the earlier order of this Tribunal dated 21.04.2010, Respondents have prayed to dismiss this OA. Copy of the order of this Tribunal dated 21.04.2010 has also been annexed by the Respondents in their counter as Annexure-R/1. Full text of the order dated 21.4.2010 of this Tribunal is quoted herein below:

"It is the contention of the Applicant that he having been engaged as Casual Announcer/Compere in All India Radio, Cuttack through an open advertisement had been continuing, as such, since 1999 in an unceremonious manner without regularization. Hence by filing the present Original Application he has sought the following relief:

- "(i) To admit and issue notice to the Respondents asking them why the grievances of the applicant shall not be mitigated forthwith in view of his regular and continuous engagements since 12999-2000 and further by allowing him to continue as before against the vacant post of Trex/Announcer-Cum-Compere, irrespective of illegal disengagement from 21.08.2005, and thereafter to regularize his srvicees in the vacant post of Trex/Announcer cum Compere or such other equivalent post available in the AIR, Cuttack or elsewhere in Orissa.
- (ii) In absence satisfactory reply during hearing of the parties to direct the Respondents to consider the valuable services of the applicant rendered to AIR since November, 1999 and more particularly from July, 2001 till date against the available vacant post of Trex or such other post available in F&H section AIR, Cuttack and thereafter to regularize his services against the vacant post of Trex or such other post available in F&H section AIR, Cutaqck or elsewhere in Orissa to mitigate his hardships from the date of his engagement irrespective of illegal disengagement dated 21.08.2005;
- (iii) Also to direct the Respondents to pay Rs.600/- and above per assignment/booking instead of Rs.300/- and to disburse the

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- payments for the 24 days extra broadcastable programmes prepared by him in each month since 2000;
- (iv) To pass any other appropriate order in favour of the applicant, in the facts and circumstances of the case."

2. Respondents have filed their counter opposing the contentions made by the applicant in support of the above prayers and have also prayed for dismissal of this OA. Applicant has also filed rejoinder more or less reiterating his contentions raised in the OA.

3. Having heard the rival submission of the parties at length, perused the materials placed on record. Prima facie we do not see any justifiable reason to direct the Respondents to regularize the applicant in the post of Trex or in the post of Announcer/Compere as the applicant knowing fully well that the engagement was on casual basis had applied and appeared at the selection and having accepted the terms and conditions, performed the duties of Announcer/Compere on casual basis. A set of Rules has been framed by the Respondents for filling up of the post of Trex or Announcer/compere. Neither the recruitment of the Applicant was in accordance with the Recruitment Rules nor any understanding was given to the applicant through the advertisement or at the time of his engagement about possible regularization against present posts. The empanelment was with specific condition that such engagement was for casual announcer/compere; which cannot certainly give any right to the applicant to claim regularization in the post of Trex or announcer/compere. This is also fortified by the catena of decision of the Hon'ble Apex Court as also the Hon'ble High Court and of this Tribunal. Similar is the situation so far as the prayer of the applicant to direct the Respondents to pay Rs.600/- and above per assignment/booking instead of Rs.300/- and to disburse the payments for the 24 days extra broadcastable programmes prepared by him in each month since the year 2000 especially this being a policy decision and in policy decision interference of this Tribunal is not warranted. In view of the above, we find no justifiable reason to grant any of the reliefs claimed by him.

But in paragraph 2.8 of the counter it has been contended by the Respondents as under:

"That in a similar OA No. 541/1997 filed by Shri Manoj Kumar Pathak and 13 other casual Announcers/Comperees of AIR, Patna before the CAT, Patna praying for regularization of their services against the available and future vacancies in the post of Announcer and giving the applicants the consequential benefits of such regularization including arrears of pay and seniority, the Hon'ble CAT Patna had passed the order dated 3.12.1999 directing the respondents to consider the case of the applicants in terms of the scheme formulated for regularization of casual Production Assistants and General Assistants in AIR pursuant to the judgment dated 18.9.1992 of the Principal Bench of New Delhi in OA No.822/1991 or according to the scheme to be formulated and implanted by the respondents for regularization of eligible applicants in the light of the schemes already formulated by the Department pursuant to the order passed by Hon'ble CAT, Principal Bench, New Delhi in OA No.563/1986. On rejection of the review application by the Hon'ble CAT Patna vide its order dated 28.06.2000, a Civil Writ Petition (CWP) No. CWJC 8362/2000 was filed by the respondent in the OA before Patna High Court challenging the order


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dated 3.12.1999 passed by CAT, Patna. The said CWJC was heard by Hon'ble Patna High Court along with CWJC No.1368/2001 relating to Song and Drama Division a subordinate office of Ministry of Information and Broadcasting and the order dated 3.12.1999 passed by CAT, Patna in OA No. 541/97 was upheld. Petitioners in the CWJC No.8362/2000 have now challenged the order dated 4.2.2003 passed by Patna High Court by filing two SLPs before the Hon'ble Supreme Court of India—one by Union of India and the other by Prasar Bharati Corporation and others. The operation of the judgment and order dated 4.2.2003 of the High Court of Judicature at Patna in CWJC Nos.8362 of 2000 and 1368 of 2001 has been stayed by the Hon'ble Supreme Court till the SLPs are disposed of. A copy of the interim order dated 26.07.2004 received from the Hon'ble Supreme Court of India is enclosed as Annexure-R-IV and forms part of this written statement."

4. Since it is the positive case of the Respondents (quoted above) that similar matter is pending before the Hon'ble Apex Court, the case of the Applicant may be examined in the light of the decision to be rendered by the Hon'ble Apex Court in the pending SLP and reasoned order be passed under intimation to the Applicant.

5. In the light of the discussions made above, this OA stands disposed of. There shall be no order as to costs."

3. We have gone through the earlier order of this Tribunal dated 21-04-2010 vis-à-vis the case in hand. We do not see any reason to differ from the view already taken in the earlier case; especially because it is not the case of either side that meanwhile, any decision has been taken by the Hon'ble Apex Court. In the aforesaid premises, we hold that after the decision on the pending SLP, the Respondents shall examine the cases of each of the applicants in the light of the said decision on the prayer for regularization of the applicants. With the aforesaid observation and direction this OA stands disposed of and consequently stay order passed on 30.03.2010 is vacated. MA No. 252 of 2011 is also accordingly disposed of.

  
(A.K.PATNAIK)  
Member (Judl.)

  
(C.R.MOHAPATRA)  
Member (Admn.)