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CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH, CUTTACK

O.A.No.566 of 2012

Cuttack this the 22<sup>nd</sup> day of June, 2015

Kartik Chandra Singh...Applicant

-VERSUS-

Union of India Ors....Respondents

FOR INSTRUCTIONS

1. Whether it be referred to reporters or not ? No
2. Whether it be referred to CAT, PB, New Delhi for being circulated to various Benches of the Tribunal or not ? No

  
(R.C.MISRA)  
MEMBER(A)

  
(A.K.PATNAIK)  
MEMBER(J)

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CORAM

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

Kartik Chandra Singh,  
Aged about 50 years,  
S/o-Late Litu Singh,  
At:-Jadida,  
P.O-Naranagan,  
P.S-Badasahi,  
Dist-Mayurbhanj  
At present working as Washboy,  
Doordarshan Canteen,  
Doordarshan Kendra  
Bhubaneswar

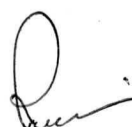
...Applicant

By the Advocate(s)-Mrs.S.Mohanty  
Mrs.R.Chaudhury  
Ms.A.K.Dei  
Ms.S.Mohanty

-VERSUS-

Union of India represented through

1. The Secretary,  
Ministry of Information & Broadcasting,  
Sashtri Bhawan,  
New Delhi-11001
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-110001



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3. Director General,  
Doordarshan,  
Doordarshan Bhawan  
Copernicus Marg,  
New Delhi-110001
4. Deputy Director (Admn.),  
Doordarshan,  
Doordarshan Bhawan,  
Copernicus Marg,  
New Delhi-110001
5. Director,  
Doordarshan Kendra,  
P.O-Sainik School,  
Bhubaneswar,  
Dist-Khurda
6. The Superintendent Engineer,  
Incharge of all DDMC, HPT & LPT of Orissa,  
P.O-Sainik School  
Bhubaneswar,  
Dist-Khurda

...Respondents

By the Advocate(s)-~~Mr.S.Barik~~

**ORDER**

**R.C.MISRA, MEMBER(A):**

Applicant, Kartik Chandra Singh, presently working as Washboy in Doordarshan Canteen, Doordarshan Kendra (in short DDK) Bhubaneswar, has approached this Tribunal seeking the following relief.

“...to allow this Original Application by directing the Respondents to absorb the applicant in the post of Helper with pay protection as he has been selected for the post through a regular selection process since 28.02.1994 and in considering the fact that this Hon'ble Tribunal have already pleased to direct the Respondents to regularize a casual employee who had been selected by the

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same Selection Committee on the same day in its order dated 01.07.2009 passed in O.A. No.449/2007 and may further be pleased to quash the impugned speaking order dtd.13.4.2012 under Annexure-A/6".

2. Facts which are relevant for deciding the O.A. are outlined thus: Applicant is a regular employee having held and joined the post of Washboy in Doordarshan Canteen, DDK, Cuttack with effect from dt.22.06.1988. On 28.2.1994, an interview was conducted by the respondents for the post of Helper and having applied for the said post as an in-service candidate since the post of Helper was higher than the post of Washboy, applicant did participate in the said interview. Ultimately, he was selected being placed at SL No.6 of the panel of selected candidates vide A/2 series dated 28.2.1994.. Since he was not provided with the offer of appointment, he went on preferring representation after representation to the authorities concerned for his absorption in the post of Helper.

3. According to applicant, as per direction issued by this Tribunal on 1.7.2009 in O.A.No.449 of 2007, services of the applicant therein <sup>who was a casual employee</sup> ~~who was a~~ were regularized by the respondents, whereas he being a regular employee, his grievances were not redressed by the authorities. Aggrieved with this inaction on the part of the respondents, applicant had approached this Tribunal in O.A. No.858 of 2011, which was disposal of on 22.12.2011, with a direction to respondents

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no.3 to consider and dispose of the representation for his absorption in the post of Helper and pass a reasoned and speaking order.

4. In compliance of the above order, Respondent No.4 passed a speaking order dated 13.4.2012 (A/6) stating that *applicant's case could not be considered for the post of Helper after expiry of one year validity period of the panel.* This order is impugned herein and is the subject matter of challenge in this O.A.

5. In support of his claim, applicant has relied on the decision dated 1.7.2009 of this Tribunal in O.A. No.449 of 2007(Fakir Charan Nayak Vrs.UOI) by stating that since he has been selected by the same Selection Committee as that of Fakir Charan Nayak, the *ratio of decidendi* of that is squarely applicable to his case. According to applicant, the above decision of the Tribunal having been confirmed by the Hon'ble High Court holds good. Lastly, it has been submitted that the plea of the respondents that applicant's case cannot be considered after validity of the panel was <sup>is h</sup> over tantamount to violation of Article 14 of the Constitution.

With these submissions, applicant has prayed for allowing the O.A.

6. Per contra, Respondent-Department have filed their counter. It has been submitted that the applicant is a permanent employee in the post of Washboy under DDK, BBSR,

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whereas Shri F.C. Nayak, applicant in O.A. No.449/07 having worked continuously on casual basis with effect from 1994, had gained experience of 17 years. The decision to appoint Shri F.C. Nayak as Helper was taken in compliance of the direction of this Tribunal in O.A. No.449/07 as upheld by the Hon'ble High Court of Orissa. According to respondents, applicant was selected for the post of Helper on 28.2.1994 and the life of the panel being one year, expired on 27.02.1995 and therefore, it was not possible to appoint the applicant.

With the above, respondents have prayed that the O.A. being devoid of merit is liable to be dismissed.

7. No rejoinder to the counter of the Respondent-Department has been filed by the applicant.

8. We have perused the records and heard the arguments advanced by the learned counsel for both the sides. We have also gone through the written notes of submission filed by the learned counsel for the parties.

9. Having regard to the pleadings of the parties, the following points arise for our consideration.

- i) Whether applicant has an indefeasible right to appointment in the post of Helper.
- ii) Whether the ratio decidendi of O.A. No.449 of 2007 is applicable to the case of the applicant.

10. Indisputably, applicant was an <sup>intra &</sup> inter-departmental candidate for the post of Helper and having faced the selection

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procedure, he was selected for the post in question, ~~being~~ his name <sup>being</sup> placed at Sl. No.6 of the panel drawn up on 28.2.1994 in respect of High Power Transmitters, Cuttack. In the speaking order dated 13.04.2012 (A/6) issued by the respondents in compliance with the direction of this Tribunal in O.A. No.858 of 2011, it has been stated that due to certain administrative reason only Shri Shiv Charan, who was a selected candidate being placed at Sl No.1 of the panel, was offered with the appointment within the validity period of the said panel, i.e., within one year and thereafter it became invalidated.

11. *From the above, the point that emerges to be determined is whether applicant could be provided with appointment even after the panel spends its force.*

12. In this respect, law is well settled that normally, a panel containing the names of the selected candidates is valid for one year and therefore, it ceases to operate after the period of one year was over. However, its validity could be extended only if the authorities competent in the Department consider it expedient in the administrative interest and to that effect a specific order is issued by extending the validity of the panel after one year. In the circumstances, it would be improper and impertinent for the Tribunal to step into an area which otherwise falls within the domain of the administration and accordingly, the applicant cannot be provided with the appointment after the expiry of the validity period of the panel.

  
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13. In addition to the above, it reveals from the speaking order dated 13.04.2012 that only Shiv Charan Nayak, selected candidate at Sl. No.1 has been appointed during the lifetime of the panel. Applicant's name is placed place at Sl. No.6 and above him, there are selected candidates placed at Sl Nos.2 to 5, who have admittedly not been provided with any appointment. Even conceding for a moment that applicant has a valid claim to appointment, then, while sitting in judicial scrutiny, the Tribunal cannot brush aside the fact that there are selected candidates in the panel in order of merit above the applicant, who have not been provided with offer of appointments which they must be legitimately expecting to be so provided and direct the respondents to appointment<sup>l</sup> the applicant merely because he has approached the Tribunal.

14. Judged from the above, we are persuaded to hold that applicant has <sup>no</sup> ~~an~~ indefeasible right to appointment to the post of Helper. Accordingly, we answer the point in issue (1) above.

15. So far as applicability of the ratio of the decision in O.A No.449of 2007 to the case of the applicant is concerned, we have read the said decision ~~in the case of~~. Undoubtedly,<sup>l</sup> applicant, Shri F.C. Nayak therein was a selected candidate for the post of Helper. However, the fact remains that while preparing the panel on 28.2.1994, the Selection Committee had drawn up to panels, i.e., one is for HPTV, Cuttack and the other is for LPTS, Bhubaneswar. It is an admitted position that





whereas Shri F.C. Nayak (in O.A. No.449/2007) had been selected for LPTS, Bhubaneswar, applicant, Sh. K.C. Singh, herein, had been selected for HPTV, Cuttack. It is also an admitted fact that Shri F.C. Nayak in OA. No.449 of 2007 being placed at Sl. No.6 of the panel could not be appointed as there existed two vacancies of Helper against which selected persons had been appointed and in the meantime, the panel so prepared had spent its force after one year. At that point of time applicant had been continuing as casual Helper/ Watchman purely on contract basis since 1995. In the circumstances, having regard to applicant's continuous service for 13/14 years on contractual basis under the Respondents, the Tribunal came to a conclusion that there did exist work for continuous engagement of the applicant. Therefore, relying on the decision of Hon'ble Supreme Court in *State of Haryana and others-Vrs-Piara Singh (AIR 1992 SC 2130)*, that *'where a temporary or adhoc appointment is continued for long, the Court presumes that there is need and warrant for a regular post and accordingly, directs regularization'*, this Tribunal directed the respondents to explore all possibilities of getting a regular post of Helper/Watchman for LTP, Kendrapara sanctioned, in which, keeping in view his long standing casual service as Helper/Watchman purely on contract to the Department and also the fact that he had been selected for the post of Helper through a process of



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*selection, but could not be appointed due to dearth of vacancy, the applicant could be accommodated".*

16. What is written large in the above decision of this Tribunal is that - (i) Sh. F.C. Nayak though had been placed at Sl. No.6 of the panel prepared in respect of LPTS, BBSR, could not be appointed due to dearth of vacancy of Helper/Watchman, (ii) the panel became ineffective after its validity of one year was over, (iii) applicant Sh Nayak was in continuous employment for about 13/14 years under the respondents as casual Helper/Watchman purely on contractual basis (iv) he was a selected candidate for the post of Helper through a regular process of selection (iv) and above all, the language couched or the expression used "*to explore all possibilities for getting a post of Helper/Watchman sanctioned*" by this Tribunal in O.A.No.449 of 2007 is out of context in so far as validity of the panel dated 24.2.1994 is concerned.


17. Having examined the ins and outs of the above decision in O.A. No.449 of 2007, we are not inclined to hold that ever this Tribunal had issued any direction to the respondents to appoint Sh. Nayak from out of the panel even after its validity was over.

18. Therefore, the plea of the applicant that his case is squarely covered by the decision of this Tribunal in O.A.No.449 of 2007 stands overruled. Accordingly, we hold that the ratio decidendi of O.A.No.449 of 2007 is not at all applicable to

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the facts of the present case. The point in issue (ii) is thus answered against the applicant.

19. For the foregoing reasons, we hold that the applicant does not deserve to get any relief as sought by him in this O.A., which is accordingly dismissed, leaving the parties to bear their own costs.

  
**(R.C.MISRA)**  
**MEMBER(A)**

  
**(A.K.PATNAIK)**  
**MEMBER(J)**

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