

CENTRAL ADMINISTRATIVE TRIBUNAL

ADDITIONAL BENCH, CALCUTTA.

O.A.NO.: 232/96
[M.As. No.253/97 & 490/99]

Date of decision : 16-JUNE-2000.

Swadesh Ranjan Dhali, son of Late Hatindranath Dhali,
residing at A-10/417, Kalyani, District : Nadia, and 29
others.APPLICANTS.
By Advocate : Mr. Sameer Ghosh with Mr. P.C.Das.

Vs.

1. Union of India, service through the Secretary,
Ministry of Information & Broadcasting, Government of
India, Shastri Bhavan, New Delhi-110 001.
2. Station Director, All India Radio, Akashbani Bhavan,
Eden Garden, Calcutta-700 001.
3. Assistant Station Director, Co-ordination, All India
Radio, Akashbani Bhavan, Eden Garden, Calcutta-700 001
.....RESPONDENTS.

By Advocate : Ms. K.Banerjee.

C O R A M

HON'BLE MR. JUSTICE S.NARAYAN, VICE-CHAIRMAN.
HON'BLE MR. L.R.K.PRASAD, MEMBER [ADMINISTRATIVE].

ORDER DICTATED IN COURT

S.NARAYAN, V.C.:- This application under Section 19 of the
A.T.Act, 1985, has been filed for direction upon the
respondents authority to absorb all the candidates, being
30 in number, to the vacant posts to which they were
performing their duties as casual labours since 1983
onwards in the All India Radio [for short, AIR], Calcutta.

2. In order to appreciate the relief sought for,
it would be apt to take note as to who are the applicants.
The applicants were working under the Ministry of
Information & Broadcasting, AIR, Calcutta unit in the
capacity of casual labours on contract basis. They were
performing their duties in various categories of jobs like
script writing, interviewing, OB coverage, recording inside
the studio and outside studio, editing, dubbing and
programme planning and production works, etc. relating to
broadcasting from All India Radio, Calcutta unit. On the
basis of the agreement on short term basis, subject to

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certain terms and conditions, the AIR appointed these applicants as casual labours for different kinds of jobs and all these were working on temporary basis as per agreement between the parties, which were made from time to time in a short span, vide paragraph no.4[b] & [c] of the OA.

3. Before we look into the merit of the case, we make it clear that the applicants have not pressed for their engagement/regularisation through a regular selection process under recruitment rules. It was rather based on a Scheme formulated by the Ministry of Information & Broadcasting for regularisation of Casual Production Assistants and General Assistant in AIR, as per the judgment of the CAT, Principal Bench, New Delhi, in OA No.822/99, dated, 18th September, 1992, in the matter of Shri Suresh Sharma & Ors. Vs. Union of India & Ors. The Scheme provided that all those casual artists, who were engaged on casual/assignment basis as Production Assistants and General Assistant upto 31st December, 1991 and were on the rolls of All India Radio, though they may not be in service now, will be eligible for consideration. Those who were engaged on casual/assignment basis after 31st December, 1991, will not be eligible for consideration.

4. So, whatever right or claim flows out of the aforesaid Scheme was to be examined so as to consider the merit of the case. The parties have joined issue in this regard alone. Whereas, the applicants have asserted that their cases are covered by the Scheme and they were entitled to be regularised in the terms of the Scheme, the respondents have very emphatically asserted in their affidavit-in-opposition that they [the applicants] do not. Therefore, in order to determine the issues raised, it

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has to be looked into only whether, the applicants had been engaged on casual/assignment basis on different posts for an aggregate period of 72 days in a year [calendar year]. It would not be out of place to mention here that so far the engagement of the applicants prior to the cut-off date 31st December, 1991, was concerned, there was no dispute raised in this regard.

5. Learned counsel for the respondents, Ms. K. Banerjee, has drawn our attention to an Annexure-R/4, which is an enquiry report submitted upon an enquiry conducted at AIR, Calcutta, regarding regularisation of Casual Production Artists. The applicants' side also wanted us to place reliance on this report, inasmuch as, there were certain observations which favoured their case. The observation, which appeared to be pertinent, are as follows :

- i] AIR, Calcutta is not maintaining the Index Cards in respect of casuals satisfactorily. Even the entries in the Index Card are not in chronological order and some entries are not self-speaking. Hence, the Index Card as maintained by the Station can not be totally relied upon.
- ii] Payment vouchers, which is very important document in the matter, are not maintained properly.
- iii] Large number of posts of TRES [G&P] are lying vacant at the Station. Hence, the Station is compelled to engage more and more casuals to get the works done. Dr. Amit Chakraborty, Station Director, also intimated this fact and requested that Director to take appropriate and immediate action to fill up those posts."

6. The observations were very much striking, in the first impulse. The question, however, remains whether, the irregularities, as noticed in the maintenance of the records in the office of the AIR, Calcutta, had prejudiced the case of the applicants while considering their entitlement under the Scheme ? We have very carefully perused the record, but to find that only nine cases had been

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scrutinised with the help of the concerned applicants. In view of some wanting papers like, Index Cards and payment vouchers, it was most certainly necessary for the respondents authority to have given an opportunity to all the applicants to place their own cards so as to satisfy the concerned authority whether, they had worked for the required number of days i.e., 72 days. We find that out of the present 30 applicants, only nine of these could actually participate in the enquiry and the remaining could not. That ^{being} the position, we have been convinced that the remaining applicants, being 21, should also be given such equal opportunity, as already availed by the other nine, to produce their papers to convince the authorities whether, they have completed 72 working days in order to derive the benefit of the Scheme.

7) Before we come at a conclusion, we may express our satisfaction that the cases of nine persons, whose names find place in the enquiry report [Annexure-1/4], had been duly examined by the respondents authority with the result given therein that they had not completed 72 days so as to derive the benefit of the Scheme.

8. We ^{further} make it clear that as per letter dated, 15.07.1999, of the Ministry of Information & Broadcasting [Annexure-H to the MA], certain additional posts of various categories have been created for operation and maintenance of second Stereo FM Channel at AIR, Calcutta. The applicants wanted that those should not be filled-in. But, we failed to understand the reason behind it. In this context, we would simply say that it will be open for all the applicants to offer their candidature against those vacancies for consideration in accordance with law. We would, however, express no opinion ^{on the applicants' claim} about the aforesaid vacancies advertised by the AIR, Calcutta.

9. For the reasons, aforesaid, this application is allowed-in-part. The respondents are called-upon to re-examine/re-assess the cases of the 21 applicants who could not participate in the detailed enquiry conducted as per Annexure-R/4. This exercise should be completed within four months from the date of communication of this order and, thereupon, an appropriate order, with reasoning, should be communicated to those applicants. There shall be, however, no order as to costs.

10. The Misc. Applications, being MAs. No. 253/97 & 490/99, arising out of this OA are also, accordingly, disposed of.


[L.R.K.PRASAD]
MEMBER [A]

SKJ


16.6.2000
[S.NARAYAN]
VICE-CHAIRMAN