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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR

Date of Order: 12.09.2001

O.A. No.45/2001

1. Laxmi Kant son of Shri O.P. Vyas, aged 31 years, Resident of Nathawatha Street, Tapi Bawri, Jodhpur.
2. Narendra Purohit son of Shri Jugal Kishore Purohit resident of Phophliyo Ki Gali, Pipaliya Mahadev Temple, Khanda Falsa, Jodhpur.
3. Rahul Joshi son of late Shri Panna Lal Ji aged 37 years resident of Gundi Mohalla, Joshiyon Ka Well, Jodhpur.

All are working as Temp. Artist under Deputy Director, Song & Drama Division, I.B.C., Jodhpur.



APPLICANTS.

VERSUS

Union of India through Secretary, Information and Broadcasting Corporation, Soochna Bhawan, New Delhi.

2. Deputy Director (Administration), Song and Drama Division, Ministry of Information and Broadcasting, Soochna Bhawan, New Delhi.
3. Assistant Director, Songs and Programme Division, Ministry of Information and Broadcasting B-3, Partap Nagar, Jodhpur.

RESPONDENTS.

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Mr. G.K. Vyas, Counsel for the Applicants.

Mr. S.K. Vyas, Counsel for the Respondents.

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Hon'ble Mr. Justice B.S. Raikote, Vice Chairman.

Hon'ble Mr. A.P. Nagrath, Administrative Member.

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ORDER

(per Hon'ble Mr. Justice B.S. Raikote)

Applicants Laxmi Kant, Narendra Purohit and Rahul Joshi

have preferred this joint application, praying for quashing of the notification vide advertisement No. 1/2000/S&D (Annexure A/1) by which the applications were invited for preparation of the panel for staff artists in Song and Drama Division, under the Ministry of Information and Broadcasting. As per the notification, vacancies are said to be existing under the different categories at different places. But the applicants contended that they were appointed as Temporary Performer as per the selection, that took place on 01.11.96, and from the date of their appointment, the applicants services were being utilised by the respondents from time to time by issuing a list similar to the one filed as Annexure A-5 series. The applicants contended that since they have been working continuously from the the year 1996, they are entitled to regularisation, and calling applications vide impugned advertisement at Annexure A/1, is illegal. However, the applicants are over aged as on the date of advertisement, and in these circumstances, appointing fresh candidates and not regularising the services of the applicants would be discriminatory. The persons who had applied in pursuance of the impugned notification were interviewed, but the applicants were not interviewed. If the selection process is allowed to go on, the applicants would suffer a great loss. Therefore, Annexure A/1 is liable to be quashed.

2. By filing reply, the respondents stated that in Song and Drama Division, regular staff artists were recruited in the year 1960, and their advancing age began to affect the quality of performance of the Division. Therefore, in the year 1993, a scheme was formulated by the Government to draw panels of outside artists of various age groups, including the minors and retired persons, to participate in Division's programmes. It is stated that there are 650 sanctioned posts of Staff Artists in the Division, and the outsiders on the panel, as per the Scheme are 2000. Besides that, there are about 8000 Artists, who are registered as private participants in the Division.

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and such panels are maintained at various Regional Centres of the Division all over the country. The present application are persons, from three such /out of those outsiders in the panel. However, fresh recruitment process has begun in the year 1998, and for that purpose, the impugned advertisement No.1/2000/S & D was issued regarding filling up of 55 vacancies of staff artists. Some similar empanelled artists/actors/performers have applied in pursuance of the said notification, but the applicants did not apply for the same. Therefore, the applicants were not called for interview. Most probably, the applicants did not apply because they were age barred. The respondents also further stated that some similarly empanelled artists filed an Application No.1115/1997 before the Principal Bench of the Central Administrative Tribunal for regularisation. The Principal Bench vide its judgment and order dated 5.6.1998 (Annexure R/1) directed to frame a Scheme for consideration of such Casual Artists in the Song and Drama Division for their appointment as regular staff artists, by amending the Recruitment Rules, if necessary, and till that is done to continue to engage the Casual Actors as before, with a further direction that the applicants therein may also be given engagement, according to their seniority in the panel. The respondents further stated that the Department found difficulty in implementing the said order of the Principal Bench, therefore, they preferred an appeal in the Hon'ble High Court of Delhi vide C.W. No.5462/1998 alongwith C.M. No.10600/1998. The Hon'ble High Court of Delhi passed two interim orders. Vide order dated 9.9.1999, Hon'ble High Court directed that the contempt proceedings if already initiated, shall not be continued till the next date of hearing, and on the next date i.e. on 12.01.2000, the said order was confirmed. The respondents also contended that a similar order dated 28.7.2000 was passed by the Central Administrative Tribunal, Patna Bench in O.A. No.606/1998 against which also, the respondents preferred an appeal before Hon'ble High Court of Patna in D.B., C.W.J.C. No.1368/2001, and the Hon'ble High Court of Patna was pleased to

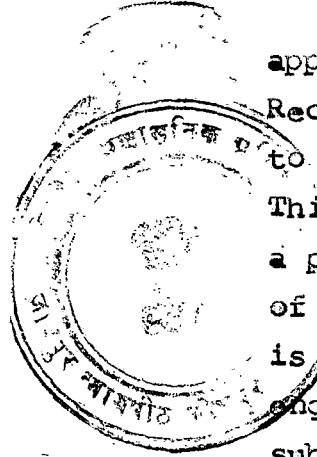
stay that order also. The respondents further stated that subsequent thereto, other persons similarly situated have filed another application No.788/1999 alongwith MA No.661/2000 before the Central Administrative Tribunal Principal Bench, New Delhi. In this O.A. also, the Principal Bench of Central Administrative Tribunal directed that the benefit of the order in OA No.1115/97 may be given to those applicants also, subject to the out-come of the writ petition pending before the Hon'ble High Court of Delhi. In substance, the respondents contended that the applicants are not entitled to regularisation in terms of the Scheme, and the notification vide Advertisement No.1/2000/S & D (Annexure A/1) does not call for any interference.



3. Heard and perused the records.

4. From the reply statement filed by the respondents it-self, it is clear that regarding the out side artists, similarly situated, the Principal Bench of the Central Administrative Tribunal, New Delhi, issued a direction to the respondents (vide Annexure R/1) to consider the case of the applicants therein by framing a Scheme etc. The same judgment also has been followed by the Central Administrative Tribunal, Patna Bench in O. A. No.606/98 vide its judgment and order dated 29.7.2000 (Annexure R/4). Further, it is also clear from the reply that the Principal Bench of Central Administrative Tribunal followed its earlier order dated 5.6.98 passed in OA No.1115/97 in subsequent OA No.788/99, subject to the outcome of the writ petition pending before the Hon'ble High Court. Thus, we find that this matter also is squarely covered by the two judgments of Principal Bench and Patna Bench of Central Administrative Tribunal respectively. In the circumstances, by following those judgments, the present application also can be allowed. Accordingly, we pass the order as under:-

"Application is partly allowed and the respondents are directed to frame a Scheme for appointment of the



applicants as regular staff artists, by amending the Recruitment Rules, if necessary, and till that is done to continue to engage the casual artists as before. This exercise shall be done by the respondents within a period of 4 months from the date of receipt of a copy of this order. Needless to say that till this judgment is fully implemented, the applicants shall be given engagement according to their seniority in the panel, subject to the outcome of the writ petitions pending before the Hon'ble High Court of Delhi and Hon'ble High Court of Patna. No costs."

(A.P. Nagrath)

Admn. Member

(Justice B.S. Raikote)

Vice Chairman

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