

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A. 456/96

FRIDAY THIS THE 16TH DAY OF JANUARY, 1998.

C O R A M:

HON'BLE MR. A.M. SIVADAS, JUDICIAL MEMBER

HON'BLE MR. S.K. GHOSAL, ADMINISTRATIVE MEMBER

G. Sasidharan Nair
Velivilakom
T.C. 22/725, Attukal
Manacuad P.O.
Thiruvananthapuram.

...Applicant

By Advocate Mrs. Sumathi Dandapani

Vs.

1. The Director,
Doordarshan Kendra,
Thiruvananthapuram.

2. The Director,
Doordarshan Kendra,
New Delhi.

...Respondents

By Advocate Mr. T.P.M. Ibrahim Khan, SCGSC

The application having been heard on 7.1.98 the Tribunal
on 16.1.98 delivered the following:

O R D E R

HON'BLE MR. S.K. GHOSAL, ADMINISTRATIVE MEMBER

The applicant in this case worked as a casual
Lighting Assistant on a daily wage in the Doordarshan Kendra,
Thiruvananthapuram, under the first respondent from 26.9.1985
to 30.11.1985 intermittently. He has put in a total service
of 180 days in that capacity, he has claimed. Requesting
that in terms of the judgment in O.A. No. 894/90 rendered by
the Principal Bench of the Tribunal and the directions given

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by this Bench in O.A. 1123/92 to the effect that all casual Artists who had been appointed by the various Doordarshan Kendras and had put in at least a total period of 120 days of casual service may be regularised with appropriate age relaxation, the applicant made a representation to the official respondents dated 9.2.96 at A3. However, the respondent Department in the impugned order at A4 dated 26.2.96 intimated to him that since he was appointed only on daily wages, and not on contract basis as an Artist, he was not eligible for regular appointment under the regularisation scheme for casual Artists prepared by the respondent Department. His request for regular appointment, therefore, has not been granted by the respondent Department.

2. The applicant has sought the reliefs of quashing the impugned order at A4, of treating him as eligible under the scheme for regularisation framed in pursuance of the judgment of the Principal Bench in O.A. 894/90, and of regularisation of his service as a casual Artist.

3. The respondent Department has resisted the reliefs sought by the applicant on the main ground that the applicant had been appointed only as a casual labourer on daily wage and not on contract basis as a casual Artist. According to the respondent Department, the applicant had been engaged intermittently for a total period of 142 days in 1985 purely as a casual worker on daily wages, which appointment was need-based, and without insisting on his possession of adequate knowledge in the respective areas, which was done in the case of casual Artists who were engaged on contract basis.

4. The applicant has based the reliefs claimed by him primarily on the order passed by the Principal Bench in O.A. 896/88 (not O.A. 896/90 which appears to be a typing error)

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which was disposed of along with a number of connected O.A.s by the Principal Bench of the Tribunal in their order dated 14.2.92 (Annexure R1(A)). In that order of the Principal Bench, directions were issued to the respondent Department to amend a draft scheme on certain lines and finally to notify the scheme for regularisation of persons who had been employed on a casual basis for various jobs as Artists at Doordarshan Kendras (Kendras for short) all over the country.

5. On the most crucial question of distinction between the Artists, who were employed on a contract though on casual basis, and those who were employed on daily wages on casual basis, the scheme specifically mentions in para 2 thereof that only casual Artists, who have been engaged for an aggregate period of 120 days in one calender year will be eligible for regularisation.

(underlined by us)

6. It has not been denied that the scheme for regularisation at Annexure R1-B is the scheme which was prepared by the respondent Department in compliance of the aforementioned decision of the Principal Bench of the Tribunal in O.A. 896/88. The applicant's case is that in terms of the earlier orders of this Bench, an aggregate service of 120 days and above in a year should have been treated as adequate for consideration of the case of the applicant for regularisation without drawing any distinction between casual Artists and other casual workers. However, no such decision of the Bench laying down that the principles applicable to the scheme of regularisation of the casual Artists will also be applicable to casual labour has been

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brought to our notice. The specific directions issued by this Bench in O.A. 1123/92, dated 10.3.93 at A2 to which particularly our attention has been drawn by the applicant, are on anentirely different matter, i.e. age relaxation upto 35 years under the regularisation scheme. In any case, the decision of this Bench in the above O.A. has subsequently been set aside by the Hon'ble Supreme Court.

7. Thus, we are unable to agree with the learned counsel for the applicant that the present rule position does not distinguish between a casual Artist and a casual Labour. In his representation made to the respondent Department at A3, the applicant has clearly stated that he has worked as a Lighting Assistant at the studio only as a casual labour. We have already pointed out that the Department promulgated the regularisation scheme in compliance with the detailed instructions ordered by the Principal Bench of the Tribunal in the O.A. mentioned above. That scheme for regularisation has not been challenged subsequently. After examining that scheme of regularisation visavis the directions issued by the Principal Bench in the above mentioned O.A. we are also satisfied that the scheme is in strict conformity with the directions of the Principal Bench. If anything, the modified scheme is in fact somewhat more liberal. However, neither the scheme prepared in 1992 nor the liberalised scheme prepared in 1994 deals with the casual workers appointed on daily wages at all, as distinct from casual Artists and Floor Assistants who were appointed on contract basis or otherwise. At any place in the two versions of the regularisation scheme there is no indication that the scheme so prepared is applicable to the casual workers appointed on daily wages.

8. Under these circumstances, when the scheme specifically lays down that the benefit of regularisation will be available only to those who have worked as casual Artists and have put in 120 days in a calender year, the applicant who admittedly has put in more than 120 days in

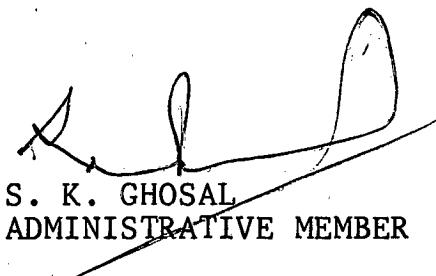
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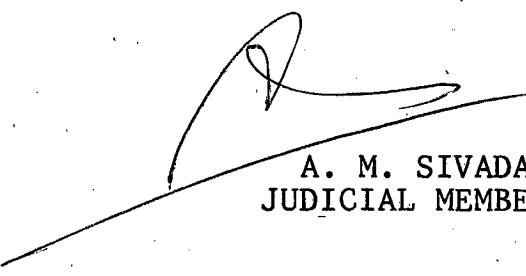
a calender year but, has worked only as a casual labour, cannot claim the benefits of regularisation under the scheme.

If, however, there is a separate scheme for regularisation of casual labour, he is free to agitate his case appropriately.

9. We, therefore, dismiss the O.A. in the light of the discussions made above. There will be no order as to costs.

Dated the 16th January, 1998.


S. K. GHOSAL
ADMINISTRATIVE MEMBER


A. M. SIVADAS
JUDICIAL MEMBER

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