

OA588/2013

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH, ERNAKULAM**

O.A.No. 588/2013

Tuesday, this the *31st* day of *May*, 2016

CORAM:

**HON'BLE MR. U. SARATHCHANDRAN, JUDICIAL MEMBER
HON'BLE MR. P.K. PRADHAN, ADMINISTRATIVE MEMBER**

1. Jiju Varghese, aged 33 years, S/o. K.P. Varghese,
Karamalayil House, Poovanchira PO, Thrissur – 680 652.
2. Ajinish Chander A.L., aged 34 years, S/o. T. Ayyappan,
T.C. 23/147(3), Chandar Nivas, Valiyasala, Chalai PO,
Thiruvananthapuram.
3. Aji S.S., aged 36 years, S/o. K. Sadasivan, Saji Sadanam,
Aruvipuram, Aruvipuram PO, Neyyattinkara, Thiruvananthapuram – 695 126.
4. Manoj G.L., aged 34 years, S/o. D. George, Lilly Villa,
Anucode, Kollamkode PO, Kanyakumari District,
Tamilnadu – 629 160.
5. Sujith M., aged 33 years, S/o. Madhavan Nair,
Sree Nilayam, Kanthalloor, Plamoottukkada PO, Thiruvananthapuram-695 122.
6. Arumkumar P., aged 28 years, S/o. Prabhakaran Nair,
Kunju Veedu, Annoor, Thirumala PO, Thiruvananthapuram – 695 006.
7. Jayelekshmy L., aged 26 years, D/o. Leela, Manimangalam,
MLR-14, Mangalam Lane, Sasthamangalam, Thiruvananthapuram – 10.
8. Manija K.G., aged 28 years, D/o. Gomathy, Manoj Bhavan, Parackal Lane,
Maruthankuzhi, Kanjirampara PO, Thiruvananthapuram – 695 301..... **Applicants**
(Applicant Mr. R.T. Pradeep. Advocate)

vs.

1. Union of India, represented by
the Secretary,
Ministry of Information and Broadcasting,
New Delhi.
2. Prasar Bharathi,
(Broadcasting Corporation of India)
Represented by the Chief Executive Officer,
Doordarshan Kendra,
New Delhi 110001.



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3. The Director General,
Prsasar Bharathi (Broad Casting Corporation of India)
Doordarshan Kendra,
New Delhi 110 001.

4. The Director,
Doordarshan Kendra,
Kudappanakkunnu,
Thiruvananthapuram.695001

5. The Director,
New Section,
Doordarshan Kendra,
Kudappanankunnu,
Thiruvananthapuram.

... Respondents

(Respondents by Mr. N.Anilkumar, Sr.PCGC)

This Application having been finally heard and reserved for orders on 14.03.2016, the Tribunal on 31.05. .2016 delivered the following:

O R D E R

Per: Mr. U. SARATHCHANDRAN, JUDICIAL MEMBER:

Applicants are casual editors (casual video editors), graphic designers and resource persons for post-production working in the Doordarshan Kendra, Trivandrum since 2009. According to them they have been selected after following the procedure for filling up the regular vacancies and they have been working after their selection without any break in service in anticipation of regularisation of the service. They state that though the applicants 1 & 2 along with four others were empanelled as casual video editors in the new section, presently only Applicant No.1 & 2 are continuing as casual video editors and others have left the job resulting in applicant NO.1 and 2 doing the work of four persons. Applicant Nos 3 to 6 were selected along with 12 others as casual editors (graphics). Now besides applicant Nos. 3 to 6, 4 others are continuing and 8 others have stopped from reporting for duty. Respondents treat the present work of the casual editors (graphics) can be done by the existing casual editors graphics and there is no need for any selection. Applicant Nos. 7 & 8 were empanelled along with 14 others as resource persons for



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post production in the years 2010 and 2011. But besides Applicant Nos 7 and 8 only three others are working and others have stopped coming for work. The nature of work of resource persons requires only four person and there is a need for filling up only one resource person. Applicants are aggrieved by Annexure A/9 Office Note indicating that the Doordarshan Kendra, Trivandrum has received permission for revising and enlarging the panel of casual video editors and casual graphic designers, casual production Assistants and Casual Stenographers/Data Entry Operators, Assistant News Editors and casual reporters. According to them A/10 Notification was published notifying applications for empanellment and the same is silent regarding the number of vacancies or the manner of selection. Nothing is said in the Notification regarding the casual employees who were already empannelled and are continuing as casual employees. Applicants allege that Annexure A/10 Notification is too vague and unspecific and the same is a veiled attempt to get rid of the present applicants who are continuing in the panel, facilitating to recruit the favoured candidates of respondent No.5 who insisted that the existing casual employees also shall undergo the selection process. Applicants allege that this is with an oblique motive to deny their selection in the revised list. Applicants further contend that they have been anticipating a scheme for regularisation of their engagement hence if they are included in the revised list of empanelment they will be subjected to vagrancy. Even if the applicants are retained in the revised list with more persons for casual engagement the same will diminish the present quantum of work and remuneration, the applicants currently get. They pray for :

- "i. To quash Annexure A/10.
- ii. To direct the respondents to include the applicants in the revised list for empanelment without undergoing any process of selection and to continue as casual employees without any change in the quantum of work allotted and remuneration now paid.
- iii. To direct the respondents to give preference to the applicants in formulating the scheme of regularization of service of casual employees.



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iv. To pass such other order or direction as may be deemed just, fit and necessary in facts and circumstances of the case."

2. At the time of admission hearing an order of *status quo* as regards the continuation of the service of the applicants as on 27.6.2013 was passed by this Tribunal. The interim order is continuing even now.

3. Respondents opposed this O.A. contending that applicants were not selected for the post of Production Assistant and that the selection procedure followed in the case of the applicants was not for filling up the regular vacancies. There is no permanent post of post of Production Assistant (Graphics), Post Production Assistant (Video editors), Programm Assistant or resource persons in the Regional News Unit of the Doordarshan Kendra, Trivandrum. Applicants are empanelled as casual post production assistants and they are booked only on "assignment" basis. Hence there is no question of "regularity" of service or "break in service". Due to the technological upgradation and the quantum of work the Regional News Unit required temporary technical support and some eligible applicants were empaneled. Such persons were entrusted with the job on assignment basis. Enlargement of panel is a routine procedure as per the guidelines of Prasarbharathi vide Annexure R/1. The persons included in the panel are required to undergo periodic performance appraisal in order to enable them to continue in the revised list. As the empanelment is on casual need based engagement, the question of 'vacancies' does not arise. The present engagement of applicants does not conferr or create any right on them except the engagement of the works entrusted to them. Annexure A/1 to A/8 certificates produced by the applicants in respect of their work do not confer any special right. When the respondents decided to constitute a new panel the old panel ceases to exist. Therefore, the existing candidates also were asked to apply afresh, in their own interest. They have to undergo the selection procedure for fresh employment according to the present requirements of the Institute. The nature of work entrusted

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to the applicants is depending on the changes that happened in the media front and the systemic changes that technological innovations bring in its wake. Prasara Bharati will evaluate the performance of all empanelled candidates without exception. Applicants were empanelled for casual engagement. They do not have any right for regularisation. Doordarshan has not engaged their services on continuous basis. Respondents therefore pray for rejecting the claim made by the applicants in this O.A.

4. Rejoinder was filed by the applicants refuting the contentions in the reply statement and reiterating that they are occupying their post and discharging their duties as those of regular employees. According to them as per the precedents, those engaged in Doordarshan on contract/temporary basis were regularised by bringing forth regularisation schemes and the applicants also are to be given the same facility. According to them their performance in the Doordarshan for the past five years was exemplary and outstanding, bringing in the award of the best Regional News Unit to the Doordarshan Kendra, Trivandrum. Applicants are given eight assignments per month and paid Rs. 1200/- per assignment. Though the fee structure of casual assignees in the Regional News Units were revised vide Annexure A/14 the Applicants were paid only Rs. 9,600/- per month. After the interim order of this tribunal applicants are being harassed and are paid only Rs.6000/- per month for driving them out of employment.

5. Additional reply statement was filed by the respondents contending that empanelment of applicants is not an empanelment in perpetuity and that they have no right for regularisation as only casual assignment of the work is entrusted to them.

6. Shri R.P. Pradeep learned counsel and Shri N. Anilkumar, learned Sr. PCGC for the respondents appeared for the respondents. Heard both sides. Perused the record.



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7. Going by the pleadings of the applicant, it appears to us that they are apprehending loss of work in the event of bringing in a fresh panel pursuant to Annexure A/9 and A/10 . According to them the present work of the Doordarshan Regional New Unit is looked after by them efficiently and hence there is no need for fresh induction of panels except in a few units presently handled by them. They apprehend diminishing of quantum of work assigned to them if new persons are engaged, thereby reducing the wages and remuneration they receive for their engagement. Even though the applicants contend that they have been selected for regular posts after undergoing the process of selection for filling up such posts, the pleadings of the applicant make it clear that they were quite aware that they are engaged only on casual basis for doing the works like video editors (graphic designing) and resource persons for 'post production'. Nevertheless, they hope for regularisation as there has been instances in the Doordarshan Kendra and Prasharbharati of regularisation of persons engaged on casual basis, as per a scheme framed by the authorities.

8. Respondents contend that the present attempt for new empanelment is a part of the modernisation in the wake of the technological developments that are taking place in the field of visual broadcasting, for bringing in more talented and expert persons in the relevant field. Their concern for enlargement of panel of such casual engagement is quite evident in Annexure A/9 office note :

"DOORDARSHAN KENDRA, THIRUVANANTHAPURAM

No. 12(1)2011/A1/DKT

Dated 18.07.2012

OFFICE NOTE

DD(N) may please refer to Doordarshan News, New Delhi letter No. DDN/RNU/Thiruvananthapuram/2010-S dated 02.07.2012 conveying approval to RNU to initiate the process of revising/enlarging the existing panel of Casual Video Editors Casual Graphic Editors, Casual Production Assistants, Casual Stenographer/Data Entry Operators, Casual Assistant News Editors and Casual Reporters. While conveying the approval, it has also been stated in the said communication that the process should be initiated as per the procedure laid down by the Directorate General, Doordarshan.

When the DG, Doordarshan has circulated guidelines/procedures for engaging casual



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employees at Doordarshan Kendra/DMCs etc. vide letter dated 30.12.2011, this Kendra has taken up the issue with the DG, Doordarshan by name vide our letter dated 02.05.2012. Keeping in view the increased number of court cases filed for regularization, it was suggested in the above letter to issue guidelines streamlining the engagement of casual employees in Doordarshan Kendras. The need to engage casual employees through registered manpower supplying agencies to avoid the possibilities of filing court cases was also highlighted in our letter. As no reply to this letter has been received so far, a reminder is being sent in this regard. Since the Doordarshan News has given the approval to initiate the process of enlarging/revising the panel of casual employees as per the procedure laid down by the Directorate, it is felt that we may await further instructions from the Directorate General.

In the meantime, RNU is advised to maintain status quo on engaging casual employees. While engaging casual employees, it may please be ensured that:-

- a. Overall bookings of a particular person do not exceed 72 days in a calendar year.
- b. RNU may initiate steps to revise/enlarge the panel of Casual Assistant News Editors and Casual Reporters.
- c. Casual employees of other categories are engaged through a registered manpower supplying agency.

This is issued with the approval of DDG.

SAO for DDG"


9. Annexure A/9 suggests that the long continuance of the existing panel of casual video editors etc. are likely to result in litigations for claiming for regularisation.

10. Annexure A/11 is a representation submitted by the applicants airing their grievances claiming that they have a right for an automatic inclusion in the revised list since they have already undergone the procedure for selection and employment and continuance ever since the date of empanelment without any break in service. It appears to us that their demand to include them in the new panel without undergoing further selection process is an attempt on the part of the applicants to stick on to the present engagement in anticipation of eventual regularisation in future on the ground of their long continuance in the casual engagement. This obviously is the matter abhorred by the respondents who state that they want to bring in new panelists to keep the broadcasting operations of Doordarshan Kendra abreast with the new technological developments in the field of broadcasting. We feel that it can be judicially taken note of that broadcasting has become highly competitive in the wake



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of opening of the broadcasting operations to the private players also. Unless the news and other programmes broadcasted are attractively presented., there will be diminution of viewership and thereby the Doordarshan will be lagging behind financially also and in the matter of generating income. When Doordarshan was the only medium for telecasting it could function as the official medium for news and entertainments. Long continuation of the same individuals in the areas of post production editing and graphics which demand skill and innovation will result in such engagement as yet another government employment, resulting in the Doordarshan programmes becoming drab, monotonous and uninteresting to the viewers. When competition reigns the field of telecasting, viewers look for more technical quality and vibrancy in the broadcasting. In such circumstances regularisation of such posts will kill the initiative of the persons in keeping them abreast with the demands of the broadcasting industry which requires creative persons in the fields of graphics, video editing and skilled really resourceful 'resource persons'. Ingenuity and innovation are the hall marks of any modern media institution. The qualities required for such engagements being too personal to the persons so engaged, unlike other government desk jobs, it is imperative that the broadcasting institutions should bring in only persons with innovation and ingenuity. Therefore, the decision of the respondent authorities to test the qualities of the currently empanelled persons along with the new aspirants is only justifiable. The attempt of the applicants to get themselves regularised by reason of their sheer prolonged continuance will not be conducive to the Doordarshan to keep themselves abreast of the innovative and competitive field of broadcasting. Therefore, this Tribunal does not find any merit in the contentions of the applicants.



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11. In the result, O.A. is dismissed. Parties shall suffer their own costs.



(P.K. PRADHAN)
ADMINISTRATIVE MEMBER



(U. SARATHCHANDRAN)
JUDICIAL MEMBER

sj*