

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.NO.291/2001

Wednesday, this the 6th day of November, 2002.

CORAM;

HON'BLE MR A.V.HARIDASAN, VICE CHAIRMAN

HON'BLE MR T.N.T.NAYAR, ADMINISTRATIVE MEMBER

G.Ramachandran,
Artist(Paintor),
Doordarshan Kendra,
Thiruvananthapuram. - Applicant

By Advocate Mr Vishnu S Chempazhanthiyil

Vs

1. Director,
Doordarshan Kendra,
Prasar Bharathi Corporation,
Thiruvananthapuram.
2. Director General,
Doordarshan, Doordarshan Bhavan,
Prasar Bharathi Corporation,
New Delhi.
3. Prasar Bharathi Broadcasting Corporation
of India,
represented by its Chief Executive,
New Delhi.
4. Union of India represented by
its Secretary,
Ministry of Information
& Broadcasting,
New Delhi. - Respondents

By Advocate Mr P.J.Philip, ACGSC

The application having been heard on 6.11.2002 the Tribunal on the same day delivered the following:

O R D E R

HON'BLE MR A.V.HARIDASAN, VICE CHAIRMAN

The applicant has been working as an Artist(Painter) on casual basis in the Doordarshan Kendra, Thiruvananthapuram with effect from 12.4.86. The Casual Artists, under the

respondents were entitled to be regularised against existing posts, provided they had worked for 120 days in a year, as per Scheme evolved on the direction of the Principal Bench of this Tribunal in O.A.894/90. According to the said scheme(R-1), upper age limit is to be relaxed in the case of Casual Artists to the extent of the number of years in which he had rendered 120 days of service. The Scheme was further modified by O.M. dated 17.3.94(R-2) wherein para 3 contained the modalities of commutation of the period. In para 4 of the said O.M., it was stipulated that in the case of staff who are over-aged on the date of initial engagement, the proposal should be referred to the Directorate along with the number of days they had worked according to the formula laid down in para 3 for the purpose of taking a decision on age relaxation. The applicant submitted a representation claiming relaxation. Finding that his case was not considered, he filed O.A.No.682/2000 which was disposed of with a direction to the first respondent to take a decision on the representation. In obedience to the above direction, the first respondent has issued the impugned order dated 9.3.2001 informing the applicant that even after giving the applicant relaxation of 5 years which he was entitled according to the scheme and the number of days worked by him, he was over-aged by one year nine days and therefore, he was not entitled to be appointed on regular basis. Aggrieved by that the applicant has filed this application. It is alleged in the application that in terms of para 4 of A-3 Memorandum, the 1st respondent should have referred the matter to the Directorate and should not have rejected the case of the applicant while the case of persons who were over-aged on the date of initial engagement itself was

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considered by the Directorate. With the above allegation, the applicant has sought to set aside the impugned order A-5 and for a direction to the respondents to regularise the applicant giving him relaxation of age limit for the entire casual service.

2. The respondents contend that the applicant having been given the maximum permissible relaxation in age in accordance with para 6 of R-1 Scheme and yet being over-aged, he is not entitled for any further relaxation in accordance with the modified Scheme which has been approved by the Apex Court in its judgement in Civil Appeal No.4787 to 4794 of 1996.

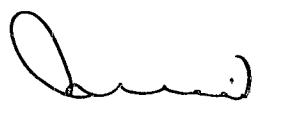
3. We have carefully gone through the pleadings and have heard Shri Vishnu S Chempazhanthiyil, learned counsel of the applicant and Shri P.J.Philip, ACGSC for respondents. Shri Vishnu inviting our attention to para 4 of A-3 argued that the 1st respondent before rejecting the case of the applicant on the ground of over-age should have referred his case to the Directorate along with the details of number of days worked out according to para 3 of A-3 and that this having not been done, the impugned order is liable to be set aside. Shri Philip, learned counsel of the respondents invited our attention to the clarification contained in O.M.dated 5.7.94 of the Directorate(R-5) wherein it has been specifically clarified that Kendras should sent proposals to the Directorate for approval in respect of those cases only which are covered under para 4 of the revised scheme A-3. Shri Philip argued that there is no merit in the case of the applicant that his case could not have been decided by the 1st

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respondent without reference to the Directorate. The maximum relaxation permissible according to R-1 scheme as also by the modified scheme is to the extent of years in which the Casual Artists have rendered 120 days of service as is seen from para 6 of R-1. This clause of the scheme is not under challenge. Even after giving the applicant the full relaxation as applicable under the said paragraph of the Scheme, the applicant is yet over-aged by one year and nine days. Under these circumstances, we find no infirmity with the decision of the 1st respondent contained in A-5 order rejecting the application for further age relaxation.

4. In the light of what is stated above, finding no merit the application is dismissed. However, we make it clear that the dismissal of this application would not preclude the respondents from continuing to engage the applicant as a Casual Artist. There is no order as to costs.

Dated, the 6th November, 2002.


T.N.T. NAYAR
ADMINISTRATIVE MEMBER


A.V. HARIDASAN
VICE CHAIRMAN

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APPENDIX

Applicant's Annexures:

1. A-1: True copy of the assignment letter dated 15.6.1986 of the 1st respondent.
2. A-2: True copy of O.M.No.11(3)B-6-SA dated 9.6.92 of the 2nd respondent.
3. A-3: True copy of O.M.No.2(3)B-6-81 dated 17.3.94 of the 2nd respondent.
4. A-4: True copy of the order dated 1.1.2001 in OA No.682/2000.
5. A-5: True copy of order No.71(1)(8) 2000-A1/DKT/6078 dated 9.3.2001 of the 1st respondent.
6. A-6: True photocopy of the relevant page of applicant's SSLC Book.
7. A-7: True copy of the assignment order dated 23.8.90 of the 1st respondent.
8. A-7a: True copy of the assignment order dated 28.12.90 of the 1st respondent.
9. A-7b: True copy of the assignment order dated 3.1.92 of the 1st respondent.
10. A-7c: True copy of the assignment order dated 7.4.92 of the 1st respondent.
11. A-7d: True copy of the assignment order dated 18.5.92 of the 1st respondent.
12. A-8: True copy of the representation dated 22.1.2001 to the 1st respondent.

Respondents' Annexures:

1. R-1: True copy of the regularisation Scheme dated 9.6.92 O.M.No.2(3)/86-SI by the Government of India, Director of Administration, Doordarshan.
2. R-2: True copy of the regularisation Scheme dated 17.3.94, O.M.No.2(3)/86-SI issued by Deputy Director, Doordarshan, New Delhi.
3. R-3: True copy of the order in O.A.No.563/86 and Others by the C.A.T., New Delhi dated 14.7.92.
4. R-4: True copy of the order by the Hon'ble Supreme Court of India in C.A.NoS.4787-4794 of 1996 dated 14.3.96.
5. R-5: True copy of O.M.No.4(1)/94-SI dated 5.7.94 issued by Deputy Director (Administration), Doordarshan, New Delhi.
6. R-6: Recruitment Rules for the post of Painter.

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