

Central Administrative Tribunal, Lucknow Bench, Lucknow

Original Application No. 160/2006

This the 20 day of January, 2009

Hon'ble Mr. M. Kanthaiah, Member (J)
Hon'ble Dr. A. K. Mishra, Member (A)

Amit Kumar Srivastava aged about 40 years, so of Sri Shyam Lal Srivastava, resident of 4/21, Vishesh Khand, Gomti Nagar, District Lucknow.

By Advocate Sri Y. S. Lohit.

Applicant.

Versus

1. Union of India through Secretary, Ministry of Information & Broadcasting, Central Secretariat, New Delhi.
2. Director General, All India Radio, Akashwani Bhawan, Sansad Marg, New Delhi.
3. Station Director, All India Radio, 18, Vidhan Sabha Marg, Lucknow.
4. Chairman, Prasar Bharti (Broadcasting Corporation of India), Doordarshan Bhawan, Copernicus Marg, New Delhi-110001.
5. Chief Executive Officer, Prasar Bharti (Broadcasting Corporation of India), Doordarshan Bhawan, Copernicus Marg, New Delhi-110001.

Respondents.

By Advocate Sri D. S. Tiwari

Order

By Hon'ble Dr. A. K. Mishra, Member (A)

This application has been made against the order dated 15.9.2006 as contained in Annexure A-13 with a prayer for a direction to the respondents to appoint the applicant on a regular post of Announcer/ Compere under the quota meant for physically handicapped and the instructions of the department communicated in their memoranda dated 10.7.81 and 21.8.81.

2. The applicant is engaged as a part time Announcer/Compere in All India Radio since 28.3.92. He has been agitating for his regularization for a very long time. He filed O.A.No. 110/98 in which a direction was given to the respondents to continue engaging him on part time basis as per departmental rules. Finally, the Tribunal asked the respondents to consider his representation which was, however, rejected on 19.7.2002, against which the applicant filed O.A. 62/2003. Again an interim order was passed asking the respondents to provide work to the applicant for six days in a month. Thereafter, this Tribunal asked the respondents to engage the applicant on casual basis till he is considered for regular employment vide its judgment /order dated 13.10.2004. This order was passed pursuant to the judgment of

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Patna Bench of this Tribunal in O.A. No. 541/97 which was upheld by the Patna High Court. In spite of direction of this Tribunal, no scheme for regularization was formulated, neither the applicant was offered a regular job under the reserved quota meant for handicapped persons, hence this application.

3. Among the grounds taken, it is mentioned that the respondents are reducing the part time assignments over time; that the applicant being a physically handicapped person should have been recruited on a regular basis under the reserved quota meant for disabled persons and that the vacancies in the post of Announcer/Compere could not be filled up by way of transfer which the respondents are resorting to in order to circumvent the direction of this Tribunal.

4. The respondents have submitted that a speaking order has been passed by the respondent No. 3 in compliance to the direction of this Tribunal in O.A. No. 160/2006 in which the full background of the facts of the case and several connected litigations have been discussed. The request of the applicant for regular appointment could not be acceded to as the recruitment rules for regular appointment on the post of Announcer Grade IV in All India Radio prescribe that those posts should be filled up 100% by direct recruitment from open market and do not envisage any regularization of casual Announcers/Comperes. The applicant would apply when the vacancies are notified and would take advantage of the reservation quota as per Govt. Policy. The respondent No. 3 has also mentioned in the impugned order that one scheme of regularization of Casual Artistes was valid till 31.3.1981 which was subsequently extended upto 30.12.1981. Thereafter, its validity has ceased. In the absence of any scheme for regularization, it has not been possible for them to consider the request of the applicant.

5. The applicant has challenged the contention of the respondents that the litigations involving the Patna Bench in O.A. No. 541/97 and CWJC No. 8362/2000 and CWJC No. 1368/2001 were pending and that there was a stay order from the Hon'ble Supreme Court in the matter. In the amendment petition, he has submitted that the interim order has been vacated by the Hon'ble Supreme Court. He is placing more emphasis now on the fact that he is a physically handicapped person and as such, entitled to special protection as per Govt. policy. A mention has been made to

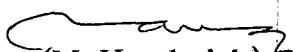


the reference of Delhi High Court 's order dated 13.2.2002 in five Writ Petitions , where it was observed that the courts/ Tribunals could ask for formulation of scheme of regularization of casuals since it would be contrary to the provisions contained in Article 309 of the Constitution. It is stated that this observation was made in the context of the observations of the Hon'ble Supreme Court in the case of State of Karnataka and others Vs. Uma Devi and others reported at (2006) 4 SCC page 1, where it was held that ordinarily the course of regularization should not be adopted but the Hon'ble Supreme Court was pleased to issue a specific direction to give a final shape to the process of regularization in respect of those who had been working for more than 10 years.

6. The fact remains that the applicant has been agitating his case for regularization from time to time and this court has given a direction to consider his case according to rules. Now the respondent No. 3 has considered the case and come to the conclusion that there is no scope for regularization under recruitment rules. Similarly, the facility of reservation for handicapped persons can be taken advantage of when the vacancies are notified for recruitment from the open market. We do not find any infirmity in the decision taken by the respondent No. 3 . The claim of the applicant for consideration under the reserved quota meant for handicapped persons can be considered only when applications for direct recruitment are invited and considered by the appropriate authorities. There is no mention that the applicant has applied in pursuance of any such notification and that his claim was overlooked on invalid grounds. In the circumstances, we do not find any merit in this application.

7. In the result, application is dismissed. No costs.


(Dr. A.K. Mishra)
Member (A)


(M. Kanthaiah)
Member (J)
20.01.2009