

**Central Administrative Tribunal, Lucknow Bench, Lucknow
Original Application No. 205/2008**

Reserved on 15.5.2014

Pronounced on 08/7/2014

**HON'BLE SHRI NAVNEET KUMAR MEMBER (J)
HON'BLE MS. JAYATI CHANDRA, MEMBER(A)**

Anjali Tiwari wife of Rajeev Tiwari aged about 47 years r/o C-43/8, RDSO, Manak Nagar, Lucknow.

Applicant

By Advocate: Sri Amit Verma for Sri A. Moin

VERSUS

Union of India through :-

1. Secretary, Ministry of Information and Broadcasting, Copernicus Marg, New Delhi.
2. Prasar Bharti Broadcasting Corporation of India, Doordarshan Kendra, New Delhi through its Director General.
3. Director, Prasar Bharti (Broadcasting Corporation of India), Doordarshan Kendra, Lucknow.

Respondents

By Advocate: Sri K.K.Shukla

ORDER

BY HON'BLE SRI NAVNEET KUMAR, MEMBER (J)

The present Original Application is preferred by the applicant u/s 19 of the AT Act, with the following reliefs:-

- a) to direct the respondent No. 2 to treat the date of joining of the applicant as Production Assistant as 6.10.1994 with all consequential benefits in view of judgment and order dated 5.11.2001 passed by this Hon'ble Tribunal.
- aa) to quash the order dated 29.5.2002 passed by Respondent No. 3 as contained in Annexure No. 7 to the Original Application so far as it does not provide counting of her service w.e.f. 6.10.1994 on the post of Production Assistant.
- b) to pay the cost of this application.
- c) any other order which this Hon'ble Tribunal deems just and proper in the circumstances of the case be also passed.



2. As per the applicant the facts of the case are that he was initially appointed on the post of Casual Artist. In 1992, a regularization scheme was framed by the respondents for regularization of Casual Artists in various Doordarshan Kendras. Since the applicant was eligible, as such an offer of appointment for the post of Production Assistant was issued on 23.9.1994 and the applicant accepted the same and joined on the post of Production Assistant on 6.10.1994. Subsequently, the said offer of appointment was withdrawn. The applicant preferred an O.A. No. 500/95 and this Tribunal vide order dated 5.11.2001 allowed the O.A. and quashed the order dated 3.2.1995 by virtue of which the offer of appointment was withdrawn and also directed that the competent authority would relax her age. Subsequently, in 2002, the applicant was informed that she had been found eligible for appointment as Production Assistant and was asked to attend the office on 18.4.2002 for further action and applicant was again issued an offer of appointment on 16.5.2002. In pursuance of that, she joined on the post of Production Assistant on 17.5.2002 and thereafter, the respondents issued another order dated 29.5.2002 in which the joining of the applicant was accepted and she was appointed in the pay scale of Rs. 5000-8000 on probation. Subsequently, the services of the applicant were confirmed. The dispute arose when a draft seniority list dated 12/13.12.2006 was issued on behalf of the respondents for the post of Production Assistant, in which the applicant finds place at Sl.No. 609 and date of appointment was indicated as 17.5.2002. Learned counsel for applicant categorically pointed out that indicating the date of appointment as 17.5.2002 in the seniority list is patently wrong in as much as the date of joining of the applicant as Production Assistant was 6.10.1994. It is also indicated by the learned counsel for the applicant that the order passed in O.A.No. 500/1995 has attained finality since the same was not challenged before any court of law. It is also indicated by the

learned counsel for the applicant that the applicant has also submitted the detailed representation on 25.5.2007 indicting therein the mistake committed by the respondents and also indicated that the date of appointment of the applicant be indicated as 6.10.1994 instead of 17.5.2002. Not only this, the respondents have also issued a tentative seniority list in December, 2007 and the said list has also not finalized till date. The respondents have passed the order dated 10.10.2007 which is challenged in the present O.A.

3. The learned counsel appearing on behalf of the respondents filed their reply as well as preliminary objection indicating therein that there is a dispute of seniority list which has been agitated by the applicant in the present O.A. It is also indicated by the respondents that the impugned order dated 10.10.2007 is self explanatory. It is also pointed out that vide order dated 12/13 December, 2006, it is clear that seniority list of Production Assistant in Doordarshan Kendra is issued rightly and the applicant finds place at Sl. No. 609 in the seniority list and not only this, as per the order of the Tribunal passed in O.A. No. 500/1995, the case for regularization has been considered by Doordarshan Directorate, New Delhi as per regularization scheme dated 17.3.1994 and after regularization, the applicant has been appointed against the post of Production Assistant by virtue of order dated 9.4.2002. The seniority list of production Assistant has been followed from the date of regularization as Production Assistant w.e.f. 17.5.2002 and after the orders passed by the Tribunal in earlier O.A. filed by the applicant, the age relaxation was given vide Office Memorandum dated 28.1.2002 and she has been declared eligible for regularization and the applicant was appointed as regular employee on the post of Production Assistant in the pay scale of Rs. 5000-8000 where she joined her duty on 17.5.2002 and accordingly the seniority has been fixed from the date of joining i.e. from 17.5.2002 on the post of Production Assistant. It is also categorically denied by the

respondents that the respondent No. 3 had never issued acceptance letter to the applicant against the joining of her appointment, as such no question of joining duties on 23.9.1994 arose.

4. Learned counsel for the applicant has filed Rejoinder reply and through rejoinder reply, mostly the averments made in the O.A. are reiterated and denied the contents of the counter reply.

5. Heard the learned counsel for the parties and perused the record.

6. The applicant was initially appointed as Causal Artist on 12.9.1994 at Doordarshan Kendra, Lucknow. Since the applicant was over age at the time of initial engagement as per the regularization scheme of Doordarshan dated 9.6.1992. As per cut off date, her age was 25 years and 5 months and by mistake, the applicant was given offer of appointment on 23.9.1994 as such the same was withdrawn vide order dated 3.2.1995. The applicant preferred an O.A. No. 500/1995 before this Tribunal and the Tribunal decided the matter on 5.11.2001. While deciding the O.A., the Tribunal quashed the order dated 3.2.1995 whereby offer of appointment was withdrawn. It is also observed by the Tribunal that the applicant will be free to make a representation to the competent authority for relaxation in her age and the competent authority will consider the representation of the applicant having been given by the respondents to other similarly placed casual artists of Doordarshan Kendra, Lucknow. After considering the representation of the applicant, it was expected by the Tribunal that the respondents will pass a reasoned and speaking order within a period of 3 months. In pursuance of the said order of the Tribunal and also in pursuance of the regularization scheme, one year age relaxation was given to her and she was regularized on 17.5.2002 and accordingly she joined on 17.5.2002 afternoon and a Seniority list of Production Assistant has been prepared on the basis of date of joining on regular appointment, as such it was argued by the learned counsel for the respondents that it

is not feasible to consider her seniority w.e.f. 22.9.1994. Not only this, it is also to be pointed out that the applicant was never appointed as Casual Artist on regular basis whereas she was engaged from time to time on assignment basis not more than 10 days in a month in 1991, depending upon contingencies and programme requirements of the Kendra. These casual artists were used to be engaged only as per the programme requirement of the Kendra. Not only this, the offer of appointment were issued by the Director Doordarshan Kendra Lucknow not only to the applicant but to 14 casual artists. The offer of appointment to any post is subject to fulfillment of the service condition and actually as offer of appointment was wrongly issued which was subsequently withdrawn. The applicant was issued the offer of appointment on 23/29.9.94. The offer of appointment is annexed as Annexure No. 2 to the O.A. but as submitted by the applicant that he has joined in pursuance of the said offer of appointment as Production Assistant on 6.10.1994 is not available on record. The said offer of appointment dated 23/29.9.94 clearly provides that services can be terminated at any time without any reason on one month's notice and in lieu of notice, one month salary plus allowance is to be paid. But offer of appointment was withdrawn by means of order dated 3.2.1995 and the same was challenged by the applicant in another O.A. No. 500/95 and the Tribunal has issued a direction for giving age relaxation to the applicant and in pursuance thereof, the respondents have passed order dated 9.4.2002 asking the applicant to be present in the office of Director, Doordarshan Kendra, Lucknow along with the original certificates and photocopies thereof pertaining to the age of the applicant including educational qualification/ experience etc. After that, the respondents have passed order dated 16.5.2002 for giving him offer of appointment on the post of Production Assistant in the pay scale of Rs. 5000-8000 and in pursuance thereof, the applicant has joined on 17.5.2002 purely on adhoc basis on the post of Production

Assistant. As such, the date of joining as Production Assistant as shown in the seniority list is dated 17.5.2002 does not appear to be wrong. Since the applicant has failed to annex any order through which it can be indicated that the applicant joined the post of Production Assistant on 6.10.1994, as such we are not inclined to interfere in the present O.A.

7. Accordingly, the O.A. is dismissed. No order as to costs.

J. Chandra
(JAYATI CHANDRA)

MEMBER (A)

V.K. Agarwal
(NAVNEET KUMAR)

MEMBER (J)

HLS/-