

AU

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD

CIRCUIT BENCH

LUCKNOW

(1) O.A. No. 174/89
Dinesh Kumar Yadav Applicant.
versus
Union of India & others Respondents

(2) O.A. No. 175/89
Chhadey Lal Applicant
versus
Union of India & others Respondents.

(3) O.A. No. 176/89
Umesh Mishra Applicant
versus
Union of India & others Respondents.

(4) O.A. No. 177/89
Balshyam Mishra Applicant
versus
Union of India & others Respondents.

(5) O.A. No. 97/90
V.K. Mehretra Applicant.
versus
Union of India & others Respondents.

(6) O.A. No. 54/90
Angad Lal Applicant
versus
Union of India Respondents

(7) O.A. No. 42/90
A.K. Dwivedi Applicant
versus
Union of India & others Respondents

(8) O.A. No. 202/90

Uttam Kumar Das

Applicant

versus

Union of India & others

Respondents.

(9) O.A. No. 301/90

Jaipal Singh

Applicant

versus

Union of India & others

Respondents

(10) O.A.N o. 360/90

Reshi Bendroo

Applicant

versus

Union of India & others

Respondents

Hon. Mr. Juatice U.C. Srivastava, V.C.

Hon. Mr. A.B.Gorthi, Adm. Member.

(Hon. Mr. Justice U.C.S., V.C.)

Since all the above cases involve the common question of law and facts, they are being disposed of by a common judgment and the judgment in the first case will govern all the other cases, which are being disposed of after hearing learned counsel for the parties.

2. The applicant in O.A. No. 174/89 D.K. Yadav was appointed as Floor Assistant on casual basis on 7.3.86 but during his tenure with artificial break. He feels aggrieved with the advertisement dated 3.7.89.

Applicant in O.A.N o. 175/89 Chhadey Lal was appointed as Painter in pursuance of the advertisement and has been working with broken periods. He feels aggrieved with the notification dated 6.9.89 issued by the respondents to the effect that the applicant

would not be entitled for any work whose names were included in the panel of casual workers. His complaint is that other persons have been regularised. According to the respondents the work of the applicant was only of a casual in nature and he was employed on contract basis for short spells.

Applicant in O.A. No. 175 Umesh Mishra was appointed as Lighting Assistant on 28.7.87 through advertisement and worked as such till 10.11.87 after which he joined as Production Assistant. He also feels aggrieved with the advertisement inviting application for the post of Production Assistant.

Applicant in O.A. 177/89 Balshyam Mishra was also appointed as Production Assistant on casual basis with effect from 3.10.85 and he also worked with broken periods and feels aggrieved with the same notification. He has become overage.

Angad Lal

Applicant in O.A.No. 54/90 was appointed as casual lighting assistant and panel for such persons was prepared. He also feels aggrieved with the order dated 6.7.89 issued by the Director, Doordarshan Kendra Lucknow. The applicants are restricted to be reemployed at the time when they have become overage and they have become ineligible to serve elsewhere.

Applicant in O.A. No. 97/90 V.K. Mehrotra was appointed as Floor Assistant and continued as such from 24.3.86 to 28.9.89 with broken periods. He also feels aggrieved with the same notification. The applicant has become overage.

Applicant in O.A.No. 42/90 A.K.Dwivedi was appointed in 1984 on the post of Lighting Assistant. He feels aggrieved with the order dated 6.7.89. He has become overage.

Applicant in O.A. 202/90 U.K.Das was appointed as Floor Assistant on 1.8.86 and joined on 3.8.86 and continued to work upto 30.6.89 and he feels aggrieved with the order dated 6.7.89 and the same notification.

Applicant in O.A. No. 301/90 Jipal Singh was appointed on the post of Video Editor. The applicant No. 1 was appointed on 5.1.86. He remained posted till September 89 at Doordarshan Kendra Lucknow and thereafter remained posted at Delhi and Jalandhar. They are aggrieved from the notification dated 5.6.87. They worked with broken periods. They are also aggrieved with the notification in which they have not been called for interview, though they were assured that they will be given opportunity to enter in the same.

The applicant in O.A. No. 360/90 Reshi Bendre was appointed as Casual Lighting Assistant on 24.1.85. He has also relied on the scheme issued by the Director Doordarshan issued for regularisation of certain workers. He has also become overage. He has prayed for regularisation and all the other benefits as prayed for further selection.

3. All the above applicants, thus claim regularisation and have invoked the provisions of Article 14 and 16 of the Constitution of India and have also claimed benefit of the Industrial Disputes Act and against their artificial breaks. The candidates of these categories pertain to the persons which are necessary for running the Doordarshan Kendra and they have been rendering their services in Doordarshan Kendra particularly in Lucknow and have also gained sufficient experience in the same.

Even though there was scheme for regularisation but they were not considered for the same. As a matter of fact the posts exist but they were not appointed and regularised and other persons are being appointed. It is clear that although their job was contractual in nature but the government is taking benefit of the contract. The plea of the government is that regarding regularisation the right is ^{in basis} ~~theirs~~ only who have become eligible for regularisation on the basis of formula which was evolved and those who have completed 365 days or 240 days in any of the financial year but were not regularised after break of one day or two pending their regularisation and not in favour of all casual artists, which was later reduced by the Government itself. A reference to the scheme which was framed by the Government of India in the year 1979-80 regarding regularisation of the applicants and it has been said that the Doordarshan is an Industry and in view of the scheme referred to above the employees upto 31.3.80 were considered for regularisation and beyond 31.3.80 the scheme has not been extended, as such these applicants cannot claim the benefit of that scheme. All these pleas have been raised. So far as the casual labours are concerned, the Supreme Court has repeatedly issued directions regarding equal pay and regularisation and in certain circumstances, not in respect of one department but in respect of various departments and reference in this connection may be made to some of the cases to which reference was made. (1) Inderpal Yadav vs. Union of India & others (1985) SCC 526) (2) Surender Singh and another vs. Engineer in-Chief, C.P.W.D. and others (1986) 1 SCC 630 and (3) Dharwar District P.W.D. Literate Daily Wages Employees

Association and others vs. State of Karnataka and others

(AIR 1990 AC 833). In the above case it was directed:

- (1) regularisation of 18,600 workers with effect from 1.1.1990 without any examination subject to physical infirmity test, and also
- (2) regularisation of remaining workers on same principle subject to the same test by 31.12.1980 and 31.12.1997 in a phased manner.

It can be said that in view of the legal position in this context, more particularly in view of the pronouncement that the daily rated casual workers are also entitled to protection of their service conditions and pay scales and also for regularisation. This matter engaged the attention of the Principal Bench at Delhi in Shri Vasudev and others vs. Union of India and others and other connected matters decided on 8.2.89 and the Tribunal framed a scheme for absorption of casual artists who worked for a period of one year. The terms of the said scheme are as follows:

- (i) Casual Artists who have been engaged for an aggregate period of 120 days, may be treated as eligible for regularisation. The broken periods in between engagement and disengagement, are to be ignored for this purpose.
- (ii) The respondents shall prepare a panel of Casual Artists who had been engaged on contract basis, depending on the length of service. The names of those who have not been regularised so far, specially from 1980 onwards, though they may not be in service now, are ~~to be~~ to be included in the panel. Persons borne on the panel

are to be considered for regularisation in the available vacancies.

(iii) For the purpose of regularisation, the upper age limit has to be relaxed to the extent of service rendered by the casual artists. 120 days' service in the aggregate shall be treated as the service rendered in one year for this purpose.

(iv) Till all the Casual Artists who have been engaged by the respondents have been regularised the respondents may not resort to fresh recruitment of such Artists through Employment Exchange or otherwise.

(v) Till the Casual Artists are regularised, the wages to be paid to them should be in accordance with the scale of pay of the post held by a regular employee in an identical post. The amount of actual payment would be restricted to the actual number of days worked during a month.

The scheme was framed by the Tribunal and four months' time was granted to the respondents to comply with the judgment. The said period has expired but the principles would survive and can be applied to others also. All these applicants have also worked for more than one year. Obviously they are also to get

are to be considered for regularisation in the available vacancies.

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The scheme was framed by the Tribunal and four months' time was granted to the respondents to comply with the judgment. The said period has expired but the principles would survive and can be applied to others also. All these applicants have also worked for more than one year. Obviously they are also to get benefit of the said directions with which we also agree. None of the applicants would be deprived of the benefit of same on the ground of having become overage which they became during the service with Doordarshan Kendra. The cases of the applicants who have been continuously working and were appointed against permanent post,

shall be considered for regularisation without any formality. Those who were not called for interview they also shall not be deprived of regularisation or interview without applying afresh. Needless to say ~~that~~ that Door Darshan Kendra also will be, though not the ~~entire~~ ^{Kendre,} covered under the Industrial Disputes Act but it is not necessary to dilate on this question. Accordingly we direct that in case the scheme so formulated is implemented, the same shall be formulated in respect of these applicants within three months of the receipt of copy of this judgment. The direction regarding regularisation without anything more or taking of interview without applying afresh for the post shall stand after the implementation of the scheme laid down by the Tribunal.

No order as to costs.

transcript
A.M.

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V.C.

Lucknow Dated: 5 -7-91.