

Central Administrative Tribunal Lucknow Bench Lucknow

Original Application No. 97/2007

C.W.

Original Application No. 417/2007

Lucknow this, the 27/08 day of August, 2009

Hon'ble Ms. Sadhna Srivastava, Member (J)
Hon'ble Dr. A. K. Mishra, Member (A)

O.A. 97/2007.

Adarsh Kumar Garg presently posted as Cameraman Grade II,
Doordarshan Kendra Lucknow.

Applicant.

By Advocate Sri S. Srivastava

Versus

1. Director General, Prasar Bharti (Bhartiya Prasaran Nigam), Doordarshan Bhawan, Copernikus Marg, New Delhi.
2. Director, Doordarshan Kendra Lucknow.
3. Deputy Director (Admn), Doordarshan Kendra, Luckow.

Respondents.

By Advocate Sri D. S. Tiwari.

O.A. No. 417/2007

1. Mukund Lal, S/o Mohan Lal Sahu.
2. Rajesh Rana s/o T.s. Rana.
3. Sanjay Saxena S/o R.B. Saxena
4. Nirmal Chand Pant S/o Ghananand Pant.

All presently posted as Cameraman Grade II Doordarshan Kendra Lucknow.

Applicant.

By Advocate Sri A. Pandey.

Versus

1. Director General, Prasar Bharti (Bhartiya Prasaran Nigam), Doordarshan Bhawan, Copernikus Marg, New Delhi.
2. Director, Doordarshan Kendra Lucknow.
3. Deputy Director (Admn.) Doordarshan Kendra

Respondents.

By Advocate Sri S. K. Tiwari.

Order

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

The applicant has challenged the seniority given to him based on the date of his regular appointment on 16.2.1986



instead of computing it from 24.9.1984 when he joined the respondents' organization as a trainee.

2. The applicant was appointed on 24.9.1984 as a Trainee Cameraman (Staff Artist) on a monthly stipend of Rs. 800/-. After completion of training of six months at Film and Television Institute of India (FTII), Pune, he joined as Apprentice Cameraman for one year on a higher monthly stipend of Rs. 1000/- and was absorbed on 16.2.86 as a regular Cameraman Grade II (Staff Artist) in the pay scale of Rs. 550-25-750- EP-30-900/-.

The facts relating to and the pleadings made by the applicants in O.A. 417/2007 are similar in nature. Therefore, it was agreed by the counsel for the parties in both the cases that the order passed in 97/2007 would mutatis mutandis apply to the O.A. No. 417/2007.

3. In support of his contentions, the applicant has taken the grounds of violation of principle of natural justice, non-adherence to the principles of equity, non-application of instructions of the Government as contained in the Departmental Schemes dated 9.6.1992 and 17.3.1994 for regularization, discrimination against non-qualified persons, non-consideration of the fact that the applicant had completed a course in basic television production and technical operation from FTII and that his training and apprenticeship should have been considered as part of his probation period.

4. The respondents have contended that his seniority was given from the date he was absorbed against the regular scale



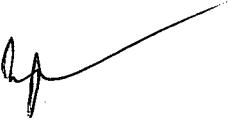
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of Cameraman Grade-II and there was no infirmity in this decision.

5. The short point involved in this case is whether the applicant would get the benefit of seniority for the period in which he worked either as a trainee or as an apprentice. It would require an examination of the exact terms of his order of appointment, dated 30.8.84 at (Annexure -2). Paragraph 7 of this order, which is relevant for our purpose, is extracted below:-

“7. After completion of the initial training, the apprenticeship and the refresher course thereafter to the satisfaction of DG, Doordarshan, a selected candidate will be eligible for appointment as Cameraman Grade II (Staff Artist) on contract in the fee scale of Rs. 550-25-750-EP.30-900 plus usual allowances as admissible from time to time to Doordarshan Staff Artist as per Government Rules. His her service as Cameramen Grade II will count from the date he/she is appointed as Cameraman Grade II in the above fee scale.”

6. There is no ambiguity in this order that he would be appointed regularly as a Cameraman Grade- II in the aforesaid scale only after his satisfactory completion of training, apprenticeship and the refresher course. Accordingly, he was given the seniority w.e.f. 16.2.1986 after he was absorbed on a regular post of Cameraman Grade- II.



7. The learned counsel for the applicant placed reliance on the judgment of the Supreme Court in civil Appeal No. 6373/2001 in the case of Arvinder Singh Bains Vs. State of Punjab & Ors., in which it was held that once an incumbent was appointed to a post according to rule, his seniority had to be counted from the date of his appointment and not on the basis of his confirmation. The facts of this case are different. The Apex Court was dealing with appointment of an employee on regular basis in terms of recruitment rules of the Government and his confirmation after the probation period was over. But in our case, the applicant first joined as a trainee and an apprentice with monthly stipend and after successful completion he was absorbed on 16.2.1986 on a regular post.

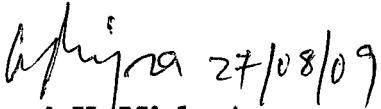
8. The learned counsel for the applicant submits that higher seniority has been given to a number of candidates from the dates of their appointment even though they did not have technical qualification. But he admits that all these candidates against whom, the applicant is claiming seniority, have not been arrayed in this application as necessary parties. Besides, the full facts relating to their appointments are not placed before us. It was clarified by the learned counsel for respondents that these candidates had certificates of experience as Cameraman, on the basis of which the necessity of asking them to undergo training was waived. However, since these applicants have not been arrayed as parties and their seniority positions have not been specifically challenged, the applicants can not claim seniority against those employees. The case of the applicant is to be governed exclusively by the terms and conditions under which he was appointed.



9. As far as the scheme of regularization covered by the office memorandum dated 9.6.1992 and 17.3.1994 is concerned, we find that this scheme pertains to regularization of casual artists of Doordarshan and is not applicable to the applicant.

10. In view of the fact that the seniority of the applicant has been given on the basis of his date of absorption on the regular post of Cameraman Grade- II, as per terms of his appointment, we do not find any justification to interfere in the matter.

11. In the result, this application is dismissed. No costs.


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


(Ms. Sadhna Srivastava)
Member-J

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