

FINAL ORDER

CENTRAL ADMINISTRATIVE TRIBUNAL: LUCKNOW BENCH

Monday the 15th day of May 2000

PRESENT

The Hon'ble Shri D.V.R.S.G.DATTATREYULU, MEMBER(J)

and

The Hon'ble Shri S.MANICKAVASAGAM, MEMBER(A)

O.A.No. 441 of 1992

Mrs.Neelam Srivastava .. Applicant

Vs.

1.Union of India through Secretary,
Information and Broadcasting, New Delhi

2.The Director, Television Centre
Ashok Marg, Lucknow

3.The Dy.Director(Programming)
Television Centre, Ashok Marg, Lucknow

4.The Asst.Station Director,
Television Centre, Ashok Marg
Lucknow .. Respondents

Mr.Y.S.Lohit .. Advocate for the applicant

~~RECORDED~~

Dr.A.NIGAM .. Advocate for the respondents
Mr.S.Sarma

Order:Pronounced by the Hon'ble Shri S.MANICKAVASAGAM
MEMBER(A)

The applicant was engaged in March 1980 to perform duties as General Assistant. Though she has been working since then, till November 1999 she has not been regularised. It is her case that she had worked for more than 120 days in many years, viz. 1985, 1988, 1992 and 1999. Though she had completed more than 120 days of work in many years, her name was included in the list of casual employees who did not complete 120 days of work in any year. It is further stated in the OA that many other centres of the Dhoordarshan, where persons who are similarly placed like her have been regularised and in fact persons who are over-aged were given age relaxation and also have been paid arrears. Under these circumstances she has come before the Tribunal seeking the following reliefs:-

"(a) The respondents be directed by this Tribunal to reinstate the applicant in service with continuity of service and with full arrears of salary and other benefits considering her full length of service in the ~~rank~~ order of seniority followed by consequential benefits;

(b) The Tribunal may be pleased to direct the respondents to regularise the services of the applicant at least on the post of CG II in the pay scale of Rs.950-1500 plus allowances and other benefits and to continue to pay the same to the applicant and in furtherance of it to revise and enhance the same from time to time and pay pay

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accordingly to the applicant along with arrears of the same;

(iii) The Tribunal may kindly be pleased to direct the respondents not to adopt the bonded labour practice in the case of the applicant by not paying the remuneration to the applicant in the manner stated herein above and also not to harass, victimise or oust the applicant in any other manner;

(d) any other suitable orders may also be passed in favour of the applicant which the Tribunal may deem fit and proper in the circumstances of the case".

2. The respondents have filed a detailed reply resisting the claim of the applicant. It is stated in the reply that the applicant was engaged as a casual artist for typing of a particular script as per the programme requirements. It is further averred that the applicant was booked for short spells only on a casual basis depending upon the programme requirements. The reply further proceeds to state that the applicant was not engaged as a general assistant on a regular basis. It is the contention of the respondent department that as per the decision of the Principal Bench of this Tribunal in OA 563/86, a scheme was prepared by the Govt. of India for regularisation of casual artists and the same has since been implemented. It is also the contention of the respondent department that the applicant was not covered under the scheme because she did not fulfil the eligibility criteria laid down in the scheme for regularisation. Giving further details about the scheme it is also stated that only those casual artists who had worked for an aggregate period of 120 days in a calendar year have been regularised. It is stated that the applicant has not completed 120 days of work in a calendar year. The reply further proceeds to state that the applicant was last booked during April 1992, on 8th, 10th and 15th August 1992

and the applicant has been paid the full wages for these three days in a sum of Rs.500/-. Thus it is the stand of the respondent department that the applicant has never been booked on a continuous basis and hence is not eligible to be absorbed on a regular basis.

3. When this OA was taken up for final disposal on 11.5.2000 neither the respondents nor their counsel was present. However, the learned counsel appearing for the applicant made his submissions reiterating the averments in the OA. Since this OA is of the year 1992 and that the pleadings are complete we have decided to dispose of this OA on merits. We have perused the records.

4. At the outset it may be noted that the respondents have admitted that according to the scheme prepared for regularisation of casual employees, persons who have worked for 120 days in a year are eligible for regular absorption. We find that in the OA the applicant had averred that she had worked as follows:-

1981 -- 200 days

1985 -- 120 days

1988 -- 120 days

1992 -- 175 days and for some period during 1999

It is pertinent to mention that the above statement of the applicant has not been controverted by the respondents in the reply filed by them. We further find that the Hyderabad Bench of this Tribunal in a batch of OAs, viz. OA Nos. 690, 702, 722, 773/93 (decided on 20.2.1993) had held that full age relaxation may be given to casual artists who had completed 120 days in a year up to 31.12.1991. We also notice that the Doordarshan Kendra, Lucknow, in pursuance of the above said decision had reviewed the matter and sent its recommendations with regard to regularisation of casual artists to their headquarters for approval.

Q. But, it is seen that in the list ^{sent} by the Doordarshan Kendra, Lucknow, the name of the applicant has been shown under ..

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category of persons who had not completed 120 days of work in a year, prior to 31.12.1991. Thus it is seen that while the applicant is claiming that she had completed more than 120 days of work in several years, cited supra, the respondent department had categorised her under the list of persons who had not completed 120 days of work in a year. Therefore this is a matter which will have to be verified with reference to the records maintained by the respondent department. The Tribunal cannot make a roving enquiry nor is it a Body equipped with investigative machinery to find out as to who is telling the truth.

5. The matter is very simple on the face of it, particularly after the decisions of the Principal Bench and the Hyderabad Bench of this Tribunal. We also find that the department had undertaken a review of the whole situation, based on the above said two decisions and regularised persons who all came within the parameters of the scheme. Further when the applicant has taken out a specific plea that she had worked for more than 120 days in a calendar year, the respondent department are duty bound to give a reply with reference to the details available with them as also with reference to the details furnished by the applicant. A mere bald statement by the respondent department that the applicant's name found a place in the list of persons who had worked for less than 120 days will not hold any water.

6. In the light of the discussion above we hold that the ends of justice would be met if the following directions are issued:-

(a) The applicant is directed to make a representation to the Director, Television Centre, Lucknow, furnishing full details as to the period of engagement in the past several years and the number of days during which he was

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engaged by the Doordarshan Kendra, with documentary evidence, if any, within one month from the date of receipt of a copy of this order by the applicant.

(b) On receipt of the representation from the applicant the Director, Doordarshan Kendra Lucknow, shall verify the same and if satisfied shall recommend the name of the applicant to the Headquarters for approval of regularisation of the applicant. In case it is not found to be within the parameters of the scheme, the respondent department shall issue a reasoned/speaking order as to why the applicant could not be regularised. This exercise shall be completed within one month ^{after} receipt of the representation from the applicant.

(c) If the applicant is still aggrieved she is at liberty to approach the appropriate forum for redressal of her grievance.

7. The OA is allowed to the extent indicated above with no order as to costs.

S. Manickavasagam
(S. MANICKAVASAGAM)
MEMBER(A)

D. V. R. S. G. DATTATREYULU
(D. V. R. S. G. DATTATREYULU)
MEMBER(J)

15.5.2000

Ans :