

CENTRAL ADMINISTRATIVE TRIBUNAL
PATNA BENCH, PATNA.

Original Application No. 173 of 1996

Date : 02.05.2002.

Prabir Bhattacharya, son of Shri D.N. Bhattacharya, aged ~~xxx~~
about 26 years, "Subhan" Yarpur, P.S. Gardanibagh Town and
District - Patna.

..... Applicant.

By Advocate : Shri R.N. Mukhopadhaya with Shri V.N.
Ram.

Versus

1. The Union of India, through the Secretary, Ministry
of Information and Broadcasting, Shastri Bhawan,
New Delhi.
2. The Director-General, Doordarshan, Doordarshan Bhawan,
Mandi House, New Delhi.
3. The Director, Doordarshan Kendra, Chhaju Bagh, Patna.

..... Respondents.

By Advocate : Shri H.P. Singh, Addl. Standing Counsel

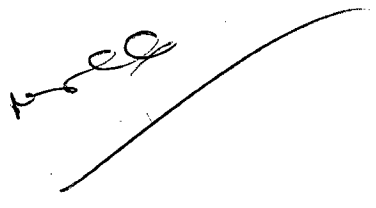
C O R A M

Hon'ble Shri L.R.K. Prasad, Member (A)

Hon'ble Smt. Shyama Dogra, Member (J)

O R D E R (Dictated in open court)

By L.R.K. Prasad, M(A):- This application has been filed
seeking the following reliefs:-

- 
- (a) For direction on the respondents,
particularly Director, Doordarshan Kendra,
Patna, to implement the order and direction
of this Hon'ble Tribunal dated 3.8.1993
passed in OA 445/92 and thereby to
provide the applicant regular appointment
order from the date similarly situated
applicants have been provided.

(b) The respondents be directed to consider the case of the applicant for regularisation/ regular appointment to the post of Painter/ equivalent post with effect from the date others have been provided with in terms of the scheme and circular dated 9th June, 1992 and circular dated 10th June, 1992.

(c) For direction on the respondents to provide the applicant consequential benefits of such regularisation, arrears of salary, seniority etc. "

2. Heard learned counsel for the parties and perused the materials on record. Written statement and rejoinder to the written statement has been filed.

3. The back ground of the case is that the applicant was engaged on daily wage basis as Painter on 11th March, 1991. He continued in the said position till June, 1995. However, no formal order in either way was issued. It is stated that the applicant was initially provided with engagement order by the Station Director, Doordarshan Kendra, Patna on 11th March, 1991, and thereafter different orders were issued. The supporting documents are at Annexure -1 series.

4. It appears that in pursuance to direction of Principal Bench of Central Administrative Tribunal passed in OA 563/86 (Annexure- 2) , a scheme was ~~drawn up~~ by the concerned respondents for absorption of casual artists in Doordarshan. The draft scheme was placed before the Principal Bench, C.A.T. , which vide order dated 14.2.1992 in the said OA/allied OA (Annexure-3)

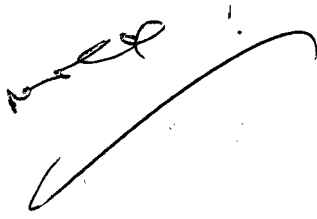
made certain modification in the scheme and directed the respondents vide para 22 of the Order to recast and finalise the scheme within a period of three months of the date of receipt of copy of the said order on the lines of the observation made from para 9 onwards. Thereafter, the scheme was modified accordingly, and memo was issued on 9.6.1992, which is at Annexure -4. The respondents were directed to consider the case of the eligible casual workers against the available vacancies in terms of the amended scheme. O.M. dated 10.6.1992 (Annexure-5) is the prescribed guidelines for implementation of the scheme of regularisation of casual artists, The relevant portion of the scheme regarding cut-off date is reproduced below:-

" i) Any erstwhile casual Artists ever engaged on casual basis upto 31.12.1991 who has not yet been regularised/absorbed in any capacity will be eligible for consideration under the scheme , irrespective of the fact whether he is still being engaged or not. For example, if a staff Artist was initially engaged in 1978 or earlier and has not been engaged thereafter, he would also be eligible for consideration under the scheme.

ii) For determining the number of years for which age concession is to be given, engagement for a total period of 120 days in one calender year , will be taken as one year. The engagement of less than 120 days in any year will not qualify for age concession."

5. As no action was taken in the matter, the applicant along with others filed OA 445/92 before this Tribunal, which was disposed of on 3.8.1993 (Annexure -8). During the course of arguments, our attention was drawn to para 1 to 4, 6, 10, 14 and 16 to 18. It would be appropriate to reproduce paras 17 and 18 of the order/ observation of the Tribunal.

"17. It is unfortunate and regrettable that in spite of clear direction given in Annexure A/5 (office memorandum dated 9.6.92 and A/6 (office memorandum dated 10.6.92) , the Director, Doordarshan Kendra , Patna has not taken any step upto now for regularisation of the services of the applicant in accordance with the scheme framed by the Government. He should have forwarded the names of all such persons who have completed 120 days of work in a calendar year and fulfil other qualifications, to the Director General , Doordarshan, New Delhi much before. It has not been disputed that those applicants had not worked for 120 days or more in a calendar year or they did not come within the prescribed age limit.

 18. After hearing the learned counsel appearing for the applicants and the Union of India, we find and hold that the applicants are casual Artists and fulfil the requisite qualifications for being considered for the purpose of regularisation of their services. We also find and hold that the Director, Doordarshan Kendra, Patna is not justified in withholding their claims and not forwarding

their names to the Director General, Doordarshan, New Delhi for consideration in terms of Annexure A/5 and A/6 and to Office Memorandums quoted above. we, therefore, allow this application and direct the respondents, Doordarshan Kendra Patna to take immediate steps to send the names of these applicants to the Director General, Doordarshan in terms of the Office Memorandum (Annexure A/5 and A/6). This must be done within one month from the date of receipt of copy of this order by Director, Doordarshan Kendra, Patna. Upon the receipt of the recommendations of the Director, Doordarshan Kendra, Patna, the Director General, Doordarshan, New Delhi will consider the case of these applicants in the light of the scheme framed by the Government and as approved by the Principal Bench in the case of Anil Kumar Mathur and others (Supra) within three months from the receipt of the said recommendations.

6. In view of what has been stated in the OA and the rejoinder to the W.S, the applicant has claimed that he is entitled for his absorption in Doordarshan in the light of the scheme framed by the Department for such purpose in pursuance to direction of the Principal Bench of C.A.T., as referred to above. Therefore, he has prayed that his case be considered for absorption in Doordarshan in the light of the prescribed scheme, and he be given consequential

benefits and placed above his juniors in the cadre.

7. While opposing the above application, the respondents have stated that the applicant ~~has not~~ worked continuously for 120 days in a year. He ~~has~~ also does not fulfil the requisite qualification for the job. He was engaged from time to time on contract basis. Therefore, he is not entitled for his absorption in the department.

8. We have perused the materials on record and find that the respondents have not given adequate justification for rejection of the claims of the applicant. Moreover, we find that in the order dated 3.8.1993 passed in OA 445/92 (Annexure-8), this Tribunal had clearly observed that it has not been disputed that the applicants of that OA (which includes applicant of the present OA) had not worked for 120 days or more in a calender year or they do not come within the prescribed age limit. Therefore, on this aspect of the matter, the position has already been settled and which cannot be reopened at this stage. The respondents have also not given any answer in this regard, even though this point has been highlighted by the applicant in the OA. Further, we find that in pursuance to the direction given in OA 445/92 , the case of the applicant was rejected vide OM dated

14.12.93 (Annexure-9) by the Director, Doordarshan Kendra Patna on the grounds that the applicant had not completed 120 days in any calender year , and he did not possess certificate in painting from the recognised Institute or three years' certificate in painting in ^{stage} ~~each~~ Film or T.V. As per the order of this Tribunal dated 3.8.1993 passed in OA 445/92, the Director General, Doordarshan, New Delhi was directed to consider the ~~case~~ case of the applicants of the said OA in the light of the scheme framed by the Government and approved by the Principal Bench, C.A.T., New Delhi in the case of Anil Kumar Mathur and others within three months from the receipt of the recommendation. In the instant case, we find that the matter ~~has~~ has not been considered by the Director General, Doordarshan, New Delhi, but has been disposed of at the level of Director Doordarshan Kendra , Patna vide O.M. dated 14.12.1993 (Annexure-9). As per the advice of the Doordarshan Kendra, Patna , as contained in the letter dated 14.12.1993 (Annexure -9), the applicant had sent the representation stating his grievances on 21.12.1993 (Annexure- 10), but it appears that the said representation of the applicant is still pending with the department, and no action has been taken in this regard.

9. During the course of hearing, the learned counsel for the applicant drew our attention to the

document at Annexure -9 again. He stated that one Lalit Kumar, the Casual Production Assistant was declared unfit in the OM dated 14.12.1993 (Annexure -9) on the grounds that he had not completed 120 days in any calender year, and he was overaged on 9.6.1992, but later on he was appointed to the post of Production Assistant vide office order No. PAT/DDK/14(5)/94-S dated 1.11.1994. In that light, he stated that the case of the applicant should also be considered specially when the matter regarding qualification and number of days already put in by the applicant has already been settled in the order passed in OA 445/92 (Annexure -8). The applicant was also party in the said OA.

10. In view of the above analysis of the case, we are of the ^{considered opinion} ~~view~~ that the prayer of the applicant for his absorption in Doordarshan along with consequential benefits is required to be considered in the light of the order of this Tribunal passed in OA 445/92 and prescribed scheme of the department , as referred to above, for passing suitable ~~speaking~~ order by the concerned respondents in accordance with law. Accordingly, respondent no. 2 , Director General, Doordarshan, New Delhi is directed to consider the case of the applicant in that light and pass suitable reasoned order within a period of three months from the date of communication of this order. No order as to ~~costs~~. The OA stands disposed of accordingly.

/CBS/

Shyam Dogra
2.5.2002
(SHYAMA DOGRA)/M(J)

L.R.K.
2.5.02
(L.R.K. PRASAD)/M(A)