

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PATNA BENCH : PATNA

Date of Order :- 26-6-09

C O R A M

HON'BLE MS. SADHNA SRIVASTAVA,MEMBER (J)
HON'BLE MR. AMIT KUSHARI,MEMBER (A)

1. OA No. 609 of 2002 (MA 339/2006)

Shri Amod Kumar Mishra, son of Shri Ramautar Mishra, resident of Keshav Rai Ki Ghat, Chow, Patna City, District- Patna.

..... **Applicant**

By Advocate :- Shri S. K. Bariar

Versus

1. Union of India, through Chief Executive Officer, Parsar Bharti, Copernicus Marg, Mandi House, New Delhi.
2. The Director General, Doordarshan, Copernicus Marg, New Delhi.
3. The Director, Doordarshan Kendra, Chhajubagh, Patna.
4. Administrative Officer, Doordarshan Kendra, Chhajubagh, Patna.
5. Shri Jitendra Kumar, son of Shri Shyam Sundar Prasad, Near Tarak Sweet, Cachhuatoli, Patna, working as Lower Division Clerk in Doordarshan Kendra, Patna.
6. Shri Sanjay Kumar, Lower Division Clerk, Doordarshan Kendra, Patna.
7. Shri Lal Babu Sharma, Lower Division Clerk, Doordarshan Kendra, Patna.
8. Shri Bijendra Kumar Prasad, Lower Division Clerk, Doordarshan Kendra, Patna.
9. Md. Khalique Ahmed, Lower Division Clerk, Doordarshan Kendra, Patna.
10. Shri Manoj Kumar, Lower Division Clerk, Doordarshan Kendra, Patna.

..... **Respondents.**

By Advocate :-Shri A.R. Pandey, Sr. SC

Shri V.M.K. Sinha, P. Dwivedi

2. OA No. 688 of 2005.

1. Shri Dipak Kumar Sinha, son of Shri Vishnu Prasad Sinha, resident of Mohalla- Mansaram Ka Akhara, P.O. - Patna City, P.S. - Mehandiganj, District- Patna.

2. Shri Sanjay Kumar Sinha, son of Shri Arun Kumar Sinha, resident of Mohalla- Amardeep Nagar, Dhelwan, P.S.- Phulwarisarif, District- Patna.

..... Applicants.

By Advocate :- Shri S.K. Bariar.

Versus

1. Union of India through Secretary, Ministry of Information and Broadcasting, Shastri Bhawan, New Delhi.
2. The Director General, Doordarshan Bhawan, Copernicus Marg, New Delhi-1.
3. Chief Vigilance Officer, Prasar Bharti (Broadcasting Corporation of India), 2nd Floor, PTI Building, Sansad Marg, New Delhi-110001.
4. Director, Doordarshan Kendra, Chhajubagh, Fraser Road, Patna.
5. Shri Jitendra Kumar, Lower Division Clerk, Doordarshan Kendra, Chhajubagh, Patna.
6. Shri Sanjay Kumar, Lower Division Clerk, Doordarshan Kendra, Chhajubagh, Patna.
7. Shri Lal Babu Sharma, Lower Division Clerk, Doordarshan Kendra, Chhajubagh, Patna.
8. Shri Bijendra Kumar Prasad, Lower Division Clerk, Doordarshan Kendra, Chhajubagh, Patna.
9. Md. Khalique Ahmad, Lower Division Clerk, Doordarshan Kendra, Chhajubagh, Patna.
10. Shri Manoj Kumar, Lower Division Clerk, Doordarshan Kendra, Chhajubagh, Patna.

..... Respondents.

By Advocate :- Shri A. R. Pandey, Sr. SC
Shri P. Dwivedi.

O R D E R

SHRI AMIT KUSHARI, MEMBER (A) :-

These OAs have been taken-up together because the subject matter is identical. The applicants in both the OAs were engaged as typist in Doordarshan Kendra, Patna on various dates from 11.10.1990 onwards. Respondent no. 5 Shri

Jitendra Kumar was engaged on 22.10.1990 as evident from his engagement letter dated 11.10.1990. Shri Jitendra Kumar is respondent no.5 in both the OAs.

2 The grievance of the applicants is that they were not regularized as typist when vacancy arose but Shri Jitendra Kumar who was junior to being engaged on 22.10.1990 was regularized. This regularization took place in the year 2002. The respondents have said that Shri Jitendra Kumar as well as the other private respondents were engaged on various dates like 8.10.1990, 9.10.1990 and since they were engaged before 11.10.1990, they were senior to the applicants Amod Kumar Mishra and Deepak Kumar Sinha in the two OAs.

3 Shri S. K. Bariar, learned counsel while arguing on behalf of the applicants says that the respondents have indulged in malafide tricks and forgery to make the private respondents senior to the applicants. He says that the Doordarshan Kendra, Patna started functioning from 11.10.1990 and so it is not possible for anyone to be appointed before the date of 11.10.1990. Shri Deepak Kumar Sinha and Shri Amod Kumar Mishra, the applicants in both the OAs were engaged as a casual typist on the first date that the Doordarshan Kendra started functioning in Patna. Therefore, there is no scope of any one being appointed prior to that date. He draws our attention to various documents in the files to show that the private respondents while trying for their regularization have themselves said on many occasions that they are working as casual typist since 22.10.1990.

4 Learned counsel for the applicant further argues that around the year 1999, the father of respondent no.5 Shri Jitendra Kumar-Shri Shyam Sundra Prasad was posted as Drawing and Disbursing Officer, Doordarshan Kendra, Patna. Since then, a conspiracy was hatched to make Shri Jitendra Kumar and one or two more casual typists senior to Shri Deepak Kumar Sinha and Shri Amod Kumar Mishra. Forged documents were prepared to indicate that Shri Jitendra Kumar and others had worked one day each from 8.10.1990 and 9. 10.1990. Their one days emoluments of Rs. 50/- was drawn much later in the year 2001. The Accountant

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and the Section Officer did not put their ~~sign~~^{alone} on the payment sheet and only the Drawing and Disbursing Officer Shri Shyam Sundar Prasad under his own signature disbursed the amount to Shri Jitendra Kumar and others.

5 Shri S.K. Bariar, learned counsel for the applicant says that the reluctance of the Section Officer and Accountant to put their signature on disbursement sheets for payments made to private respondents is only an indication that they did not want to participate in the forgery that was being committed by Shri Shyam Sundar Prasad, the then Drawing and Disbursing Officer to help his own son Shri Jitendra Kumar to become senior to other casual typists. *Sri P. Dixit, Advocate*

6 Shri A. R. Pandey, learned Senior Standing Counsel while defending the respondents say that it is possible that even before Doordarshan Kendra, Patna started functioning on 11.10.1990, some preliminary work was done and for that perhaps casual typist were hired prior to 11.10.1990. Shri Bariar says that the casual typists were given work for only ten days in a month and one hundred twenty days in a year. Shri Jitendra Kumar had already been given ten days work from 22.10.1990 to 31.10.1990, If he had to be again given work on 8.10.1990 then he would have completed eleven days in a month-which is not possible. In the case of other private respondents also, they have completed eleven days in a month.

7 We have carefully considered the arguments of both sides and have examined the records carefully. It appears to be true that the private respondents have claimed that they have worked as casual typist from various dates ranging from 22.10.1990 onwards. It is not explained how they had worked only for one day before the inauguration of Doordarshan Kendra, Patna. The respondents could not explain how they were made to work eleven days in a month as compared to the norms of ten days in a month. The allegation made by the applicant regarding forgery committed by some of the respondents to help the private respondents appears to be true. It is amazing that some of the respondent Officers could

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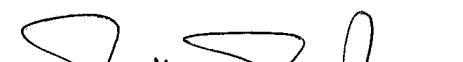
commit such ~~unfairness~~ irregularities for helping their kith and kin to get into government service.

8 We, therefore, find that the regularization of Shri Jitendra Kumar and other private respondents was irregular and bad and these regularization orders are hereby quashed. The respondents will consider the applicants for regularization and issue suitable orders within two months from the date of receipt of a copy of this order, if they are otherwise found to be suitable. General category candidates may be considered against the general category vacancies and OBC candidates may be considered against OBC category vacancies. If some of the private respondents belong to OBC categories and OBC categories vacancies are available then they could also be considered for re-appointment if they are found to be senior enough ignoring all engagements prior to 11.10.1990. Before parting, we may observe that some of the private respondents who will lose appointment because of these orders have already served for more than five years. Therefore, the respondents may try to re-adjust them elsewhere suitably. However, the respondents can do this only after fully considering to the regularization of the applicants.

9 With these directions, these two OAs is disposed of.



[Amit Kushari]
Member (A)



[Sadhna Srivastava]
Member (J)

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