

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH
AT HYDERABAD.

CP.29/96 in
OA.734/92.

Date of order: 24/8/96.



Between:-

K.Srinivas

...

Applicant.

And

Sri M.P.Suri, Director, Doordarshan Kendra,
Hyderabad.

...

Respondents.

Counsel for the Applicant: Mr.N.R.Srinivasan, Advocate.

Counsel for the Respondents: Mr.N.V.Ramana, Addl.CGSC.

CORAM:

HON'BLE MR.JUSTICE M.G.CHAUDHARI, VICE CHAIRMAN

HON'BLE MR.H.RAJENDRA PRASAD, MEMBER (ADIN.)

J U D G M E N T

(Oral order (Per Hon'ble Mr.Justice M.G.Chaudhari, V.C)

There can hardly be any doubt that the respondents to the O.A.have failed to implement the order of this Tribunal in OA.734/92 dated 28-7-93 by not complying with the direction made therein within the time stipulated viz; four months or even thereafter till today, the direction being as follows:

" Hence in view of our findings it has to be stated that the applicant is eligible for regularisation as per scheme dated 9-6-92. As the applicant was engaged as Production Assistant on 8-9-95 for the first time the said date has to be taken for fixation of his seniority. The original application is ordered accordingly. Time for implementation is four months from the date of receipt of this order."

2. Dissatisfied with the aforesaid order the respondents approached Hon'ble Supreme Court by filing SLP which was numbered as 770/96. An order of interim stay was granted by the Supreme Court. Hence during the pendency of the appeal, the respondents could not

implement the order of the Tribunal. However, the respondents withdrew the appeal in the Supreme Court on 13-11-1995. The order of the Supreme Court on the appeal dated 13-11-95 reads as follows:

" As prayed for the Civil Appeal is dismissed as withdrawn"

The respondents, therefore, were obliged to comply with the original order of the Tribunal atleast within four months thereafter. Since they have not complied with the same, the original applicant has instituted the instant application on 13-3-96. The applicant prays in this petition that action in contempt may be taken against the respondents, to the petition for wilful disregard to the implementation of the order of the Tribunal and they may be compelled to absorb the applicant in the regular establishment as Production Assistant atleast with effect from the date from which his junior was so absorbed reflecting his seniority from 8-9-85 as directed by this Tribunal and bringing the same vis-a-vis his juniors.

3. It is contended in reply filed by the respondents (in CP.) that while the matter was pending before the Supreme Court, the Department has issued OM.No.2(3)/86-SI dated, 17-3-94 giving clarifications as to how to calculate the number of days basing on the wages paid to the casual artists. By virtue of this clarification in continuation of the original scheme large number of casual artists have become eligible for regularisation. The applicant also became eligible as per calculation of the wages and was deemed to have worked for more than 120 days. In view of this development, the department thought it would not be necessary to pursue the Civil appeal before the Supreme Court. It has been further stated that the case of the applicant was reviewed by the Director General, Doordarshan Kendra, Hyderabad, in view of the above mentioned memo of the Director General of 17-3-94 and it has been found that as per the revised scheme the applicant has become eligible for regulari-

sation of his services as his name is kept at serial No.4 in the Eligibility list for consideration for regularisation at his turn as and when the vacancy arises.

4. The above explanation offered by the respondent cannot be accepted as a justification for ignoring original order in the O.A. The above statement shows that the applicant will be regularised as per his turn as and when it will be possible to absorb him in view of future vacancies and his regularisation will be prospective in nature from that date. This is clearly contrary to the direction given in the original judgement and cannot amount to compliance with that order.

5. Mr.V.Rajeswara Rao, learned counsel for the respondents tried to urge that in some other similar cases Hon.Supreme Court had been pleased totake note of the modified scheme under the 1994 OM and has observed in those cases that the matter of regularisation of the respondents has to be considered in the light of the scheme as modified and therefore even in the case of the applicant the original respondents have bonafide believed that applicants regularisation has to be considered under the modified scheme. This submission cannot be accepted in view of the separate order passed by the Supreme Court on the appeal filed against the order in the O.A. in the instant case which shows that no such observation was made by the Supreme Court nor such direction was obtained by the Department and the appeal was dismissed, as withdrawn. The fact of dismissal of the appeal in the aforesaidmanner amounts to the order of the Tribunal being confirmed and by no process it is now open to the respondents or the Department to override the original order with which they are bound and are required to comply with the same.

6. Thus, we are of the view that the respondents cannot postpone implementation of the order.

7. Looking to the circumstances that an appeal was carried to the Supreme Court, that in another case certain observations of the Supreme Court were available and that as the scheme was modified the original respondents perhaps called a dealer that they may give regularisation to the applicant under the modified scheme and not as directed and that would amount to compliance with the original order. If the original respondents have looked at the matter from this angle they are totally misdirected and they would land themselves into contempt if the order passed would not still be implemented.

8. Looking to these various circumstances we are inclined at this stage to grant one more opportunity to the original respondents to comply with the original order.

9. The present Director of Doordarshan Kendra, Hyderabad, Mr. M. P. Suri, who is also present submitted that at the material time he was not holding the post of Director at Hyderabad and that he has now realised the seriousness of the matter and that he will try in best possible manner to implement the original order within a reasonable time. However, he submits that eventually it is the Director General who is to sanction the post and approve regularisation of the applicant and he will seek necessary instructions from him. We find from the original application that the Director General, Doordarshan Kendra had been made respondent No. 1 and the Director Doordarshan Kendra, Hyderabad (obviously the then incumbent of that office) was also made a party to the O.A. The order in the O.A. was binding upon those parties. The instant application is directed against the present Director of the Doordarshan Kendra, Hyderabad, Mr. M. P. Suri in his individual capacity. As stated earlier, it was the respondents to the original application who had to comply with the order.

and since the Director General was a party to the order in his official capacity, its directorate has to be given an opportunity now to rectify their mistake in good time. We hope that the delicate situation that has developed will be seriously taken note of by the Director General and corrective steps will be taken as early as possible but within a period of four months. It is to be noted that the original order as originally made shall be complied with and whatever administrative steps are to be taken is a matter to be considered by the Director General. We make it clear that we are really concerned with the orders of this Tribunal being respected and carried out. That being our paramount consideration we have given opportunity to the original respondents to comply with the order. If even thereafter the order is not complied with the original respondents and at that stage the present Director will be exposed to action being initiated for contempt.

10. Hence, the following order:

The Original respondents in the O.A. as well as the present respondent in the CP are given an opportunity to implement the original order in respect of the applicant as early as practicable but in any event within a period of four months from today. In default, applicant will be at liberty to initiate further action as may be advised in accordance with the law.

CP. is disposed of.

प्रमाणित प्रति
CERTIFIED TO BE TRUE COPY

Dy. Registrar (Judl)

न्यायालय अधिकारी
COURT OFFICER

केन्द्रीय प्रशासनिक अधिकारी
Central Administrative Officer

हैदराबाद
HYDERABAD

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sation of his services as his name is kept at serial No.4 in the Eligibility list for consideration for regularisation at his turn as and when the vacancy arises.

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