

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:
AT HYDERABAD

ORIGINAL APPLICATION NO.783 of 1992

DATE OF JUDGMENT: 28th July, 1993.

BETWEEN:

Mrs. M.Sarojini Devi

Applicant

AND

1. The Director,
Doordarshan Kendra,
Ramanthapur,
Hyderabad-13.
2. The Director General,
Doordarshan,
New Delhi-1.
3. Mr. N.V.G.A.Krishna Babu,
Production Assistant,
Doordarshan Kendra,
Ramanthapur,
Hyderabad.

Respondents

APPEARANCE:

COUNSEL FOR THE APPLICANT: Mr. Y.Suryanarayana, Advocate

COUNSEL FOR THE RESPONDENTS: Mr. N.V.Ramana, Addl.CGSC

CORAM:

Hon'ble Shri Justice V.Neeladri Rao, Vice Chairman

Hon'ble Shri P.T.Thiruvengadam, Member (Admn.)

JUDGMENT OF THE DIVISION BENCH
SHRI JUSTICE V.NEELADRI RAO, VICE CHAIRMAN

The Applicant was selected as Production Assistant in Doordarshan Kendra, Hyderabad on 8.5.1985 and her services were utilised as General Assistant from 7.6.1985 for 10 days and ^{for} 40 more days as General Assistant in 1985. She ~~was~~ ^{for} booked for 43 days as Production Assistant in 1986, 7 days as General Assistant and for 81 days as Production Assistant in 1987, and as General Assistant for 35 days, and as Production Assistant for 85 days in 1988, as Production Assistant for

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35 days in 1989 and as Production Assistant for 17 days in 1990.

2. From 1974¹⁹⁷⁵ to various Doordarshan Kendras in India ~~XXXX~~ engaged outsiders on short time contract on training basis as Casual Artists. Such casual Artists who ^{were} ~~are~~ engaged prior to 31.3.1980 were regularised in accordance with the Memo No.1(2)/85/S1, dated 13.5.1985. When the services of such casual Artists who joined later were not regularised and when direct recruitment was resorted to for filling up the posts of Artists such as Lower Assistants, Production Assistants etc., a Writ Petition was filed in the Supreme Court praying for a direction to the respondents to treat the applicants therein as if they have been working on regular basis in their respective posts from the dates on which they were in service with the respective Doordarshan Kendras or to direct the respondents in those Writ Petitions to consider them for absorption on regular basis by waiving ^{the} conditions of service and for payment of wages/salaries and consequential benefits in the same manner in which other regular employees working ⁱⁿ ~~on~~ the said posts were being given, if they cannot be absorbed. By the order dated 24.7.1986, the Writ Petition was permitted to be withdrawn by observing that it was open to the petitioners therein to approach the Central Administrative Tribunal. Then, ~~these~~ OA Nos.565/86, 977/86, 896/88 and 2014/89 were filed in the Principal Bench of the Central Administrative Tribunal. By an interim order dated 8.8.1986, the respondents were directed to continue the employment of the applicants therein.

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3. The Principal Bench disposed of the OAs 565/86 and batch by an order dated 14.2.1992 by suggesting modifications to some of the terms of the draft scheme produced on 29.11.1991. While disposing of the above OAs, the Principal Bench directed the respondents therein to recast and finalise the scheme in view of the observations therein. Accordingly, the respondents finalised the scheme on 9.6.1992.

4. Paras 1, 2 and 3 of the said scheme which are relevant for consideration of this OA are as under:-

"(1) This scheme would be applicable to all those Casual Artists who were employed on casual basis on 31.12.1991 including those who were on the rolls of the Doordarshan, though they may not be in service now will be eligible for consideration. Those who are engaged on casual basis after 31.12.1991 will not be eligible for consideration.

(2) Only those Casual Artists who had been engaged for an aggregate period of 120 days in a year (Calendar year) will be eligible for regularisation. The broken period in between the engagement and disengagement will be ignored for the purpose. The number of days is to be computed on the basis of actual working days in the muster rolls or attendance sheets or Q-sheets.

(3) Seperate eligibility panels will be prepared for each category of posts, Kendra-wise, depending upon the length of service of Casual Artists. They will be considered for regularisation in the order of their seniority against the available vacancies in that particular Kendra. The seniority will be determined from the date of their initial engagement by the Kendra."

5. The said scheme is silent about the date of absorption or about the date by which the age limit has to be satisfied. It was clarified by the concerned authorities that the date of absorption would be 9.6.1992, the date on which the said scheme

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was finalised, and hence the age limit also has to be satisfied as on that date. In 1987, the upper age limit for this category of posts was reduced from 30 years to 25 years. As the applicant was selected in 1985 as Production Assistant, the upper age limit of 30 years is applicable to her. As the date of birth of the applicant is 15.8.1962, she was aged less than 30 years by 9.6.1992, the cut off date prescribed for consideration for absorption. But she was not absorbed on the ground that ~~the applicant~~ ^{she} had not worked for 120 days in any particular discipline in any calendar year. Being aggrieved, the applicant preferred this OA praying for her absorption in accordance with the scheme dated 9.6.1992.

6. Sri Y. Suryanarayana, the learned counsel for the applicant submitted that Para-2 of the scheme dated 9.6.1992 does not indicate that the Casual Artists should be engaged for the aggregate period of 120 days in a calendar year in the same discipline for being eligible for regularisation, and as the applicant worked for a total period of 120 days (85 days as Production Assistant and 35 days as General Assistant) ^{ie., in 1988,} in one calendar year she is eligible for regularisation as per the above scheme.

7. But Para-3 of the scheme dated 9.6.1992 is relied upon for the respondents to ~~urge~~ ^{urge} that it suggests that the eligibility period of 120 days should be in the same discipline, for separate eligibility panels ~~shall~~ have to be prepared for each category of posts. In support of the same, he ^{had} drawn our attention to Clause-vii of the O.M.No. 2(3)/86-SI, dated 10.6.1992. ~~xxxxxx that xxxxxxxx xxxxxxxx~~

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~~Para-3 of the scheme dated 9.6.1992~~ Thereby, it was clarified that the number of days in which Casual Artists were in a particular category against which ^{are} they being considered for regularisation are to be taken into account. The said Clause-vii reads as under:-

"In this context it may also be clarified that a casual Artist might have worked in more than one category say Floor Assistant and Lighting Assistant at the Kendra. For the purpose of determining his seniority and eligibility in a category, the number of days he worked in a particular category against which he is being considered for regularisation are to be taken into account. His seniority is also to be fixed on the basis of first casual engagement in a particular category."

8. It is clear from ~~the~~ Para-2 of the scheme dated 9.6.1992, ~~the~~ ^{that} eligibility term for regularisation, the aggregate period referred to therein is not qualified. It is not the case of the respondents that even when a ~~casual~~ casual Artist was first selected in regard to a particular discipline, he/she was again considered for selection for another discipline before the work in the other discipline was being assigned. It only means that it is the case of selection for one discipline and depending upon the qualifications, capacity ^{or} talent of such casual Artist, the services of such casual Artist are being utilised for other disciplines. The applicant referred to the case of the 3rd respondent in this OA who was engaged as Production Assistant for the first time on 17.7.1986, and as he worked for 120 days

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as Production Assistant in a calendar year, he was absorbed and regularised as per the scheme dated 9.6.1992, and even though the applicant who is senior to the 3rd respondent and who was also selected as Production Assistant, and who also worked for 120 days in the calendar year 1988, she was not engaged merely ~~merely~~ on the ground that she had not worked for 120 days as Production Assistant even in 1988. When applicant's junior the 3rd respondent was engaged as Production Assistant for 120 days in a particular year, and if the applicant's services were not utilised for other discipline or as General Assistant, she too would have been assigned the work of Production Assistant, for 120 days atleast in one calendar year. If the contention for the respondents as per the Clause-vii of the memo dated 10.6.92 is accepted, it will lead to ^{anomaly} ~~absurdity~~. A casual Artist though selected for a particular discipline cannot protest when his/her services were utilised in another discipline especially when the pay for the other discipline is not lower than the pay for the discipline for which he/she is selected. In formulating the scheme, the aggregate period of 120 days in a calendar year is prescribed as eligibility criterion for regularisation, as no casual Artist was entitled to claim assignment for more than 10 days in a calendar ~~month~~, as per the policy followed by the respondents. Thus, when the respondents had utilised the services of a particular casual Artist in a discipline other than the discipline for which he or she is selected, and even after such assignment in various disciplines the total period of assignment in a calendar month did not exceed 10 days normally, then the casual Artist whose services were engaged in other discipline will not satisfy the eligibility criterion ~~xxxxxxxxxxxx~~ in regard to the aggregate period in a calendar

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year. When services of a particular Artist were utilised in more than one discipline, then it can be inferred that he or she is more talented in more than one discipline and thus he or she may be useful in more than one discipline for the Institution. Thus, if the contention for the applicant is accepted, then the more talented will be deprived of the benefit of regularisation and that too for merely accepting the work in the other disciplines without protest and for no fault of his/hers.

9. Then the question will arise as to the casual Artist, ~~is~~ held eligible for regularisation on clubbing the period of work in various disciplines, has to be considered. which of the discipline. Various possibilities are:-

- (i) for consideration for the discipline for which the casual Artist is selected; or
- (ii) the discipline in regard to which the casual Artist worked for a major period; or
- (iii) for which the discipline he or she is first engaged.

As the experience gained in a particular discipline will be of much use for the Institution, it is just and proper to hold that in such a case, the Casual Artist has to be considered for that discipline in regard to which she was utilised for a major portion of the total service as casual Artist upto 9.6.1992.

10. Hence, we find that the applicant is eligible for regularisation as per the scheme dated 9.6.1992. She has to be considered for the discipline for which she worked

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for the major portion of the service upto 9.6.1992. It is needless to say that the applicant will be entitled to the seniority as per the scheme dated 9.6.1992, and ~~for the~~ ~~purpose~~ 7.6.1985, the date of her first engagement even though that first engagement is as Casual Assistant, has to be taken for the purpose of seniority for the discipline for which she is going to be considered in pursuance of this order. We also make it clear that the applicant will also be entitled to any other benefit if she is entitled to as per the scheme dated 9.6.1992. Time for implementation ~~is~~ is four months from the date of this order.

11. The OA is ordered accordingly. No costs.

(Dictated in the open Court).

P. T. Thiruvengadam
(P.T.THIRUVENGADAM)
Member(Admn.)

V. Neeladri Rao
(V.NEELADRI RAO)
Vice Chairman

Dated: 28th July, 1993.

S. B. 8/8/93
Deputy Registrar (J)

To

vsn

1. The Director, Doordarshan Kendra, Ramanthapur, Hyderabad-13.
2. The Director General, Doordarshan, New Delhi-1. *Nandi House, copy to be sent*
3. One copy to Mr.Y.Suryanarayana, Advocate, CAT.Hyd.
4. One copy to Mr.N.v.Ramana, Addl.CGSC.CAT.Hyd.
5. One copy to Mr.K.Suryanarayana, Advocate, 5-9-22/15= Adarshnagar, near New MLA Qrts, Hyderabad.
6. One copy to Library, CAT.Hyd.
7. Copy to All Reporters/as per standard list of CAT.Hyd.
8. and Bench
8. One copy to Deputy Registrar (J)CAT.Hyd.
9. One spare copy.

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HYDERABAD BENCH AT HYDERABAD

✓
THE HON'BLE MR. JUSTICE V. NEELADRI RAO
VICE CHAIRMAN

AND

THE HON'BLE MR. A. B. GORTHY : MEMBER (A)

AND

THE HON'BLE MR. T. CHANDRASEKHAR REDDY
MEMBER (JUDL)

AND

✓
THE HON'BLE MR. P. T. TIRUVENGADAM : M(A)

Dated: 28-7-1993

ORDER/JUDGMENT:

M.A/R.A/C.A.N.

in

O.A.No.

T.A.No.

283/92
(W.P.)

Admitted and Interim directions
issued.

Allowed

Disposed of with directions

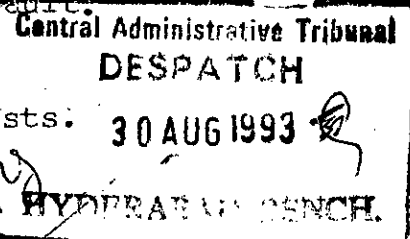
Dismissed

Dismissed as withdrawn

Dismissed for default

Rejected/Ordered

No order as to costs.



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no spare