

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

ORIGINAL APPLICATION NO.47/97

DATE OF ORDER : 27. Nov. 1998

Between :-

K.Uma Rani

... Applicant

And

1. The Director General,
Doordarshan Mandi House,
New Delhi.
2. The Director, Doordarshan Kendra,
Ramanthapur, Hyderabad.
3. R.Madhu
4. Mohd.Mujahid Ali.

... Respondents

— — —
Counsel for the Applicant : Shri P.Bhaskar

Counsel for the Respondents : Shri N.R.Devaraj, CGSC

— — —
CORAM:

THE HON'BLE SHRI H.RAJENDRA PRASAD : MEMBER (A)

THE HON'BLE SHRI B.S.JAI PARAMESHWAR : MEMBER (J)

(Order per Hon'ble Shri B.S.Jai Parameshwar, Member (J)).

12. Page-3 of the D.A. contains the scheme dt.9-6-92.

In the said scheme para-2 is relevant, which is reproduced below :-

2. Only those Casual Artists who had been engaged for an aggregate period of 120 days in a year (Calender year) will be eligible for regularisation. The broken period in between the engagement and dis-engagement 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 O-sheets.

Subsequently the scheme dt.9-6-92 was liberalised as per the scheme dt.17-3-94. Paras 2 to 4 of the scheme dt.17-3-94 are as under :-

"2. It has been brought to the notice of this Directorate that although these Casual Staff Artists were engaged for 10 days or have been working on 2-3 assignments in a month on a consolidated amount of Rs.400-500 per assignment, but in actual practice, they have been working throughout the month. This aspect has been examined by the Directorate on consultation with Ministry of Information & Broadcasting and procedure to be followed for arriving at the number of days of casual booking will be as under.

3. The number of days of the purpose of regularisation will be computed on the basis of actual wages given to the Casual Staff Artist in a month, i.e. the minimum wage prevalent in the State during the relevant time of booking. For example, if a Casual Staff Artist has been paid an aggregate sum of Rs.1500/- in a month whether for working for 10 days or for 2-3 assignments in a month and the minimum wage prevalent in the State at the relevant time was Rs.50/- the staff artist would be deemed to have worked for 30 days in a month (i.e. Rs.1500/- divided by 50/-) subject to the condition that the days so computed would need exceed 25 days in a month."

- 3 -

(ii) to declare that the applicant is entitled to regularisation as per orders dt. 10-6-92 and 17-3-94 issued by 1st respondent;

(iii) Consequently direct the Respondents 1 and 2 to regularise the applicant as production Assistant with all consequential and attendant benefits from the date her juniors were regularised.

6. The Respondents have filed reply in this case. Further they have also filed an additional reply dt. 3-7-97.

7. The applicant has filed a rejoinder dt. 2-10-1997.

8. In the additional reply dt. 3-7-97 they have mentioned the number of days the applicant had worked in the years 1989, 1990 and 1991. It is stated that during those three years the applicant had worked for 40, 20 and 85 days respectively and that the applicant had not worked 120 days in a calendar year. Further they submits that the applicant became eligible for regularisation under the regularisation scheme dt. 17-3-94. They have also enclosed to the reply the particulars of the number of working days of the Respondents 3 and 4. The applicant was not eligible for regularisation under scheme dt. 9-6-1992.

9. The Respondents 3 and 4 were booked on 21-10-1989 and 16-11-1989 respectively. They were found eligible for regularisation as per the scheme dt. 9-6-92. They were appointed on 21-5-94 on adhoc basis. They were regularised with effect from 17-10-94.

10. The Respondents submit that the applicant became eligible for regularisation under the scheme dt. 17-3-1994.

11. We feel it proper to refer to the scheme dt. 9-6-92 and also the liberalised scheme dt. 17-3-94.

tant. His date of initial engagement is much earlier than the date of initial date of engagement of Respondents 3 & 4.

17. In view of the intention of the liberalised scheme dt.17-3-94 we requested the learned counsel for the Respondents to clarify the following points :-

(i) with the coming into force of the liberalised conditions relating to the determination of (notional) days of working, based on the wages earned by a casual production Asst., the distinction between the two groups of Casual Workers-firstly, those who had completed 120 days of engagement in one calander year and, secondly, those who are deemed to have done so on account of the notional number of days arrived at on the basis of the wages received and added to the actual days of engagement in order to arrive at the total number of days of their engagement ceased to exist or operate. We are now tentatively of the view, therefore, that from the date the liberalised regulations came in for effect, the earlier scheme stood completely modified and enlarged to this extent.

(a) Under the circumstances, was it necessary or permissible to go by the earlier formula (of 120 days in a calander year) and thereby regularise officials on that basis alone, before taking-up the cases of those officials also who became eligible under the liberalised regulations? This point is not clear although Sri N. R. Davydas, Secretary, Kendra, said in the letter dated 17-3-94 that the Kendra was under an obligation to regularise the services of that (first) group before considering the cases of the other group who became eligible for regularisation on account of the liberalised regulations.

(b) We would like to know if there are any specific instructions in this regard from the O.G. We would also like to know, authoritatively, as to the practice obtaining in other Kendras in this regard.

4. It has also been noticed that certain staff artists were engaged initially when they were overseas according to the Recruitment Rules. All such cases, with the number of days they worked on casual basis according to the formula laid down in para-3, should be referred to the Directorate for taking a decision on merit.

13. It is stated that the applicant had not put in the requisite number of working days to consider her for regularisation under the scheme dt.9-6-92. The Director General, Doordarshan felt that para-2 of the scheme dt.9-6-92 had affected certain casual production assistants working in the Doordarshan. It is therefore the liberalised scheme called "scheme dt.17-3-94" was enforced. Paras 2 to 4 of the liberalised scheme dt.17-3-94 are extracted above.

14. On going through these schemes it appears that although certain casual staff artists engaged for certain number of days and worked on two or three assignments in a month but in natural practice they were working through out the month. It is further stated in the scheme dt.17-3-94 that the said aspect was examined by the Director in consultation with the Ministry of Information & Broadcasting and evolved a scheme for liberalised regularisation.

15. After going through the scheme dt.9-6-92 and the liberalised scheme dt.17-3-94 we are of the opinion that they are different schemes but the scheme continued with some liberalised methods to enable certain casual artists to be regularised.

16. As already stated, the Respondents 3 and 4 were casually booked after the applicant was booked as casual production assis-

18. The applicant was not found eligible for regularisation under the scheme dt.9-6-92. She became eligible for regularisation only under the liberalised scheme dt.17-3-94. The Respondents 3 and 4 had worked more number of days as Casual Staff than the applicant. The Respondents 3 & 4 were eligible for regularisation under the scheme dt.9-6-92. Hence the applicant cannot have any grievance against the regularisation of Respondents 3 and 4. It is stated that the Respondents 3 and 4 were regularised on 17-10-1994. Even though they were regularised on 17-10-94 when actually the liberalised scheme dt.17-3-94 was in operation, they were in fact regularised under the scheme dt.9-6-92. The Respondents have specifically stated in their additional reply that earlier the regularisation was made depending upon the availability of vacancies.

19. In para-4 of the additional reply they have further stated that on account of the liberalised scheme some of casual staff who happened to be seniors to those casual staff who were regularised under the scheme dt.9-6-92 became eligible under the liberalised scheme dt.17-3-94. Further the respondents submit that as per the Director General, Doordarshan message No.4(1)94-
regularisation has to be done on seniority basis amongst the combined seniority list against available vacancies in the respective category. They further state that as per the seniority list now prepared, the applicant stands at Sl.No.3 and her case will be considered for regularisation. They further state that till the regularisation of all the casual staff they will not resort to direct recruitment.

(ii) We notice that the liberalised regulation came into effect from 17-3-94, whereas Respondents 3 & 4 were regularised several months later. Thus it is possible to infer that at the point of time of regularising the services of the said Respondents (3 & 4), the liberalised scheme had already come into existence. That being so, it is possible to argue - as was indeed done by the applicants' counsel - that at that particular juncture, the applicant as well as Respondents 3 & 4 had become duly eligible for consideration, and the case of the applicant, being senior to the said Respondents in terms of the date of initial engagement, should have received precedence over those who were juniors to her;

(iii) It is also not clear why Respondents 3 & 4 were appointed on adhoc basis in the first instance and regularised five months later. The need or justification of this two-step regularisation of Casual Workers needs explanation. If this was needed for any valid administrative reasons, why could the same consideration not be extended to the applicant?

(iv) It has been stated that on the date of filing of the counter-affidavit, six candidates were found to be eligible for regularisation and that the applicant was at No.3 of the list. We would like to know the relative seniority of all the six candidates and the basis of arriving at the seniority, viz., was it on the basis the original scheme or on the basis of the liberalised regulations?

(v) Finally, the number of vacancies existing on 17-3-94, and the occurrence of subsequent vacancies until now, along with dates on which such vacancies arose, also needs to be spelt out clearly.

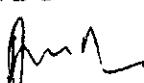
However, the learned counsel for the Respondents 1 and 2 confined to the additional reply filed on 3-7-97.

20. In this view of the matter, we find no merits in the O.A.

21. However, we hope and trust that the case of the applicant will be considered as per her turn in the seniority list for regularisation under the liberalised scheme dt.17-3-1994. We also note the submissions made by the learned standing counsel for the Respondents that they will not resort to direct recruitment till all the casual staff are regularised.

22. With the above directions, the O.A. is disposed of leaving the parties to bear their own costs.

प्राप्तिकर्त्ता
CERTIFIED TO BE TRUE COPY


न्यायालय अधिकारी
COURT OFFICER
केन्द्रीय प्रशासनिक अधिकारी
Central Administrative Tribunal
हैदराबाद न्यायालय
HYDERABAD BENCH

① O.A Number Deeds Correction
② Petition filed under Section
7(1)(b) to make

In the Central Admin. Tribunal

Hyderabad Bench

R.A. No. of 1998

in

O.A. No. 47 of 1998

Between:

K. Umarani ... Applicant

and

Doordarshan ... Respondents

Filed on:

Filed by:

Mr. Bhaskar Poluri,

Advocate: Hyderabad.

Counsel for the Applicant



Dear Sir
Mr. B. N. Krishnamurthy
8/98
22/12/98
May be filed
20/12

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

AT HYDERABAD

R.A.No. 86/98 in

O.A.No. 47/97

Date of Order: 3.9.99

BETWEEN :

K.Uma Rani

.. Applicant.

AND

1. The ~~General~~ Director General,
Doordarshan, Mandi House,
New Delhi.

2. The Director, Doordarshan Kendra,
Ramanthapur, Hyderabad.

3. R.Madhu

4. Mohd. Mujahid. .. Respondents.

— — —

Counsel for the Applicant .. Mr.P.Bhaskar

Counsel for the Respondents .. Mr.B.N.Sharma

— — —

CORAM:

HON'BLE SHRI R.RANGARAJAN : MEMBER (ADMN.)

HON'BLE SHRI B.S.JAI PARAMESHWAR : MEMBER (JUDL.)

— — —
O R D E R

X As per Hon'ble Shri B.S.Jai Parameshwar, Member (Judl.) X

— — —

None for the applicant. Mr.B.N.Sharma, learned
standing counsel for the respondents.

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2. The applicant in the OA has filed this application to review the order dated 27.11.98 passed in OA.47/97.

By the said order the OA was dismissed.

3. The applicant was working as Casual Production Assistant from 14.8.89 under the Respondent No.2. As per the directions

of the Principal Bench of the Tribunal the respondents had

of Casual Production Asst. formulated a scheme for regularisation dated 9.6.92. The

applicant could not be regularised under the said scheme.

Inorder to give benefit to some of the casual artisans

who could not be regularised under the said scheme dated

9.6.92 a further scheme was introduced from 17.3.94. The

respondents submitted that the case of the applicant will

be considered under the said scheme dated 17.3.94 which

has to be considered as per the seniority and that her name

is at Sl.No.³ 18. Before the introduction of the second scheme

dated 17.3.94 the Respondents 3 and 4 were regularised under

the ~~said~~ scheme dated 9.6.92.

4. The applicant feeling aggrieved as regards the

regularisation of R-3 and 4 had filed the OA challenging

their regularisation. The respondents in the reply categori-

cally stated that the applicant was not eligible for regularisation

under the said scheme dated 9.6.92 and that her case would

be considered under the liberalised scheme dated 17.3.94.

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While the OA was heard at length we felt that the scheme dated 17.3.94 was a continuous one of scheme dated 9.6.92. However, we felt that the scheme dated 17.3.94 was a fresh scheme which was to enable certain casual artisans who could not be regularised under the scheme dated 9.6.92. As the respondents themselves had in their reply categorically stated that the case of the applicant would be considered under the scheme dated 17.3.94 we dismissed the OA.

5. The applicant now wants to contend that the dismissal of the OA is erroneous that the respondent had not answered the queries of the Bench, that regularisation on the basis of the combined seniority as per the letter dated 5.10.94, is not correct that the respondents 3 and 4 were regularised subsequent to message dated 5.10.94 and that she was eligible for regularisation even on the basis of the seniority.

6. The scheme dated 17.3.94 was formulated only to help those casual staff who could not be regularised under the scheme dated 9.6.92. The seniority is not determined on the basis of initial engagement but on the basis of number of days of casual service rendered. While filing the additional reply, the respondents had furnished the details of casual service rendered by the respondents 3 and 4 during the years 1989, 90 and 1991.

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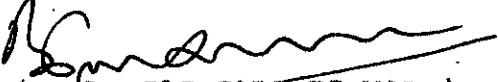
.. 4 ..

7. The department has issued a letter dated 5.10.94.

The respondents have undertaken to regularise the services of the applicant under the scheme dated 17.3.94. In that view of the matter we find no merits in the RA.

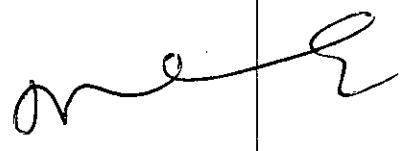
8. In fact the learned counsel for the respondents contended that even any latent error appears in the order that is not a justification for warranting review. He relied upon the decision of the Supreme Court in 1997 (8) SCC 715 (Pansion Devi v. Sumitri Devi)

9. In that view of the matter, we find no merits in the application. Hence the RA is dismissed. No costs.


(B.S. JAI PARAMESHWAR)

Member (Judl.)

39.99


(R.RANGARAJAN)

Member (Admn.)

Dated : 3rd September, 1999

Dictated in Open Court

sd

14-199

Ist AND II NO COURT

COPY TO :-

1. HON. J.

2. HON. M. (A)

3. HON. M. (J)

4. D.R. (A)

5. SPARE

6. ADVOCATE

7. STANDING COUNSEL

TYPED BY
COMPARED BY

CHECKED BY
APPROVED BY

✓ 3/9/99

THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH : HYDERABAD.

THE HON'BLE MR. JUSTICE D.H.NASIR
VICE - CHAIRMAN

THE HON'BLE MR.R.RANGARAJAN :
MEMBER (ADMN.)

THE HON'BLE MR.B.S.JAI PARAMESWAR :
MEMBER (JUDL)

* * *

DATE OF ORDER: 3/9/99

COPY TO: —

K. Uma Rao

MATRA/EP.NO. 86/98

w/o D. Uma

IN
CA. NO. 47/97

Mareshwara Rao

ADMITTED AND INT'IM. DIRECTIONS
ISSUED

Asst. Dooderhosh

ALLOWED

Kendera, Ravindrapur,
Hyderabad

OR CLOSED

RA CLOSED

CA CLOSED

DISPOSED OF WITH DIRECTIONS

RA
DISMISSED

DISMISSED AS WITHDRAWN

ORDERED/REJECTED

NO ORDER AS TO COSTS

8 copies

