

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR

Date of order: 1/6/2001

OA No.572/99 with

MAs Nos. 171/2000 and 231/2000

Hajra Zaib w/o Shri Hasim Zaib r/o 3978, Jagannath Shah Ka Pasta,
Ramganj, Jaipur at present posted at Doordarshan Kendra, Jaipur

..Applicant

Versus

1. Union of India through the Secretary to the Government,
Ministry of Information and Broadcasting, Govt. of
India, New Delhi.
2. The Director General, Doordarshan Kendra, Mandi House,
New Delhi.
3. The Director, Doordarshan Kendra, Jhalana Doongari,
Jaipur.

.. Respondents

Mr. Prahlad Singh, counsel for the applicant

Mr. D.K.Swamy appeared as proxy counsel to Mr. Bhanwar Bagri, counsel
for the respondents

CORAM:

Hon'ble Mr. S.K.Agarwal, Judicial Member

Hon'ble Mr. A.P.Nagrath, Administrative Member

ORDER

Per Hon'ble Mr. A.P.Nagrath, Administrative Member


Applicant has filed this Original Application with the
prayer that the respondents be directed to regularise the services of
the applicant on the post of Production Assistant immediately and to
declare action of stopping of her bookings from December, 1999 as
illegal.

2. The applicant's case, in brief, is that she was
initially engaged as a Production Assistant/Duty Officer on casual



basis in 1984 and since that time she has been performing duties as Production Assistant. In 1987, applications were invited by the respondents for preparing a panel and she also submitted her application. Her application was rejected with an endorsement "already working as casual DO" and when the panel was prepared her name was not included. She filed an OA No.218/98 before this Tribunal, which was disposed of with the direction that the applicant should be considered afresh for regularisation and should be given equal treatment. It is stated that despite this order, she was not assigned any job for a long time. Vide Om dated 21.5.1997 Director, Doordarshan Kendra, Jaipur was informed about the decision of the Ministry of Information and Broadcasting to assign seniority to the applicant amongst eligible Casual Production Assistants as per the date of her initial engagement. It was further mentioned in that letter that as per her initial date of engagement, the applicant could find place at Sl.No.3 in the list of Casual Production Assistants. The applicant submits that despite this order, she has not been regularised and there is an unnecessary exchange of correspondence between the office of Doordarshan Kendra, Jaipur and the Office of the Director General, Doordarshan, New Delhi. In between her bookings were stopped in May, 1999 but were again re-started. She alleges that her bookings had once again been stopped from December, 1999 and those who were junior to her have been empanelled. Being aggrieved by the inaction of the respondents to regularise her and to give her bookings, she has filed this OA seeking redressal.

3. After hearing the learned counsel for the parties for admission on 29.3.2001, an interim order was passed on 31.3.2001 directing the respondents to re-start casual assignments to the applicant w.e.f. April, 2000 as per prevailing practice, till further orders.



4. The respondents have filed a written reply and communication exchanged with the Director General, Doordarshan, New Delhi by the Director, Doordarshan Kendra, Jaipur. There is a fax message dated 21.9.2000 from Section Office, Director General's Office to Doordarshan Kendra, Jaipur stating that Smt. Saib is eligible for regularisation according to her seniority in the panel of eligible Casual Production Assistants and availability of vacancy. In OM dated 12th January, 2001 (which was issued in response to Doordarshan Kendra Jaipur's letter dated 30.11.2000) issued by the Office of Director General, Doordarshan, New Delhi, the Doordarshan Kendra, Jaipur has been asked to declare Smt. Hajra Saib as eligible and to place her in the eligibility list of Casual Production Assistants at the appropriate place counting her seniority from her date of initial engagement. It is emphasised in the letter that this decision was to be taken as final and no further communication to be made by Doordarshan Kendra, Jaipur in this regard. Vide letter dated 13/20 February, 2001 from the Office of Doordarshan Kendra, Jaipur the applicant has been informed that her name has been registered at Sl.No.1 of the Casual Production Assistant. She has also been informed that subject to availability of vacancy her case will be considered for regularisation under the rules whenever vacancy of Production Assistant is to be filled up. The fax message dated 12.3.2001 has been placed on record as Ann.F4 from the office of Director General, Doordarshan, New Delhi to Doordarshan Kendra, Jaipur indicating therein that presently there is no regular vacancy in the grade of Production Assistant at Jaipur Kendra and that Smt. Hajra Saib can be regularised only when regular vacancy arises.

5. The learned counsel for the respondents has also filed written submissions which has been taken on record. It has been stated



that name of the applicant has been included in the list of eligible candidates and in that view nothing survives in the present OA and the same has become infructuous. It has been stated that whenever a clear/regular vacancy of Production Assistant becomes available, the applicant's claim would be considered by the respondent Department in accordance with recruitment rules/policy. Thus the respondents contend that this application has become infructuous.

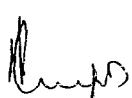
6. Two Misc. Applications Nos.171/2000 and 231/2000 have been filed by the respondents. In both these Misc. Applications the respondents have sought clarification on the interim orders of the Tribunal issued on 31.3.2000. The respondents (applicants in these MAs) have stressed that as per the prevailing practice, which was a part of the directions in the interim order, the applicant was not in the category of eligible candidates and hence applicant was not entitled for casual bookings. In these Misc. Applications lot ^{of} stress has been placed on the word "as per the prevailing practice" to deny the claim of the applicant. We do not find any merit in the assertion of the respondents (applicants in the MAs) as the eligibility of the applicant to work as Casual Production Assistants has been settled after OM dated 21.5.1997 issued by the Office of the Director General, Doordarshan, New Delhi. In para 3 of the OM, it has been clearly stated that the applicant could find place at Sl.No.3 in the list of eligible Casual Production Assistants (emphasis supplied) as furnished by the Doordarshan Kendra, Jaipur. With this clear statement made in this OM there can be no dispute about the eligibility of the applicant and hence we are not inclined to agree with the interpretation given by the respondents (applicant in the MAs) and their prayer is liable to be dismissed. The applicant is fully entitled to be considered for assignment as Casual Production Assistant. Both the MAs stand disposed of accordingly.

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7. We find from the facts that the claim of the applicant has been examined by the Ministry of Information and Broadcasting and by the Office of the Director General, Doordarshan, New Delhi. The orders have already been given to Doordarshan Kendra, Jaipur that the applicant may be considered for regularisation keeping in view her initial date of engagement. The respondents also have indicated that there is no vacancy available presently.

8. We are of the view that considering the applicant's initial date of engagement, she should be considered for regularisation in case any of those engaged after her as Casual Production Assistants have already been regularised. Her eligibility has already been accepted by the Director General's Office vide OM dated 12.1.2001 and no question can be raised about her eligibility for regularisation. In case some of the Casual Production Assistants, engaged after the applicant's initial engagement, have already been regularised, then the Department shall consider the applicant's regularisation forthwith. In case no juniors have been regularised then she should be considered as and when the next vacancy arises. No order as to costs.


(A.P. NAGRATH)

Adm. Member


(S.K. AGARWAL)

Judl. Member