

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

\*\*\*

Date of Decision: 27.7.2001

OA 288/2000

Naseem Hussain Khan Zaib s/o Late Shri M.H.K.Zaib r/o 3978,  
Jagan Nath Shah Ka Rasta, Ramganj Bazar, Jaipur.

... Applicant

Versus

1. Union of India through Secretary, Ministry of Information & Broadcasting, Department of All India Radio, New Delhi.
2. Director General, All India Radio, Akashvani Bhawan, Parliament Street, New Delhi.
3. Station Director, All India Radio, Jaipur.

... Respondents

CORAM:

HON'BLE MR.A.K.MISHRA, JUDICIAL MEMBER

HON'BLE MR.GOPAL SINGH, ADMINISTRATIVE MEMBER

For the Applicant ... Mr.M.S.Gupta

For the Respondents ... Mr.Vijay Singh, proxy counsel for  
Mr.Bhanwar Bagri

O R D E R

PER HON'BLE MR.A.K.MISHRA, JUDICIAL MEMBER

The applicant has filed this OA with the prayer that the communication of respondent No.3 dated 31.5.2000 (Ann.A/1) and the decision of the respondents mentioned in the said memo be quashed and the respondents be directed to reckon the applicant's monthly contract period from 1.8.65 to 31.3.66 for seniority, pension and all practical purposes with all consequential benefits at par with his junior.

2. Notice of the OA was given to the respondents, who have filed their reply alongwith preliminary objections

3m

about maintainability of the OA. The applicant has also filed a rejoinder and controverted certain allegations of the respondents.

3. We have heard the learned counsel for the parties and have gone through the case file.

4. It was argued by the learned counsel for the applicant that the respondents committed a mistake in denying the benefit to the applicant for monthly contract service period from 1.8.65 to 31.3.66 which, as per their own circular, is liable to be counted for being included in reckoning the length of service for all purposes including seniority, promotion and pension. It is also stated by the applicant that the respondents have discriminated the applicant from similarly situated applicant's junior, Shri A.K. Sinha, who was given the benefit of counting the spell of three months contract for service benefits. When the applicant represented his case for being considered and decided in the lines of decision of the department given in favour of Shri Sinha, Announcer, the applicant's representation was rejected without any legal basis. Hence the applicant is entitled to all the benefits as claimed by him in this OA.

5. On the other hand, the learned counsel for the respondents submitted that the case of the applicant is hopelessly belated and deserves to be rejected. He is claiming the inclusion of the period of monthly contract services of the year 1965-66 after almost 34 years, which cannot be permitted in the garb of applicant's claim that a similarly situated candidate, Shri A.K. Sinha, has been given the benefit in 1996. The applicant should have claimed the inclusion of that period soon after he was appointed on

3m

regular basis but he did not do so and kept quite for such a long time. Therefore, he cannot claim the benefit after lapse of such a long time. It was further argued that case of Shri A.K.Sinha is quite different than the applicant. Moreover, the service period of three monthly contract was only ordered to be added in case of Shri Sinha which started from 1.2.66 and came to an end on 31.7.66, when Shri Sinha was appointed on regular contract basis w.e.f. 1.8.66. This mistake was corrected by the department as earlier his date of appointment was shown as 1.8.66. In the instant case, ~~of~~ the applicant's monthly contract period of service as casual Announcer was not included. However, the period of tri-monthly contract w.e.f. 1.4.66 was included and, therefore, the applicant has no case. Moreover, the departmental circular dated 11/30.8.88 is of no help to the applicant as the same is not made applicable from a retrospective date nor it was mentioned therein that it would regulate cases of Casual Announcers of previous years. Therefore, the OA deserves to be dismissed and the applicant is not entitled for any relief.

6. On consideration of the rival arguments we are of the opinion that the case of the applicant is hopelessly belated. The grievance of the applicant, if at all there is any, arose in the year 1966 and the applicant is raising the dispute now, <sup>which</sup> cannot be said to be a bonafide claim. It appears that the applicant became active for representing his case in this regard only after the decision of the case of Shri A.K.Sinha. In our opinion, the one who sleeps over his right has to thank himself and court cannot help such person in such matters. The claim of the applicant deserves to be rejected on this ground alone. However, it would be beneficial to consider the case of the applicant on merits as well.

*2 m*

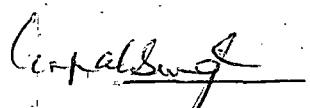
7. The applicant was a casual Announcer on monthly contract basis from 1.8.65 to 31.3.66. Thereafter he was given tri-monthly contract w.e.f. 1.4.66. The applicant has not been able to show that casual contract period is liable to be counted for pensionary benefits. The case of Shri A.K.Sinha was also decided on the same lines and the period of tri-monthly contract of Shri Sinha was ordered to be counted, which had started from 1.2.66 and came to an end on 31.7.66. Thus, the applicant cannot say that his case has been decided in a different way than the case of Shri Sinha. The applicant unsuccessfully made an effort to convince us that monthly contract basis and tri-monthly contract basis are similar in nature for being counted for pensionary benefits. In our opinion, both the contracts are of different nature and cannot be equated with each other. The applicant tried to take benefit of Ann.R/5 dated 16.10.65 to make out a case that he was being paid monthly pay for monthly contract but on going through this letter we find that it was only a recommendatory letter to the higher authorities intimating that services of the candidates mentioned therein shall have to be continued on monthly fee basis for a period of three months i.e. 16.10.65 to 15.1.66 or till regular approved candidates are available. Therefore, it cannot be said that the applicant, prior to that date, was being paid monthly rate for contract services. The letter dated 11/30.8.88 (Ann.R/2) also does not help the applicant because it only says that pending completion of verification of character and antecedents the period of short term contract including monthly contract will be counted for the purpose of pensionary benefits. This does not mean that monthly contract service period is required to be counted in all cases. It is only in cases of regularly appointed candidates the short term monthly

2m/

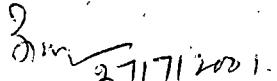
contract period is to be added when verification of character is pending but not otherwise. In any case, in the instant case, the applicant has not been able to establish by any document that prior to 1.4.66 he was a regularly appointed candidate and his monthly contract appointment was pending verification of antecedents and character. In other words, the applicant has not been able to bring on record that he was, for this entire period, appointed on monthly contract basis for completed month each time and in view of this he cannot claim the said period to be included for service benefits.

8. As discussed above, the applicant has not been able to show that Shri A.K.Sinha was given differential treatment in counting the length of service than the applicant. From the order concerning Shri Sinha, we do not find that any casual monthly contract period has been added to help increase his length of service for pensionary benefits. In our opinion, the OA of the applicant is ill-advised and bears no merit and deserves to be dismissed.

9. The OA is, therefore, dismissed. Parties are left to bear their own costs.

  
(GOPAL SINGH)

MEMBER (A)

  
(A.K. MISHRA)

MEMBER (J)