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CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH
(CAMP - AGARTALA)

Original Application No.185 of 1994

Date of Order : This the 23rd Day of November, 1994.

Shri Rupak Penseru . . . Applicant

- Vs -

Union of India & Ors. . . . Respondents

For the Applicant : Mr S.Talapatra, Advocate

For the Respondents : Mr A.K.Choudhury, Addl.C.G.S.C
(not present)

P R E S E N T

THE HON'BLE JUSTICE SHRI M.S.CHAUDHARI, VICE-CHAIRMAN

THE HON'BLE SHRI G.L.SANGLYINE, MEMBER (ADMN.)

O R D E R -

2 Heard ^{and} Mr S.Talapatra for the applicant. Mr G.Sarma, Addl.
C.G.S.C for the respondents ^{who is now present}

Mr M.S.Murugesan, Administrative Officer of
respondent No.4 present in person.

✓ Mr Murugesan has tendered show cause ^{reply} on behalf of
the respondents opposing the prayer for interim relief.

✓ We wish that a copy thereof had been served upon the
applicant's Advocate well in advance. However, in order to
✓ avoid unnecessary adjournments we made a copy of the reply
available to Mr Talapatra and have given him full opportunity
✓ to make his submission in the light of the said reply.

The applicant has been engaged from time to time as
Production Assistant/Floor Assistant at the Doordarshan

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Kendra, Agartala as Casual Artist. However, he was not given fresh engagement after 1st October, 1994 as his earlier engagement had come to an end. The applicant filed this application on 23.9.1994 praying that although he has worked for 500 days till 29.7.1994 the respondents have not considered him for absorption/regularisation in the post of Floor Assistant in the scale of Rs.1200-30-1440-EB-30-1800/- and this action of the respondents is in violation of the scheme framed for regularisation pursuant to the order of the Principal Bench of the Central Administrative Tribunal in O.A.894/90 and others dated 8.2.1991 Annexure-D. He prays that the respondents may be directed to regularise him.

In the above mentioned order the Principal Bench directed to the respondents to frame a scheme for absorption of casual Artists and certain guidelines in that behalf were given. Accordingly the respondents (Government of India) framed the scheme vide office Memorandum dated 9.6.1992 Annexure-E. The scheme has been made applicable to all those casual Artists who were employed on casual basis on 31.12.1991. The applicant unfortunately was engaged for the first time after the cut of date i.e. 31.12.1991 and thus was not eligible to be considered under the scheme.

Mr Talapatra, the learned counsel for the applicant tried to overcome this difficulty by urging two grounds. Firstly, according to him as per the information of the applicant the cut of date has been extended and the applicant would be entitled to be considered by reference to the extended date. Secondly, relying upon the statement at Annexure-F he contended that the respondents have given the

benefit of the scheme to persons who were engaged after 31.12.1991 and that implies that the cut off date was extended but they have illegally deprived ^{him} ~~the applicant~~ of that benefit. The statement at Annexure-F is a reply given in the Rajya Sabha to an unstarred question. Apparently the person at serial No.11 whose date of engagement is shown as 10/92 has been mentioned. It is however, not correct to say that the similar persons were regularised as is the contention of Mr Talapatra because in column 5 of the statement ^{where} ~~whether~~ details of steps taken for regularisation are given. ^{it} ~~It~~ is mentioned that no steps to regularise has yet been taken. The submission that the cut off date has been extended has no foundation as nothing has been produced to that effect. Such an averment is not made in the application. The Administrative Officer Mr Murugesan states before us that no such extension has been made. Therefore, we ^{have} ~~are~~ to assume that the cut off date under the scheme is 31.12.1991. Since the applicant's engagement was thereafter he is not eligible to the benefit under the scheme. It ^{however} ~~thus~~ appear that although in Annexure-F it was stated that no steps were taken the person mentioned at serial No.11 of the statement was regularised under the scheme vide Annexure-G. We do not know precisely under what circumstance that happened but assuming ~~from~~ the sake of argument that there was violation of the scheme and she was illegally appointed that by itself does not float the applicant with any right to be considered under the scheme. The question of discrimination would have arisen if the applicant was otherwise eligible to be considered under the scheme but was deprived of that opportunity by

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✓ preferring a person who was not eligible under the scheme. That not being the position on facts such question does not arise. We therefore, are unable to agree with both the ✓ submission of Mr Talapatra.

✓ When we granted ad-interim order on 3.10.1994 it was stated before us that the applicant was still continuing in ✓ service. We therefore made a qualified order not to terminate his casual employment until further orders if he in fact was continuing in service as on that date. In the show cause reply filed today which is declared by the Station Director, Doordarshan Kendra, Agartala it is categorically denied that the applicant is continuing in service. However, the Adminis- ✓ trative Officer was ^{fair} well enough to inform us that upto September some engagement was given to the applicant but thereafter he has not been engaged. Even assuming that the applicant is continuing no advantage could be drawn by the applicant to ✓ avail all the reliefs prayed in the application.

Consequently we find no prima facie case disclosed so as to require us to admit the application. We only express that in the event of any further scheme being formulated or the cut off date in the original scheme being extended the respondents will keep open the question of consideration of the applicant on merits and in accordance with the terms of the scheme. We also hope that the respondents may not penalise the applicant by reason of his having approached ✓ the Tribunal ^{and} ~~from~~ any fresh and independent engagement ^{if granted} would ✓ be given to him ~~if approved by the respondents~~ on terms and ✓ conditions as may be stipulated. ^{may be considered}

The application is summarily rejected.

MEMBER (A)

VICE-CHAIRMAN

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

Administrative Tribunal
কেন্দ্রীয় প্রশাসনিক আদালত

GUWAHATI BENCH
GUWAHATI

23 NOV 1994

Guwahati Bench
গুৱাহাটী - বেন্চ

R. Penaru

In the matter of :

O.A. NO.185 of 1994

- Applicant

VS

Union of India & Ors.-

Respondents.

Show-Cause on behalf of the Respondents
Nos. 1,2,3 & 4 a-against the prayer for Interim-
relief.

I, B. Adhikari, Station Director, Doordarshan Kendra, Agartala, do hereby solemnly affirm and say as follows :-

1. That I am the Station Director, Doordarshan Kendra, Agartala, and Respondent No.4 in the above case. I beg to submit the show-cause on behalf of respondents Nos.1, 2,& 3 and on behalf of myself.
2. That the scheme of Regularisation would be applicable to all those Casual Artists who were employed on Casual basis on 31.12.91 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 31.12.91 will not be eligible for consideration.
3. That I beg to submit that 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 disengagement will be ignored for the purpose. The number of days is

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Station Director,
Doordarshan Kendra

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Station Director,
Doordarshan Kendra,
Agartala, Tripura

to be computed on the basis of actual working days in the ^umaster rolls or attendance sheets or Q-sheets.

4. That separate 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 against the available vacancies in that particular Kendra.~~ The seniority will be determined from the date of their initial engagement by the Kendra.
5. That the persons who are in the eligibility panel of one Kendra will have no right ~~of transfer~~ for claiming regularisation in another Kendra as these are generally Group 'C' posts and selection is made Kendra-wise.
6. That the Casual Artists who are to be regularised should possess the requisite educational qualification and/or experience as stipulated in the Recruitment Rules or other administrative ^{rule} ~~institutions~~ (in the absence of Recruitment Rules) existing for the post when the Casual worker was initially engaged.
7. That the upper age limit would be relaxed to the extent of service rendered by the Casual Artists at the time of ^{re}quirisation. A ~~minimum~~ minimum of 120 days ~~xxx~~ service in the aggregate in one year, shall be treated as one year's service rendered for this purpose. The service rendered for less than 120 days in a year will not qualify for age relaxation.

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Station Director,
Doordarshan Kendra

8. That the regularisation of Casual Artist would be from a prospective date and the Casual Artist on the eligibility panel who fail to qualify for regularisation in accordance with the recruitment rules and instructions issued there-under for the post, shall be removed from the panel.
9. That if a Casual Artist on an eligibility panel commits a mis-conduct and the same is proved after giving a reasonable opportunity, (of being heard) his name would be removed from the eligibility panel and would not be eligible for regularisation.
10. That till all the Casual Artists in a particular category eligible for regularisation at a Kendra are regularised no fresh recruitment would be resorted to by Kendra concerned. This restriction would not be applicable to a Kendra or category of Staff Artist where no eligibility panel of Casual Artist ~~where~~ in a particular category of Staff Artist exists. In other words, if a Kendra has a panel eligible Casual Artist in the categories of any Floor Assistant/Production Assistant only, the above restriction of fresh recruitment would be applicable in respect of these two categories only and not to other categories of Staff Artists in that Kendra. Similarly this restriction on Fresh Recruitment would not be applicable in respect of those Kendra which have no panel of eligible Casual Artists.

Station Director,
Doordarshan K...

11. That as the applicant was not in Casual assignments before 31.12.91, therefore he is not entitled for the benefit and so not deprived of the benefit of the scheme. During November, 1992, this Kendra came into operation and therefore the vacant posts of Production Assistant/Floor Assistant were advertised through papers/Employment News for recruiting regular staff to fillup the vacancies. ~~The applicant did not apply to the advertisement but claimed to be considered for appointment.~~

12. That the claim of the applicant that he is continuing in service is false. Therefore the question of issue of Notice for terminating his employment does not arise. In the mean while, the recruitment process to the Employment Notice issued by the Kendra during 1992 has come to an end and SC/ST candidates are being offered employment.

It is, therefore, prayed that the Hon'ble Tribunal will be pleased to dismiss the applicant's prayer for stay of the recruitment notice or to give benefits of the regularisation scheme or to keep ^{one} posts vacant. The Hon'ble Tribunal may be pleased to dismiss the O.A. No.185/94 in view of the facts and circumstances as stated above in as much as the applicant is not entitled to any relief.

I, B. Adhikari, Station Director, Doordarshan Kendra, Agartala, Tribunal, do hereby declare that the statements made in this show cause are true to my knowledge derived from the records of the case.

I sign this verification on the 22nd day of November, 1994, at Agartala.

B. Adhikari
22.11.94
DEPONENT.
(B ADHIKARI)
Station Director,
Doordarshan Kendra,
Agartala, Tripura.