

CENTRAL ADMINISTRATIVE TRIBUNAL

CUTTACK BENCH

OA No. 142 of 2018

Date of Reserve: 4.2.2019

Date of Order: 20.02.2019

Present: Hon'ble Mr. Gokul Chandra Pati, Member (A)

Hon'ble Mr. Swarup Kumar Mishra, Member (J)

Rabindra Kumar Pattanayak, aged about 60 years, S/o. Late Kishore Chandra Pattanayak – now working as Part-Time Correspondent, Nayagarh District and at present residing at Khairagadia, PO-Bhapur, PS-Fategarh, Dist-Nayagarh.

.....Applicant

By the Advocate(s)-M/s.S.B.Jena
S.Behera
C.K.Shoo

-VERSUS-

Union of India represented through:

1. The Director General, News, News Services Division, Akashbani Bhawan, New Delhi-110 001.
2. Deputy Director General (E), All India Radio, Cuttack-753 001.
3. Director, News, Doordarshan Kendra, Near Sainik School, Bhubaneswar, Dist-Khurdha-751 005.
4. Chief Executive Officer, Prasar Bharati, Press Trust of India Building, New Delhi-110 001.

...Respondents

By the Advocate(s)-Mr.J.K.Nayak

O R D E R

Per Mr.Gokul Chandra Pati, Member (A)

The applicant has filed this OA seeking the following reliefs:-

"Under the aforesaid facts and circumstances of the case, it is therefore, prayed that this Hon'ble Tribunal may graciously be pleased to direct the respondents, more particularly to respondent no.2 to renew the contract of engagement of the applicant beyond

60 years up to a maximum of 65 years subject to production of a certificate of physical fitness.

Or pass any other order/orders or direction/directions as this Hon'ble Tribunal may think deem fit and proper.

And allow this Original Application with cost".

2. The case of the applicant is that he was engaged as a part time correspondent (in short PTC) under the respondents and his contract was being renewed on yearly basis. As per the New Amended Scheme for engagement of the PTCs (A/2), after initial engagement, his performance is to be watched for three months and then continued on monthly basis. After one year period, his contract is to be renewed on yearly basis subject to satisfactory performance. The amended scheme states that the engagement will be till 60 years of age and it can be extended till 65 years of age subject to production of physical fitness certificate from the competent authority. It is stated in the OA that as per the scheme, the applicant got his contract extended till 60 years. But vide the revised scheme for the PTCs (A/4), the engagement of the PTCs was allowed up to 60 years and there was no provision for extending it till 65 years. The applicant has filed this OA for extending his engagement period till 65 years of age.

3. The respondents have filed their Counter, raising the following points:-

(i) The applicant is not an employee and does not hold a civil post. Hence, the Tribunal has no jurisdiction to adjudicate the matters relating to applicant's engagement.

(ii) As per the revised policy of the respondents, the PTCs can be engaged upto the age of 60 years vide the order dated 3.1.2011 (Annexure-A/4 to the OA) providing for higher remuneration. It is not possible for the applicant to accept a part of the policy and refuse another part.

(iii) The respondents have another scheme for contractual engagement vide order dated 27.9.2012 (Annexure R-II) in which the retired Govt. officials can be engaged upto 65 years of age.

4. During the pendency of the OA, the respondents issued an advertisement dated 20.9.2018 for PTC after terminating the engagement of the applicant as PTC on account of 60 years of age vide order dated 10.4.2018. The applicant filed the MA No. 396 of 2018 on 5.12.2018 with the prayer for staying the advertisement dated 20.9.2018.

5. When the MA was pending, learned counsels of both the parties were heard finally on 4.2.2019. Learned counsel for the applicant submitted that when the applicant was engaged the engagement was upto 65 years, which was reduced to 60 years in 2011. He argued that the age restriction as per the revised policy

should not be applicable to the applicant. He also argued to stay the advertisement. The respondents' counsel argued that the OA is not maintainable as the applicant, being engaged part time as per the contractual terms, was not a holder of civil post. He also reiterated the points mentioned in the counter.

6. In this case, the issue of maintainability of the OA has been raised by the respondents. In the Counter, a copy of the order dated 14.2.2017 of Chandigarh Bench of this Tribunal in the case of Gautam Dev Sharma vs. Union of India and others (OA No. 20/2017) has been enclosed at Annexure R-I to the counter. It is seen that in that OA before Chandigarh Bench, the applicant, who was also a PTC, had prayed for continuing his engagement beyond 60 years as per the old policy. The Tribunal vide the order dated 14.2.2017 has observed as under:-

“5. Having heard the learned counsel for the applicant, having gone through the record with his valuable assistance and after considering the entire matter, we are of the firm view that there is no merit and the instant OA deserves to be dismissed, for the reasons mentioned herein below.

6. As is evident from the record, that the applicant is not a regular employee. He was working as a PTC of All India Radio, on contract basis, for a fixed period. He was never appointed, on a regular civil post, at any time. At the very outset, learned counsel for the applicant has utterly failed to indicate that the service of the applicant as PTC in All India Radio, is a post belonging to any All India Services, or any Civil Service or a Civil post under the Central Government, so as to invoke the jurisdiction of this Tribunal, as contemplated under [section 14](#) of the Administrative Tribunals Act, 1985.

7. Moreover, now adverting to the merits of the case, it is not a matter of dispute, that the applicant was initially engaged for one month w.e.f. 1.7.2004 to 31.7.2004, as a PTC in All India Radio, vide orders, Annexures A-4 and A-5. He has duly signed an agreement and undertaken to abide by the terms and conditions contained therein. The period of his engagement was lastly extended till 31.1.2017. The representations, Annexures A-10 and A-11, filed by the applicant, to work beyond the age of 60 years, were rejected vide impugned order, Annexure A-1, by the Competent Authority, which in substance, is as under :-

Sub : Extension of contract beyond 60 years of PTCs.

Reference your application dated 15.10.2016 received in this office on 19.12.2016 on the subject cited above.

There is no provision in the Revised Policy for Engagement of PTCs of Prasar Bharati for extension of PTCs contract beyond 60 years. Therefore, it is not possible to extend your contract beyond 31.1.2017.

8. Meaning thereby, the services of the applicant were dis-continued by a simplicitor order, as per the terms and conditions of the agreement. Moreover, it has been specifically mentioned in the impugned order, that there is no provision in the revised policy for engagement of PTC beyond the age of 60 years. Thus, the Competent Authority has recorded the valid reasons in this regard. The learned counsel for the applicant, has miserably failed to urge as to how and in what manner, the applicant is entitled for engagement, beyond the age of 60 years and, which terms and conditions of the agreement, between the parties, was violated. In the absence of the same, to our mind, no relief can be granted to the applicant, in the obtaining circumstances of the case.

9. Therefore, thus seen from any angle, as there is no merit, so the instant OA is hereby dismissed as such, with no order as to costs.”

7. The facts in this case are squarely covered by the case of Gautam Dev Sharma (supra), since like the OA No. 20/2017 before Chandigarh Bench, in the present OA also the applicant was discontinued from being engaged after he was 60 years vide the order dated 10.4.2018 (Annexure-A/7 to the MA No. 396/18), which is an order simplicitor. It is not the case of the applicant that

the order at A/7 was not in accordance with his contract of engagement as a PTC. No deficiency in the revised policy dated 3.1.2011 (A/4) has been furnished by the applicant.

8. Having regard to above facts and following the order dated 14.2.2017 of Chandigarh Bench of the Tribunal, we also find that the OA lacks merit and it is liable to be dismissed. Hence, the OA as well as the MA No. 396/2018 are dismissed, with no order as to cost.

(SWARUP KUMAR MISHRA)
MEMBER(J)

(GOKUL CHANDRA PATI)
MEMBER(A)

BKS

