

CENTRAL ADMINISTRATIVE TRIBUNAL
PATNA BENCH, PATNA
CP/050/00051/2016
[Arising out of OA 300/1995]

Reserved on : 01.05.2019

Pronounced on: 03.05.2019

C O R A M

HON'BLE MR. JAYESH V. BHAIRAVIA, JUDICIAL MEMBER
HON'BLE MR. DINESH SHARMA, ADMINISTRATIVE MEMBER

1. Jitendra Kumar, son of Rajendra Prasad, resident of Govindpur, near Balmi, PO- Phulwarisarif, District- Patna.
2. Surendra Das, son of late Rampati Das, resident of Village- Dagraoo, Chitrochi, District- Vaishali, at present resident of Ganga Nagar, Road No. 2, P.O.- Harmu, District- Ranchi.
3. Sanjay Kumar Verma, son of Late Braj Kumar Verma, resident of Dariyapur, Fakiwara, PO- Bankipur, District- Patna.
4. Ajay Kumar, son of late Jamuna Prasad Sharma, resident of West Lohanipur, Upadhya lane, PO- Kadamkuan, District- Patna.
5. Pradeep Kumar Sharma, son of late Radhe Kirshna Sharma C/o Sri Devi Dayal Vishwakarma, resident of Bari Khagaul, Devi Asthan (Dih), PO- Khagaul, District- Patna.
6. Shankar Pandit, son of Late Rai Bahadur Pandit, resident of Mohalla- Kath Ka Pool, Near Shiv Mandir, PO- Patna City, PS- Menhdiganj, District- Patna.
7. Lalan prasad Choudhary, son of Late Baidya Nath Choudhary, resident of Village- Basantpurpatti, PO- Basantpurpatti, PS- Saraiya, District- Muzaffarpur.

.... Applicant

- By Advocate: - Mr. S.K. Bariar

-Versus-

1. Mrs. Vijay Laxmi Chabra, the Director General, Doordarshan Bhawan, Mandi House, New Delhi.
2. Mr. D.K. Srivastava, DDG, Doordarshan Kendra, Patna.

.... Respondents.

- By Advocate: - Mr. H. P. Singh

ORDER

Per Dinesh Sharma, A.M:- This case arises out of the contempt petition filed by the applicants to initiate action against the respondents for alleged non-compliance of this Tribunal's order dated 19.09.1997 passed in OA 300/1995. The relevant portion of the order in the OA reads as below: -

“It is hereby directed that the Respondents will consider the regularisation of the services of the applicants in their turn as and when regular vacancies are available. The applicants should also be engaged as and when work is available in terms of the OM No. 2/31/95-S.I dated 13.05.1997 issued by the Directorate General, Doordarshan, New Delhi. The OA is disposed of with above directions.”

2. The applicants have argued that following the decision of this Tribunal a number of persons have been regularized. However, the applicants are yet to be regularized without any rhyme or reason. The applicants had filed OAs (No. 482 to 485 of 2015) praying for their regularisation. But it was advised to file CCPA as order of regularisation of these applicants had already been passed in OA 300/1995. Thus, those OAs were not pursued. The applicants have alleged that there are 4 vacant posts at DDK, Patna itself and these posts are utilized by transferred persons. The respondents have regularized services of 233 casual artists by transferring posts from other DDKs but the services of the applicants have not been regularized by same mode. Thus, the respondents are deliberately violating the order dated 19.09.1997 passed in OA 300/1995.

3. Show cause notices were issued to the respondents on this contempt petition. The respondents have filed their reply to the show cause notice. They have alleged that this application is not maintainable in view of mandatory provisions of law contained in Section 20 of the Contempt Act as it is hopelessly barred by period of limitation prescribed in that Section. They have argued that a Scheme dated 19.06.1992 was framed for regularization of casual Artists as per direction dated 14.02.1992 in OA 563/1998 of Hon'ble CAT, Principal Bench. Another scheme was also framed on 17.03.1994. Both these schemes have been upheld by the Hon'ble Supreme Court of India. According to these schemes, a casual artist should have been initially engaged before 31.12.1991 to become eligible to be considered for regularization. The Scheme also provides that a casual employee should have completed 120 days of service prior to the cut off date, i.e. 31.12.1991. The applicant along with others had filed OA 300 of 1995 seeking regularization on the basis of the aforesaid schemes. Following the order of the CAT on 19.09.1997 the matter was considered by the competent authorities of the respondents and a speaking order was passed vide OM dated 12.12.2001 (Annexure R/3) In which the claim of the applicants were rejected since they did not come under the purview of the conditions laid down in the said schemes. The applicants were duly informed separately about the said OM dated 12.12.2001, in compliance of the order passed in OA 300/1995 vide registered post. Thereafter, two applicants namely S/Shri Alok Kumar and Pawan Kumar approached this Tribunal in contempt case bearing CCPA No. 90 of 2001 and 87 of 2002. On

direction of the Tribunal to consider their case, these applicants were regularized. Subsequently, another person, namely, Ajay Kumar Jha approached the Tribunal vide OA 742/2013 stating his case to be similar to that of Alok Kumar and Pawan Kumar and claimed regularization. The said OA was dismissed by this Tribunal vide its order dated 02.07.2015 (Annexure R/5). This decision of the Tribunal was upheld in CWJC No. 2883 of 2016 (Annexure R/6). The applicant and others filed OA 107 of 2011 before CAT, Patna where the Tribunal by its order dated 16.07.2014 directed the respondents to consider engaging the applicants on the post of daily wage worker till their regularisation in terms of direction passed by this Tribunal in OA 300/1995. In compliance of order of this Tribunal, a speaking order dated 18.11.2014 (Annexure R/8) was issued on the lines that they were not eligible as per Doordarshan 1992 and 1994 Scheme since they joined after 31.12.1991. The applicants filed CP 25/2015 but the same was dropped by this Tribunal on 03.09.2015 (Annexure R/9). One of the applicants, namely, Shankar Pandit and Ors. filed OA 259/2013 before this Tribunal where this Tribunal on 31.05.2013 directed to consider their case and pass appropriate orders in terms of the order passed in OA 300/1995. Their case was again considered by the respondents and rejected vide speaking order dated 20.09.2013 (Annexure R/10).

4. The respondents have also replied to the claim of regularization on the basis of similarly situated persons like Alok Kumar and Pawan Kumar, by citing the ruling of the Apex Court in **Chandigarh Administration Vs. Jagjit Singh** [1995 (1) SCC 745] and the case of

Gurusharan Singh Vs. NDMC (AIR 1996 SCC 175). In these cases, it was ruled that illegality or irregularity once committed in favour of any individual or a group of individuals cannot be a ground for seeking similar relief. The respondents have categorically stated that the applicants are ineligible as per 1992 and 1994 regularisation schemes and the question of reserving any post for them does not arise. The order of this Tribunal contained in its decision dated 19.09.1997 passed in OA 300/1995 has already been complied by passing a speaking order on 12.12.2001 and therefore this contempt petition, filed so many years after the said order, should be rejected and the contempt proceeding should be dropped.

5. The applicants filed a “humble rejoinder” dated 23.04.2019 which is shown received by the advocate for the respondents on 01.05.2019 (at the time of hearing). In this, besides refuting the claims made in the reply to the show cause notice, they have reiterated their claim and also annexed, besides other papers, a letter dated 29.01.2019 written by one Dy. Director, Prasar Bharti, Patna addressed to Directorate General, Doordarshan , New Delhi. In this letter, representation of some of the applicants has been forwarded to the Directorate General, for information and necessary direction while informing the DG about the pending CP before this Tribunal. The applicants have alleged that vacant posts are available at Patna and the Department has accepted the finality of this Tribunal’s order in OA 300/1995, but they are not able to regularize them because the matter is sub judice before the Tribunal in this CCPA.

6. We have perused the pleadings and heard the arguments of the contempt petitioner and the respondents. It is very clear from the reply to the show cause notice, and we need not reiterate the details which are already mentioned in para 3 and 4 above, that this matter has been repeatedly agitated before this Tribunal in the form of filing OAs and contempt petitions in the guise of seeking compliance of this Tribunal's order in OA 300/1995. This Tribunal, in these actions, have found that that order has been sufficiently complied, and in some of these the matter was sent back to the respondents for passing appropriate orders. The respondents have made it very clear that they have not regularized any person who did not come under their regularization Scheme except for the two cases in which it was done following this Tribunal's orders. These exceptions cannot be cited as a rule and some of the applicants' effort to get themselves regularized citing these exceptional cases have already been rejected by this Tribunal in OA 742 of 2013. We quote the relevant portion of that decision as under:-

“ Based on the aforesaid facts, we conclude that the cut-off date of the scheme remained 31.12.1991. Just because some cases beyond the cut-off date had been regularised by the authorities, whether on their own or presumably under directions from any Court, cannot be a ground for seeking similar relief, because that would amount to repetition of an illegality/irregularity. Accordingly, this OA is dismissed. ”

The papers produced before us at the time of hearing also do not give us any further reason to interpret any kind of contemptuous action by the respondents or any evidence of their not being able to follow this Tribunal's order in OA 300/1995 because of the pendency of this contempt action. The respondents had filed a number of OAs (No. 482 to 485 of 2015). It is alleged by them that they have withdrawn those OAs because of a suggestion to file this contempt petition. We do not know who made that suggestion but we are very sure that an action under contempt laws, for enforcing the decision taken in the year 1997 to consider regularisation, which has been repeatedly found to have been substantially complied and contempt action dropped, cannot be maintained now just because some of the applicants have still remained unregularized for reasons this Tribunal has already found to be valid. The contempt petition is, accordingly, dropped and notices are discharged.

[Dinesh Sharma]
Administrative Member
Srk.

[Jayesh V. Bhairavia]
Judicial Member