

**CENTRAL ADMINISTRATIVE TRIBUNAL  
CHANDIGARH BENCH**

...

**O.A. No.062/219/2017**

**Date of decision: 3.4.2019**

...

**CORAM: HON'BLE MR. SANJEEV KAUSHIK, MEMBER (J).  
HON'BLE MRS. P. GOPINATH, MEMBER (A).**

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1. Raja Iftikhar Hussain age 62 years, S/o Raja Jaffar Ali, R/o Panier Jagir, P.O. Mandura, Traal Kashmir (J&K) (Group D).
2. Raja Alamgir Ali Khan age 63 years, S/o Raja Mohammad Ayub Khan, R/o Inside Kathidderwaza, Rainawari, Srinagar, J&K. (Group-D).

**... APPLICANTS**

**VERSUS**

1. Prasar Bharati Broadcasting Corporation of India, PT Building, Parliament Street, New Delhi-110001 through its Chief Executive Officer.
2. Director General, Prasar Bharati Broadcasting Corporation of India (All India Radio) Akashwani Bhawan, Parliament Street, New Delhi.
3. Director/Head of Office, Radio Kashmir, Srinagar.

**... RESPONDENT**

**PRESENT:** Sh. Rohit Sharma, counsel for the applicants.  
Sh. V.K. Arya, counsel for the respondents.

**ORDER (Oral)**

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**SANJEEV KAUSHIK, MEMBER (J):-**

1. Present O.A. has been filed by the applicants assailing order dated 9.2.2017 delivered to them on 24.2.2017 (Annexure A-1), whereby their claim for regularization of their service has been rejected on the ground that they have attained age of 60 years. Further direction

has been sought to command the respondents to regularize their service from due date as they have performed work as Production Assistants and also grant them retiral dues and till such regularization takes place, they may be allowed to continue in service.

2. Facts are not in dispute.
3. Applicants initially joined the respondent department as Casual Comperes in the year 1988. For the first time, they approached this Tribunal in the year 2003 by filing O.A. No.13-JK-2003 and 370-JK-2003, which were disposed of on 24.5.2004 by this Tribunal, where direction was issued to the respondents to consider their claim for regularization in terms of clause 6 of the scheme of regularization of casual production assistant. Subsequent to that, another O.A. No.743-JK-2003 was filed by applicant no.2, which was also disposed of on 4.10.2004, where similar direction was issued to consider his claim with further direction that he be given relaxation, if necessary for considering his case for regularization. Subsequent to that in the year 2005 applicants again approached this Tribunal impugning decision rejecting their claim by filing O.A. Nos.564-JK-2005 and 723-JK-2006, which were allowed vide order dated 11.4.2007, directing the respondents to reconsider their cases in terms of earlier decisions dated 24.5.2004 and 4.10.2004. Thereafter, respondents passed order dated 12.10.2011. Again, applicants approached this Tribunal by filing O.A. No.466-JK-2012 which was disposed of on 2.3.2016, where again direction was issued to consider their claim. It is in furtherance thereto, respondents have passed impugned order rejecting their claim based upon report of Committee constituted to

consider matter with regard to grievance of the applicants who are working as Casual Comperes.

4. We have heard learned counsel for the parties.
5. Learned counsel for the applicants vehemently argued that despite their being direction by this Court to consider the claim of the applicants for regularization, even by giving age relaxation, respondents have again declined their request for grant of benefit without considering the fact that applicants are working with the respondents department since 1988, therefore, it is prayed that impugned order be set aside.
6. Respondents have resisted the claim of the applicants annexing report of the Committee constituted by Door Darshan as per direction of this Court and have submitted that case of the applicants were considered in depth but could be acceded to because they were not appointed against a regular vacancy, therefore, their claim cannot be accepted. Learned counsel for the respondents submitted that though directions were given by the Court to consider their cases but there was no positive direction that their service is to be regularized and only direction was to reconsider their case, which was done by the Committee and their claim was rejected. He also informed that similar matter came up for hearing before Patna Bench of this Tribunal where OAs were allowed and matter travelled up to Hon'ble Patna High Court and then before the Hon'ble Supreme Court in Civil Appeal No.863/2006 decided on 9.3.2011, where Lordships set aside order of the Patna Bench of the Tribunal. Relevant para of the same reads as under:-

“The Tribunal further directed that in the alternative, a scheme to be formulated and implemented by the appellants herein for the regularization of eligible respondents in the light of the scheme already formulated by the department. The respondents herein are announcers/comperes. There is no dispute, whatsoever, that they were engaged on a casual basis. It was specifically contended by the appellants that the respondents were engaged on assignment basis to work only six days in a month that is for 72 days in a year. It was the further contention of the appellants that they were not engaged against any regular vacancy and therefore they were not appointed as regular announcers. It is under those circumstances, the appellants contended that the respondents were not entitled to regularization on whatsoever basis. The Tribunal, miserably failed to advert to these crucial aspects of the matter. There is no finding as such recorded by the Tribunal either accepting or rejecting the said contention. This issue, in our considered opinion, decided the fate of this lis.”

7. Therefore, it is submitted that once Court did not accept similar claim as raised by the applicants herein, that their case cannot be considered as they have worked for only 6 days a month and total 76 days a year, therefore, this O.A. may also be dismissed.
8. We have given our thoughtful consideration to the matter and have minutely gone through the pleadings with the able assistance of learned counsel for the parties.
9. As per judgment passed by the Hon'ble Supreme Court, as reproduced above, one poser has been as to whether applicants were engaged against regular vacancy or not. It is not disputed that the applicants were engaged as a casual Comperes and never performed work of Production Assistant as claimed by them. There is no plea in the O.A. that they were engaged against a regular vacancy and applicants have not produced documents showing that they were engaged as production assistants. Therefore, it cannot be said that they were engaged against regular vacancy of Production Assistant. They were engaged as Comperes for a certain period on fixed

remuneration basis. This detail we have taken from recommendation of the committee and contrary to it applicants have not placed on record any document showing that they worked as Casual Comperes only for 6 days in a month and 72 days in a year. They were never appointed against a regular vacancy, therefore, their claim for regularization cannot be accepted, and has rightly been rejected.

10. In the wake of the above, we hold that since applicants were not appointed against a regular vacancy, therefore, their claim for regularization has rightly been rejected. Consequently O.A. is dismissed. No costs.

**(P. GOPINATH)**  
**MEMBER (A)**

**(SANJEEV KAUSHIK)**  
**MEMBER (J)**

Date: 04.4.2019.  
Place: Chandigarh.

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