

**CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH**

R.A. No. 07 of 2019

**Present: Hon'ble Mr. Gokul Chandra Pati, Member (A)
Hon'ble Mr. Swarup Kumar Mishra, Member(J)**

1. Pranab Kumar Samal, aged about 42 years, Son of late Sadasiba Samal, At/PO-Kedupada, Dist-Dhenkanal, at present working as Technical(Casual) Office of the AELPTV Relay centre, Kamakshyanagar, Dist-Dhenkanal.
2. Dillip Kumar Mohanty aged about 45 years, Son of Daitary Mohanty, At-Durga Bazar, PO/PS/Dist-Dhenkanal, at present working as Casual Helper, LPT, TV, Kamakshyanagar, Dist-Dhenkanal.
3. Dusmanta Kumar Bhutia, aged about 45 years, Son of Late Pitabasa Bhutia, Village-Podapada, PO-Hindol Road, Dist-Dhenkanal.

.....Applicant

-Versus-

1. Secretary to Govt. of India, Department of Information and Broad Casting, New Delhi.
2. Director General, Door Darshan, Door Darshan Bhawan, Copernicus Marg, New delhi-110001.
3. Director General, Prasar Bharati, Broad Casting Corporation of India, Door Darshan Kendra, Chandrasekharpur, Bhubaneswar-5, Dist-Khurda.
4. Chief Engineer, East Zone, All India Radio & Television, Akasvani Vavan, Kolkata-700001.
5. Assistant Station Engineer, Door Darshan Maintenance Centre, Dhenkanal Camp At-High Power Transmitter(TV), Tulsipur, Tow/Dist-Cuttack.

.....Respondents

For the Applicant : Mr. S. Nanda

For the Respondents: Mr. S. B. Mohanty

Heard & reserved on: 09.07.2019

Order on: 26.08.2019

O R D E R

Per Mr. Gokul Chandra Pati, Member(A):

The R.A No.07/19 has been filed by the applicant challenging the order dated 02.01.2019 of this Tribunal passed in TA No. 06/13 by which the TA was dismissed on merit. The Review Application has been filed within the time as specified under the CAT(Procedure) Rules, 1987.

2. The main ground for challenging the impugned order is that while passing the impugned order dated 02.01.2019, the Tribunal has recorded the finding that the facts of the TA 06/13 were different from the facts in the T.A Nos. 34/2009, 04/2013 and 05/2013 which were disposed of by this Tribunal by a common order dated 12.03.2018 (Annexure-A/2 of the RA), by which the

respondents were directed to consider regularization of the applicants from the date of their initial appointment with all consequential benefits. It was urged that although the case of the applicants was similar to the case of the applicant in aforesaid TA No. 34/2009 which was allowed by the Tribunal, but the case of the applicants in TA no. 06/2013 has been dismissed vide the impugned order. A copy of the order dated 12.03.2018 of this Tribunal in OA No.34/2009 was furnished by Ld. Counsel for the applicant at the time of hearing of TA No. 06/13.

3. This Review Application was considered earlier and vide order dated 26.02.2019 by following order was passed:-

“Heard Ld. Counsel for the applicant and Ld. Counsel for the respondents. Issue notice to the respondents for filing of reply in three weeks time. Status quo shall be maintained in respect of the applicants as on date, if the applicants are continuing to be engaged”.

4. The Review Application was finally heard on 09.07.2019 since no reply was filed by the side of the respondents in spite of earlier notice. Ld. Counsel for the Review Applicant submitted that although the facts and circumstances with the TA No. 34/2009 are similar to the present T.A No. 06/13. While the TA No. 34/2009, the relief was granted to the applicants but the TA No. 06/13 has been dismissed.

5. Learned Counsel for the respondents submitted that the ground for which the Review Application is sought to be considered, are not permissible under law. The grounds like limited to the error apparent on the face of the record or any new fact which could not have been placed at the time of original hearing are permissible for reviewing the order of the Tribunal. He submitted that the present ground taken in the Review Application involves interpretations of the facts and application of law, which is not permissible for reviewing the impugned order.

6. We have considered the submissions of learned counsel for both the parties. On perusal of the Tribunal's order dated 02.01.2019, it is seen that the order dated 12.03.2018 passed in OA No. 34/2009(Annexure-A/2 of RA), cited by learned counsel for the applicant was considered and it was mentioned in the impugned order dated 02.01.2019 as under:-

*“7. We have considered the submissions and perused the record and also gone through the Tribunal's order dated 12.05.2018 in TA No. 34/2009, 4/2013 & 5/2013, which has been cited by the applicant. In the order dated 12.05.2018 it is held as under:-
“Applicants in the three TAs are working as Technical Helper on daily wage basis in Door Darsan Kendra (DDK), Bhubaneswar under the”*

8. *The respondents in the counter mainly took the plea that as per the judgment of Hon'ble Apex Court in the case of Secretary, State of Karnataka vs. Umadevi & another, reported in [(2006) 4 SCC 1], the persons who were engaged on temporary or casual basis cannot be regularized since it violates the constitutional scheme of appointment.*

9. *The facts of the present TA are different from the facts of the cited case of Pradipta Kimar Das (supra), since in this TA, the applicants are admittedly contractual employees and as stated in the counter they were not engaged against any regular/vacant post. No such plea was taken in the cited case, as would be seen from the order dated 12.05.2018. The other difference is that vide order dated 13.11.2018, copy of which has been enclosed with the MA No. 379/2018 filed by the applicants, it has been decided by the respondents to close down the LPTVs in which the applicant are working and it has been decided that the contractual persons engaged at the LPTVs are to be disengaged from 1/12/2018. No such order was placed before the Tribunal in the cited case of Pradipta Kumar Das (supra). Hence, the cited case is distinguishable factually from the present OA, for which the order dated 12.05.2018 will not be applicable to the present OA".*

7. In view of the above the facts of the TA No. 34/2009 in the case of P. K. Das (Supra) have been duly considered by the Tribunal, while passing the order dated 02.01.2019, with the finding that the facts of the case of the applicants in TA No. 06/13 were different from the facts of the cited case.

8. In view of the above, we are of the view that the ground as advanced in the Review Application is not a valid ground under law to justify any review of the impugned order. Hence, the R.A is not maintainable and accordingly it is dismissed. No order as to cost.

9. Copy of this order be given to learned counsels to both the parties.

(SWARUP KUMAR MISHRA)
MEMBER (J)

(GOKUL CHANDRA PATI)
MEMBER (A)

