

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH**

...

**Reserved on : 31.10.2019
Pronounced on : 28.11.2019**

OA. 061/01546/2017

**CORAM:HON'BLE MR. SANJEEV KAUSHIK, MEMBER(J)
HON'BLE MR.PRADEEP KUMAR , MEMBER(A)**

...

1. Naina Sodhi Age, 49 years, W/o Late Sh. V.K. Sodhi, R/o H. No. 118, Opp. Chopra Ice Factory, Canal Road, Jammu.
2. Anajana Sharma, Age 50 years, w/o Sh. Anil Modi, R/o H. No. 152, Tange Wali Gali, Kachi Chowni, Jammu.

.....Applicants

BY ADVOCATE: **SH. K. B. SHARMA**

VERSUS

1. Union of India through Secretary, Information & Broadcasting, Govt. of India, Parliament Street, New Delhi – 110 001.
2. Prasar Bharti Broadcasting, Corporation of India, Through its Chief Executive Officer, New Delhi – 110 001.
3. Director General, AIR, Akashwani Bhawan, Parliament Street, New Delhi – 110 001.
4. Anjali Sharma, Station Director, Radio Kashmir, Jammu.
5. Pawan Khajuria, Programme Executive Coordination, Radio Kashmir, Jammu.
6. Ravi Kant Sharma, Regular Announcer, Radio Kashmir, Jammu.
7. Seema Sharma W/o Sh. Kamal Sharma, R/o Mohalla Pratap Garh, Jammu.
8. Chander Mohini O/o Station Director, Radio Kashmir Jammu.
9. Rajni Sharma, W/o Sh. Anubhav Sharma, R/o # 32, Panjtirthi, Jammu.
10. Neha Manhas, O/o Station Director, Radio Kashmir, Jammu.

11. Raman Manhas, O/o Station Director, Radio Kashmir, Jammu.

.....Respondents

BY ADVOCATE: **SH. K.K. THAKUR**

ORDER

MR. PRADEEP KUMAR, MEMBER(A):-

1. The applicants are Casual Announcers/Comperes in All India Radio. They are aggrieved that their engagement has not been renewed and despite long service, they have not been regularized. The applicants plead that some other similarly placed Casual Announcers had filed OAs No. 1182/2012 and 457/2013 before CAT Ernakulam Bench. These OAs were decided vide order dated 22.11.2013. The issue at hand and the decision as contained in those orders, is as follows:-

“These two Original Applications are being disposed of by this common order since a common issue is involved in them and the applicants are similarly situated.

2. Applicants are presently working as Casual Announcers/Comperes/Production Assistants in various stations of All India Radio at Wyanad, Kannur, Kozhikode etc.

3. The common grievance of the applicants is that the respondents are dragging their feet in the matter of finalization of the proposed scheme for regularization of their services who have been working as Casual Announcers/Comperes/Production Assistants in All India Radio for the last several years. The prayer is to issue an appropriate direction to the respondents to finalize the proposed scheme for regularization within a time frame. In Original Application No. 475 of 2013 there is a further prayer to quash Annexure A19 notice dated March 23, 2013 issued by respondent No. 2 inviting applications from eligible candidates for combined recruitment for the post of Programme Executive and Transmission Executive.

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7. Therefore, the Original Applications are disposed of with a direction to the respondents to take expeditious steps to finalize the scheme and implement the same as undertaken by them in their written statement. Till such time the scheme is brought into force the present arrangement of engaging the applicants in the various station of All India Radio shall continue. In other words applicants shall be given casual engagement as Announcers/Comperes/Production Assistants on assignment basis depending on the requirement for such services. Respondents shall finalize and implement the scheme within an outer limit of six months from the date of receipt of a copy of this order.”

2. The Union of India challenged the above decision in Hon’ble High Court of Kerala in OA (CAT) No. 38 and 175 of 2015, which was decided on 27.10.2015. Meanwhile the applicants in those OAs, had also filed a contempt before CAT, Ernakulam Bench pleading that directions dated 22.11.2013 have not been complied with. Since this CP was still pending, the Hon’ble High Court disposed of the application by passing the following orders:-

“9. Since contempt proceedings are pending against the petitioners for not having complied with the directions of the Central Administrative Tribunal, we are inclined to accept the request of the learned ASGI for granting further time to comply with the orders of the Central Administrative Tribunal in OA No. 1182 of 2012 and 475 of 2013. Accordingly, the time limit stipulated for complying with the directions in the orders of the Central Administrative Tribunal referred to above are extended by a period of six months from today.”

2.1 The Union of India challenged this order by filing SLP No. 13876-13877 of 2016 before the Hon’ble Supreme Court. The Hon’ble Apex court vide order dated 05.09.2016, directed the status quo obtaining as of 05.09.2016 till the decision of SLP.

3. In keeping with these developments, the instant applicants plead that even though they were not party to those cases (para-1, 2

& 2.1 supra) but since there is a status quo order by the Hon'ble Apex Court, the respondents were duty-bound to continue the instant applicants also as Casual Announcers/Comperes in All India Radio. However, since this has not been complied with, applicants had filed the instant OA seeking similar relief.

4. In this context, applicants also plead that certain casual employees of Doordarshan, 233 in number, were granted regularization vide order dated 08.05.2015. Applicants plead that while this was violation of Hon'ble Apex Court orders to maintain status quo (para 2.1 supra), but on similar lines, since they were also casual employees of All India Radio, which is a sister organization, they should also have been at least continued as Casual Announcers in keeping with the orders of the Hon'ble Apex Court.

However, the respondents issued Notification on 21.02.2017 and thereafter on 18.04.2017 inviting applications for empanelment of Casual Announcers and in follow up, also held a written test and a audition test on 16.07.2017 and 27/28.07.2017 respectively. Being unaware of the status quo order by the Supreme Court (para 2.1 supra), the applicants participated in the said test, but unfortunately, could not pass the same.

Thereafter, the respondents had empanelled some other candidates as Casual Announcers, who are now arrayed here as private respondents No. 7-11 in the instant OA.

5. The applicants plead that the Casual Announcers are working in various stations of All India Radio and they had also faced similar difficulties and they also approached various Tribunals and respective High Courts as under. In these cases certain relief in the form of Status Quo was also granted. The details are:

(i) The Notifications dated 21.02.2017 and 18.04.2017 came under challenge in OA No. 200/00341/2017 in CAT Jabalpur Bench and vide order dated 11.05.2017, the Bench ordered Status Quo. Since there was delay in finalization of the case in CAT, matter was agitated before the Hon'ble High Court at Jabalpur (WP 8941/2017) wherein vide order dated 04.04.2017, Status Quo was ordered.

(ii) These two Notifications were also stayed by Hon'ble High Court of Madhya Pradesh in SWP No. 10775/2017 vide order dated 25.07.2017 and Status Quo as of 05.09.2016 was ordered to be maintained.

(iii) The matter relating to Casual Announcers was also agitated before CAT Chandigarh Bench in OA No. 713/2017 when the Status Quo was ordered on 05.07.2017.

(iv) Similar matter was also raised before CAT Principal Bench in OA No. 100/2154/2017 wherein vide order dated 10.07.2017, respondents were barred from forcing the applicants to appear for fresh audition/screening till the disposal of SLP pending before the Hon'ble Apex Court.

(v) These two Notifications also came under challenge before CAT Patna Bench in OA No. 363 of 2017 wherein interim relief was declined vide order dated 28.06.2017. The applicants approached the Hon'ble High Court of Jharkhand in WP(S) No. 3558 of 2017 wherein similar interim orders were passed vide order dated 01.07.2017 and at the same time, liberty was granted to CAT Patna Bench to proceed further in the main OA No. 363/2017.

5.1 In tune with these interim orders for maintaining status quo, for some other petitioners applicants seek relief that the notification

dated 21.02.2017, pursuant to which applicants had participated in audition test where they failed, be quashed and empanelment of private respondents 7 to 11, who also participated in the same very test and passed and were empanelled, be quashed and set aside and status quo as on date prior to holding of written test be restored.

6. It was pleaded that one set of contractual employees cannot be replaced with another set of contractual employees.

7. On being queried, the applicants clarified that casual Announcers are empanelled at various All India Stations and they are called upon to perform their duties for a maximum of six days in a month and a maximum of 72 days in a year as per the job requirement. This job requirement keeps on changing as per the needs of the type of programmes to be aired. For every engagement, a specific letter is issued and one such letter issued to one of the applicants Shri Virender Katoch (who withdrew from the OA later) reads as under:

“सेवा में,

To,

Sh.Virender katoch

38, Chaughan Salathia, Jammu

सं / No. _____

दिनांक _____

महोदय /महोदया

Dear Sir/Madam,

इस पत्र के पीछे छपी शर्तों पर हम नीचे लिखे विषय दिनांक और समय पर आपकी वार्ता/लघुकथा सहर्ष प्रसारित करेंगे। कृपया संलग्न

पुष्टिपत्र पर हस्ताक्षर कर के हमको लौटती डाक से भेज दीजिये. इसके लिए हम आपके आभारी होंगे।

We shall be pleased to broadcast your talk(s) / short story on the subject, date and time detailed below upon the conditions Printed overleaf. We shall be obliged if you could kindly sign and return the attached confirmation sheet not later than.....

*शीर्षक /*TITLE Presentation Anntt. & allied work in this connection

दिनांक / Date(s) 1, .22, 23, 26 and 30.1.11

प्रसारण का समय / Time of Broadcast As required

प्रसारण का अवधि /Duration As required.

प्रसारण का स्थान /place of Broadcast RKJ.

शुल्क रु. /Fee Rs. 2025/- (Rs. Two thousand twenty five only) @Rs.405/-

अनुवर्ती प्रसारण शुल्क / Subsequent Broadcast Fee. Nil

(इस पृष्ठ के पीछे शर्तों के खंड ४ (क) / (ख) के अध्याधीन)

(Subject to Clause 4 (a) / 4 (b) of conditions printed overleaf.)

हमारा विशेष निवेदन यह है कि आप कृपया इस शर्त का पालन करके हमारी सहायता करें कि प्रसारण के लिए जो तारीख नियत की गई है उससे कमसे कम दस दिन पहले वार्ता/लघुकथा की पांडुलिपि केंद्र निर्देशक के पास पहुंच जाए। इस शर्त का पालन न होने पर केंद्र के सामान्य कार्यक्रम में गंभीर अवरोध पैदा हो जाता है।

We would particularly ask you to assist us by complying with the condition that the manuscript of the talk/short story should be in the hands of the Station Director not less than 10 days before the date fixed for the Broadcast. The normal routine of the Station is seriously hampered if this condition is not observed.

स्टैम्प शुल्क सरकार द्वारा वहन किया जाएगा। / The Stamp Duty will be borne by the Government.

भवदीय

Yours faithfully

हस्ताक्षर/Signature

कृते केंद्र निर्देशक

For Station Director

भारत के राष्ट्रपति के लिए और उनकी ओर से

For and on behalf of the President of India”

8. The applicants had also relied upon the judgment of Hon'ble Apex Court in **Secretary, State of Karnataka and ors. Vs. Uma Devi and ors.**, (2006) 4 SCC 1, wherein the Government were given directions to give one time relaxation and to frame scheme for regularisation. It is pleaded that this decision has also not been implemented by the respondents. The relevant part of this judgment is extracted as under:

"44. One aspect needs to be clarified. There may be cases where irregular appointments (not illegal appointments) as explained in S.V. NARAYANAPPA (supra), R.N. NANJUNDAPPA (supra), and B.N. NAGARAJAN (supra), and referred to in paragraph 15 above, of duly qualified persons in duly sanctioned vacant posts might have been made and the employees have continued to work for ten years or more but without the intervention of orders of courts or of tribunals. The question of regularization of the services of such employees may have to be considered on merits in the light of the principles settled by this Court in the cases above referred to and in the light of this judgment. In that context, the Union of India, the State Governments and their instrumentalities should take steps to regularize as a one time measure, the services of such irregularly appointed, who have worked for ten years or more in duly sanctioned posts but not under cover of orders of courts or of tribunals and should further ensure that regular recruitments are undertaken to fill those vacant sanctioned posts that require to be filled up, in cases where temporary employees or daily wagers are being now employed. The process must be set in motion within six months from this date. We also clarify that regularization, if any already made, but not subjudice, need not be reopened based on this judgment, but there should be no further by-passing of the constitutional requirement and regularizing or making permanent, those not duly appointed as per the constitutional scheme."

9. Per contra, the respondents have opposed the OA. It is pleaded that the applicants were empanelled as a Casual Announcer in the year 1992 for engagement as and when a relevant programme was to be aired. This empanelment was not against a regular post.

It was also pleaded that such empanelment is a continuous process which goes on at all stations of All India Radio.

It is pleaded that the applicants were empanelled and offered engagement as and when required as per the requirement of programmes at stations and for this job, certain prescribed fee is also paid to the applicants. Such engagement is for a maximum of 6 days in a month or a maximum of 72 days in a year. With a view to maintain quality, review auditions are also held from time to time and successful candidates are continued on empanelment list.

For such renewal of empanelment, the candidates are also advised to bring certain documents, which includes the degree of graduation. All candidates, including the applicants, were advised to appear in the said audition test. The applicants appeared in the said audition test and failed and accordingly, were not empanelled.

10. The respondents further pleaded that there is no regularisation scheme for Casual Announcers on All India Radio as the engagement is casual in nature and it depends upon the job requirement and types of programmes to be aired. Such of the candidates, who appeared in the tests and passed, have been empanelled.

Further, no regularization has been done by the respondents of any Casual Announcers. It is relevant to note here that the respondents are not having any scheme for regularization of Casual

Announcer and the applicants were also not engaged/empanelled against the regular vacancy.

It was also pleaded that whenever an agency engages a person for a particular assignment, it has every right to test and screen the person being engaged from time to time to judge the present performance, whether it is as per the standards and requirements of the agency or not, so that the results may be in accordance with the expectations.

It was also pleaded that the judgment by Hon'ble Apex Court in **Uma Devi** (supra) is also not applicable as the panel prepared by the respondents for engagement as Casual Announcers is not against any sanctioned posts. Further, the casual announcers are not on full time engagement and they are free to take up other jobs also with organization other than All India Radio. It is pertinent to mention here that at every broadcasting station a large number of Casual Announcers are kept on the panel.

11. The respondents relied upon a judgment passed by the Tribunal in OA No.96/2018 on 10.04.2019 on the same issue. The relevant parts of this judgment which contain the observations about the issue at hand and the order passed are reproduced below:

“3. The applicants in this case are impugning the order dated 21.2.2017 vide which the respondents have allowed all AIR stations to conduct auditions for selection of presenters/Comperes/Announcers/RJs etc. booked on

assignment basis and also impugning the subsequent order dated 18.4.2017 slightly modifying the aforesaid order dated 21.2.2017 page-5, Para-2 under the heading Rescreening of Assignee, the existing panel of assignees will pass through the same 3-tier process, i.e., Written Test followed by Audition, 4 further followed by interview as is warranted for a panel of fresh assignees except, of course, the relaxation of age, which should not be more than 50 years as the maximum possible entry level age and exemption from the requirement of paying the audition fee for those in the existing panel and also direction to the respondents to extend the benefit of the scheme in pursuance of which employees of Doordarshan were regularized or frame a scheme for regularization of the casual announcer/compare/programme assistants of All India Radio.

4. The applicants in this case, who were appointed as casual Announcers in All India Radio, are further seeking direction to the respondents to extend the regularization scheme as adopted by second respondent for the employees of Doordarshan or to form other similar scheme for them and also contended that the impugned orders have been passed by the respondents in violation of interim order passed in SLP (Civil) CC No.13876-13877/2016/ Civil Appeal Nos.8859- 8860/2016 (titled as Director General, All India Radio vs. Purushottaman C. & others etc dated 5.9.2016 in which the Hon'ble Apex Court had granted status quo, obtaining as of today shall be maintained.

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15. In view of the above facts and circumstances of this case, and the fact that the respondents have constituted a Committee, in pursuance of the aforesaid directions of the Ernakulam Bench of this Tribunal and High Court of Kerala, which comprises of ADG (A&P), DDG (SW) and Director A-II of the respondents" organization and the same Committee after exhaustive deliberation on the issues gave recommendations to the effect that any attempt for regularization of the services of the applicants is fraught with complications and would jeopardize the interests of the broadcasting organization and further observed that the said Idea is neither administratively feasible nor economically viable and against the principles of natural justice and against the larger public interest and the fact that the said recommendations were accepted by the competent authority.

16. Hence, we do not find any merit in the present OA as the issue of creation of posts has been squarely dealt with by the Hon'ble Supreme Court in the case of P.U. Joshi (supra), relevant portion of the same has already been quoted above, 35 and the manner of regularization has also been dealt with by the Apex Court in Uma Devi (supra) and also the fact that the aforesaid decision of the Hon'ble Delhi High Court still holds sway, this OA is disposed of in terms of the detailed order passed by the Hon'ble Delhi High Court in Batch of cases (C.W.P No.319/2001

and others) vide judgment dated 13.2.2002, which has already been affirmed by the Hon^{ble} Apex Court in SLP No.11855/2002 vide Order dated 11.7.2002.

17. In the result, for the foregoing reasons, the present OA being devoid of merit is dismissed. There shall be no order as to costs.”

11.1 It was pleaded that in view of the foregoing, the empanelment of Casual Announcers is undertaken at all stations of All India Radio. The Announcers empanelled are sometimes imparted training to improve quality of the programme and they are to be called for a maximum of 6 days only in a month and certain fee is also paid to them in lieu of such engagements.

11.2 Empanelled candidates are free to seek employment in other organizations at all times. Respondents engage the casual announcers out of those who are empanelled and are available for the programme to be aired.

11.3 Review audition is a necessity to ensure quality and in the instant case, the applicants had appeared in the said test and failed.

11.4 There is no scheme for regularisation of Casual Announcers. Moreover, the work requirement is also not of a regular nature needing full time engagement.

11.5 Accordingly, OA is without merit and is required to be dismissed.

12. Matter has been heard at length. Sh. K.B. Sharma, learned counsel represented the applicant and Sh. K.K. Thakur, learned counsel represented the respondents.

13. It is noted that the empanelment of the Casual Announcers is to fulfil a specific need of sporadic nature of work for broadcasting of the programme as per needs of All India Radio. Appropriate quality of such Announcers is required to be maintained for which holding of audition test is prescribed and it is held from time to time.

14. In the instant case, applicants were called to appear in the audition test along with other candidates. Applicants had, however, appeared and failed in the said test. Those who passed were empanelled. Applicants' plea of still empanelling them even though they failed, and cancelling empanelment of passed candidates, is not acceptable.

In this connection, it is noted that the law is fairly well settled in this regard. If the rules or guidelines of selection for appointment are indicated in the recruitment notification, a candidate who participated in the selection cannot assail the same when it is found that he is not selected. In a way, the principle of estoppel operates against him. In other words, if he had any objection to the selection process, he is required to approach the Court or Tribunal, well in advance, and

before participation. He cannot challenge the conditions after conclusion of the selection process. Reliance in this context can be made to the judgment of the Hon'ble Apex Court in the case of **Madan Lal & Ors. v. The State of Jammu & Kashmir & Ors.**, [(1995) 3 SCC 486] where the Hon'ble Apex Court has held as under:

“9. Before dealing with this contention, we must keep in view the salient fact that the petitioners as well as the contesting successful candidates being concerned respondents herein, were all found eligible in the light of marks obtained in the written test, to be eligible to be called for oral interview. Upto this stage there is no dispute between the parties. The petitioners also appeared at the oral interview conducted by the concerned Members of the Commission who interviewed the petitioners as well as the concerned contesting respondents. Thus the petitioners took a chance to get themselves selected at the said oral interview. Only because they did not find themselves to have emerged successful as a result of their combined performance both at written test and oral interview, that they have filed this petition. It is now well settled that if a candidate takes a calculated chance and appears at the interview then, only because the result of the interview is not palatable to him he cannot turn round and subsequently contend that the process of interview was unfair or Selection Committee was not properly constituted. In the case of *Om Prakash Shukla v. Akhilesh Kumar Shukla and Ors.*, (AIR 1986 SC 1043), it has been clearly laid down by a Bench of three learned Judges of this Court that when the petitioner appeared at the examination without protest and when he found that he would not succeed in examination he filed a petition challenging the said examination, the High Court should not have granted any relief to such a petitioner.”

15. The ratio of the judgments relied upon by the applicant are in a different context. The **Uma Devi** judgment (supra) is in respect of those casual labourers who had been working on a full time basis and were working continuously for a period of 10 years or more without regularisation. The empanelment for Casual Announcers in All India Radio is for a maximum period of 6 days in a month. The empanelled

artists are free to take up any assignment at places other than All India Radio. Accordingly, the case of artists on empanelled list of All India Radio, will not fall in the category of casual labourers, who are otherwise on full time engagement for the period notified for such casual engagement.

16. In view of the foregoing, it is held that the ratio of the judgment in OA No.96/2018 is fully attracted in the instant case (para-11 supra). The pleadings by the applicant are not finding acceptability. Accordingly, OA is dismissed being devoid of merit. No order as to costs.

17. This, however, does not preclude the respondents from allowing the applicant to appear in future audition tests as and when conducted and empanel them, if they are otherwise found suitable as per the criteria and qualifications as specified. No order as to costs.

(PRADEEP KUMAR)
MEMBER(A)

(SANJEEV KAUSHIK)
MEMBER(J)

Dated:
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