

SUPREME COURT OF INDIA

Director, Doordarshan Kendra, Trivandrum

Vs.

S. Kuttan Pillai

(S Agrawal and G Nanavati JJ.)

14.03.1996

ORDER

1. Shri Ashok Kumar Srivastava, the learned counsel for the petitioner, states that he does not wish to press the special leave petition against Respondent 3 (G. Sreekumar). The special leave petition as against Respondent 3 is, therefore, dismissed.

2. Delay condoned.

3. Leave granted.

4. This appeal is directed against the judgment of the Central Administrative Tribunal, Ernakulam Bench, (hereinafter referred to as "the Tribunal") dated 10-3-1993 passed in OA No. 1123 of 1992 filed by the respondents. The respondents are engaged on casual basis as Floor Assistants in the Doordarshan Kendra at Trivandrum. They were first engaged on 16-8-1988. They are seeking regularisation on the post of Floor Assistant.

5. Two questions were raised before the Tribunal:

(i) whether the respondents are entitled to such regularisation; and

(ii) whether they fulfil the requirement about age qualification as prescribed under the relevant recruitment rules.

At the relevant time, the maximum age prescribed under the relevant recruitment rules was 25 years.

6. By order dated 8-2-1991 passed in OA No. 894 of 1990 the Tribunal had directed the Union of India to formulate and implement a scheme of regularisation of Casual Artistes who had done 120 days of casual service. In accordance with the said direction given by the Tribunal, the Central Government framed a scheme for regularisation which was approved by the Tribunal by its order dated 14-2-1992 passed in OA No. 563 of 1986. The said scheme has been notified vide office memorandum dated 9-6-1992. Under para 6 of the scheme, the upper age limit would be relaxed to the extent of service rendered by the Casual Artistes at the time of regularisation and a minimum of 120 days' service in the aggregate in one year should be treated as one year's service rendered for the purpose. By office memorandum dated 10-6-1992, general guidelines have been issued to facilitate the implementation of the scheme. In clause (ii) of the said guidelines, it is stated that for determining the number of years for which age concession is to be given, engagement for a total period of 120 days in one calendar year will be taken as one year. The said scheme has been revised by OM dated 17-3-1994 and OM dated 5-7-1994.

7. In the impugned judgment, the Tribunal has referred to Note I below clause 12 of the recruitment rules wherein provision has been made for relaxation in age up to 35 years for government servants. The Tribunal has directed that the respondents are entitled to the benefit of relaxation of age in view of the said provision so as to enable them to be considered for regularisation. In our opinion, the said direction given by the Tribunal cannot be upheld. The matter of regularisation of the respondents including the question whether they should be given relaxation in the matter of age has to be considered only in accordance with the provisions contained in the scheme as notified vide OM dated 9-6-1992 as modified by OMs dated 17-3-1994 and 5-7-1994 and they cannot be granted relaxation in age de hors the said provisions. The appeal is accordingly allowed and the impugned judgment of the Tribunal is set aside and it is directed that the matter of regularisation of the respondents will be considered by the appellants in accordance with the scheme as notified vide OM dated 9-6-1992 as modified by OM dated 17-3-1994 and OM dated 5-7-1994. Such consideration shall be done within a period of two months. No orders as to costs.