

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.R.RAMACHANDRA MENON

&

THE HONOURABLE MR. JUSTICE BABU MATHEW P.JOSEPH

FRIDAY, THE 21ST DAY OF AUGUST 2015/30TH SRAVANA, 1937

WP(C).No. 12012 of 2010 (B)

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AGAINST THE ORDER/JUDGMENT IN OS 661/2005 of CENTRAL ADMINISTRATIVE  
TRIBUNAL,ERNAKULAM BENCH DATED 00-00-0000

PETITIONER:

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P.G.BAIJU

MAKE UP-ASSISTANT, DOORDHARSHAN KENDRA, TRIVADNRUM-43  
RESIDING AT T.C.2/1518, GOWREESHAPATTOM, TRIVANDRUM-4.

BY ADVS.SRI.G.SASIDHARAN CHEMPAZHANTHIYIL  
SRI.S.VISHNU

RESPONDENT(S) :

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1. THE DIRECTOR,  
DOORDARSHAN KENDRA, PRASAR BHARATI, TRIVANDRUM-43.

2. THE DIRECTOR GENERAL,  
DOORDARSHAN, PRASAR BHARATI, NEW DELHI.

3. UNION OF INDIA,  
REPRESENTED BY ITS SECRETARY  
MINISTRY OF INFORMATION & BROADCASTING, NEW DELHI.

4. P.SATHI DEVI,  
CASUAL MAKE UP ASSISTANT, DOORDARSHAN KENDRA  
TRIVANDRUM.

R,R1 & 2 BY ADV. SRI.N.N.SUGUNAPALAN, SC, DOORDARSHAN  
R,R1 & 2 BY ADV. SRI.S.SUJIN,SC DOORDARSHAN KENDRA,TVM  
R,R3 BY ADV. SMT.SREELATHA PARAMESWARAN NAIR  
R,R4 BY ADV. SRI.P.VIJAYAKUMAR  
R,R4 BY ADV. SRI.C.R.REGHUNATHAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 21-  
08-2015, ALONG WITH WPC. 16043/2010, THE COURT ON THE SAME DAY  
DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS :

EXT. P1 : TRUE COPY OF THE CASUAL SERVICE DETAILS OF THE APPLICANT.

EXT. P2 : TRUE COPY OF THE DISABILITY CERTIFICATE ISSUED BY MEDICAL BOARD DATED 11.5.1999

EXT. P3 : TRUE COPY OF THE O.M. NO. 2(3)/86-S1 DATED 09.06.1992 ISSUED BY THE 2ND RESPONDENT.

EXT. P4 : TRUE COPY OF THE O.M.F. NO. 2(3)/86-SI DATED 17.03.1994 ISSUED BY THE 2ND RESPONDENT.

EXT. P5 : TRUE COPY of the LETTER NO. 2(6)/97/AI/DKT DTD. 14.08.1997 ISSUED BY THE 1ST RESPONDENT.

EXT. P5(a) : TRUE COPY OF THE LETTER NO. 2 (6)99-AI/DKT/525 DATED 13.05.1999 ISSUED BY THE 1ST RESPONDENT.

EXT. P6 : TRUE COPY of the ORDER IN O.A. NO. 573/2001 DTD. 23.08.2001 OF THIS HON'BLE COURT.

EXT. P7 : TRUE COPY OF THE ORDER IN R.A. NO. 6/2002 IN O.A. NO. 573/2001 OF THIS HON'BLE TRIBUNAL.

EXT. P8 : TRUE COPY OF THE O.M. NO. 36/1/2003-SI(A) PART I DTD 22.09.2004 ISSUED BY THE 2ND RESPONDENT.

EXT. P9 : TRUE COPY OF THE ORDDER OF APPOINTMENT NO. 2(6)2004-A1/DKT/390 DATED 04.02.2005 ISSUED BY THE 1ST RESPONDENT.

EXT. P10 : TRUE COPY OF THE JUDGMENT IN O.P. 35955/2000 OF THE HONOURABLE HIGHT COURT OF KERALA.

EXT.P11 : TRUE COPY PF the PRDER MP/ 36/1/2003-SI(A) PART (I)/ 465 DTD. 7.6.2005 ISSUED BY THE 2ND RESPODNENT.

EXT.P12 : TRUE COPY OF THE JUDGMENT IN W.P.(c) NO. 31971/2005 AND W.P.(c) NO. 34419/2005 DATED 14.01.2009 OF THIS HONOURABLE COURT.

EXT. P13 : TRUE COPY OF THE ORDER OF DEPARTMENT OF PERSONNEL AND TRAINING AS EXTRACTED IN SWAMY'S COMPILATION OF RESERVATION AND CONCESSIONS.

EXT. P14 : TRUE COPY OF THE O.A. NO. 661/2005 FILED BEFORE THE CAT ERNAKULAM BENCH,

EXT. P15 : TRUE COPY OF THE COMMON JUDGMENT IN O.A. NO. 560/2005 AND O.A. NO. 661/2005 OF THE CAT, ERNAKULAM BENCH.

EXT. P16 : TRUE COPY OF THE O.M. NO. 2/3/86-SI DATED 01.09.1992 ISSUED BY THE 3RD RESPONDENT.

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RESPONDENTS' EXHIBITS :

EXT. R1(a) : TRUE COPY OF THE GUIDELINES FOR IMPLEMENTING THE  
SCHEME FOR REGULARIZATION OF CASUAL ARTISTS IN DOORDARSHAN, DATED  
09.06.1992

EXT R1(b) ; TRUE COPY OF THE INTERIM ORDER DATED 06.04.2010  
IN W.P.(c) NO. 12012 OF 2010

EXT. R1(c) : TRUE COPY OF THE INTERIM ORDER DATED 21.06.2010 IN  
W.P.(c) NO. 16043/2010

EXT. R1(d) : TRUE COPY OF THE ENQUIRY REPORT.

/TRUE COPY/

P.A. TO JUDGE

**P.R. RAMACHANDRA MENON  
&  
BABU MATHEW P. JOSEPH, JJ.**

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W.P.(C) Nos. 12012 and 16043  
of 2010

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Dated, this the 19<sup>th</sup> day of August, 2015

**JUDGMENT**

Ramachandra Menon, J.

Both these cases, preferred by the very same petitioner, arise from a common verdict passed by the Central Administrative Tribunal in O.A. Nos. 560 and 661 of 2015. The pleadings and proceedings are referred to as given in W.P.(C) No. 12012 of 2010.

2. The dispute is mainly with regard to the claim for regularization of the petitioner as Make-up Assistant. The case of the petitioner is that claim of the petitioner was considered way back in the year 2004 and Ext. P8 order was issued on 22.09.2014, whereby the rights and liberties of the petitioner were upheld and crystalized. However, subsequently the said order was varied as per Ext. P11 order dated 07.06.2005, whereby the claim of the 4<sup>th</sup> respondent herein (who was the applicant in O.A. No. 560 of 2015) was held as

correct and sustainable. The said order was sought to be implemented by the 4<sup>th</sup> respondent by filing O.A. No. 560 of 2005, while the petitioner approached the Tribunal by filing O.A. No. 661 of 2005 seeking to set aside Ext. P11. The Tribunal, after hearing both the sides, allowed O.A. No. 560 of 2005 filed by the 4<sup>th</sup> respondent and dismissed O.A. No. 661 of 2005 filed by the petitioner. This led to two separate writ petitions viz. W.P.(C) Nos. 31971 and 34419 of 2005 preferred by the petitioner.

3. The above writ petitions were disposed of, after setting aside the impugned orders and directing the matters to be reconsidered, pursuant to the remand ordered by this Court. The petitioner sought to amend the original petition and also produced some additional documents as well. The contentions of the petitioner appear to be that, no relaxation can be given over and above the age, which was provided under the Scheme and if this be so, the 4<sup>th</sup> respondent was not entitled to have regularization, as the cut off date mentioned under the Scheme was 09.06.1992; on which date, no age relaxation was available to 'OBC' (to which category the 4<sup>th</sup> respondent belongs). However, after hearing both the sides, the Tribunal upheld the contention raised by the

petitioner in O.A. No. 560 of 2015 filed by the 4<sup>th</sup> respondent, while O.A. No. 661 of 2005 filed by the petitioner came to be rejected. This gave rise to the next round of litigation before this Court by way of present writ petitions.

4. Heard the learned counsel appearing for the petitioner as well as the learned counsel appearing for the 4<sup>th</sup> respondent, besides the learned standing appearing for the first and second respondents.

5. During the course of hearing, Mr. P. Vijayakumar the learned counsel appearing for the 4<sup>th</sup> respondent made a submission with reference to the contents of I.A. No. 1156 of 2015 and sought for permission of this Court to enable him to withdraw the case filed by him as O.A. No. 560 of 2005 on the file of the CAT. The reason stated in the supporting affidavit is that, in the course of subsequent developments, the Director of Dooradarshan, after considering the recommendations of the Screening Committee constituted has issued order No. 16/2015-S.I(A) dated 06/08-05-2015, whereby '233 casual artists' have been ordered to be regularized under a Special drive scheme and that the 4<sup>th</sup> respondent stands included at serial No. 164 of the list appended.

A copy of the said order is also placed for perusal of this Court. According to the petitioner in the I.A. (4<sup>th</sup> respondent in W.P.), it was necessitated by virtue of the stipulation in paragraph 3 of the aforesaid order that the order would be given effect to, only subject to withdrawal of the Court case, if any, filed by the party concerned, for regularization, prior to his/her joining. The learned counsel also submits that, in view of the subsequent developments and having ordered to be regularized as per aforesaid order, the 4<sup>th</sup> respondent does not intend to press the relief sought for and granted by the Tribunal in O.A. No. 560 of 2005 and that the 4<sup>th</sup> respondent does not have any objection in giving regularization of service to the writ petitioner (i.e. the applicant in O.A. No 661 of 2015) ordered earlier and who is still continuing in service by virtue of the interim order passed by this Court. The relevant portion in in paragraph 3 of the Order dated 06/08-05.2015 reads as follows :

"3. Heads of all concerned Kendra's are requested to issue letters of offer of appointment to all eligible applicants subject to submission of Police verification and Medical fitness before joining. Head of Kendra's may also incorporate in the offer of appointment that their offer of appointment is subject to the condition

that he/she will withdraw the court case, if any, filed by him/her for regularization prior to his/her joining."

5. On going through the contents of the said order it is quite obvious that the stipulation as mentioned above is only to have finality to the pending proceedings in respect of the claim for regularization, if any. The very usage of the expression '**if any**' in the said order in paragraph 3 as above itself denotes that withdrawal of the cases can be effected by the persons concerned only if the case concerned is pending. In so far as the 4<sup>th</sup> respondent is concerned, no case filed by her is pending consideration, as O.A. No. 560 of 2015 preferred by her was already finalized in her favour. The present writ petitions have been filed by the applicant in O.A. No. 661 of 2005. The writ petition filed by somebody else cannot be withdrawn legally or otherwise by any act to be done by the 4<sup>th</sup> respondent. As such the stipulation in Clause 3 of the aforesaid order can in no way stand against the right of the 4<sup>th</sup> respondent to be regularized, pursuant to her inclusion at serial No. 164 in the relevant order. It is ordered accordingly.

6. Coming back to the course and events, in view of the submission made by the learned counsel for the 4<sup>th</sup> respondent that she does not intend to cause any disturbance to the regularization already given to the petitioner in the writ petitions, who was the respondent in O.A. No. 560 of 2005 and the applicant in O.A. 661 of 2005, and also in the light of the contents of the affidavit dated 05.08.2015 filed in support of I.A. No. 11556 of 2015 in W.P.(C) No. 12012 of 2010, this Court finds that the regularization already given to the writ petitioner, which was subject matter of consideration in O.A. No. 560 and 661 of 2005 need not be disturbed in any manner. The common verdict passed by the Tribunal will stand modified to the said extent.

7. The learned counsel for the 4<sup>th</sup> respondent submits that all other persons standing in front of the petitioner, as enlisted in the order dated 06/08.05.2015, have already joined service and that the delay in the case of the 4<sup>th</sup> respondent is only because of the pendency of these writ petitions. If this be so, and since writ petitions have been finalized today, the aforesaid order dated 06/08-05-2015 shall be given effect to and the 4<sup>th</sup> respondent shall be permitted to join duty, if her turn has already arrived, forthwith,

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subject to satisfaction of other requirements, if any. This shall be done, at any rate within one month from the date of receipt of a copy of this judgment.

Both the writ petitions are disposed of.

sd/-

**P. R. RAMACHANDRA MENON,  
JUDGE**

sd/-

**BABU MATHEW P. JOSEPH,  
JUDGE**

kmd