

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS
CIVIL APPEAL NO(s). 863 OF 2006

UNION OF INDIA & ORS.

Appellant (s)

VERSUS

MANOJ KUMAR PATHAK & ORS.

Respondent(s)

(With appln(s) for impleadment and prayer for interim relief))

WITH Civil Appeal NO. 7566 of 2008

(With prayer for interim relief and office report)

Date: 09/03/2011 These Appeals were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE B. SUDERSHAN REDDY
HON'BLE MR. JUSTICE SURINDER SINGH NIJJAR

For Appellant(s)

Mr. P. Parmeswaran, Adv.

Mr. T. S. Doabia, Sr. Adv.
Mr. Sadhana Sandhu, Adv.
Mr. C. K. Sharma, Adv.
Mr. D. S. Mahra, Adv.

Mr. Rajeev Sharma, Adv.
Mr. Chandan Sharma, Adv.

For Respondent(s)

Mr. Dhruv Mehra, Sr. Adv.
Mr. Harsbardhan Jha, Adv.
Ms. Nandini Sen, Adv. for
Mr. Deba Prasad Mukherjee, Adv.

Mr. Rajeev Sharma, Adv.

UPON hearing counsel the Court made the following
O R D E R

Impleadment ordered.

The appeals are disposed of in terms of the signed
order.

(NIDHI CHUGH)
Sr. P.A.

(RENUKA SADANA)
Court Master

(Signed order is placed on the file.)
IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION
CIVIL APPEAL NO. 863 OF 2006

UNION OF INDIA & ORS.

....Appellants

VERSUS

MANOJ KUMAR PATHAK & ORS.

....Respondents

WITH

DIRECTOR GENERAL, AIR & OTHERS

....Appellants

VERSUS

MANOJ KUMAR PATHAK AND OTHERS

....Respondents

O R D E R

Since the question involved in these two appeals are the same, we dispose of the same by this common order. For the sake of convenience, the facts are taken from Civil Appeal No. 863 of 2006.

The High Court by the impugned judgment has dismissed the petitions filed by the appellants herein against the order of the Tribunal whereby the Tribunal directed the appellants herein to consider the case of respondents for regularisation and eventual absorption against the regular vacancy in due course in terms of the scheme formulated for regularisation of casual Production Assistants and General Assistants in the All India Radio pursuant to the judgment of the Central Administrative Tribunal, Principal Bench, New Delhi, in O.A. No. 822/1991 dated 18.09.1992.

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CIVIL APPEAL NOS. 863 OF 2006 and 7566 of 2008

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The Tribunal further directed that in the alternative, a scheme to be formulated and implemented by the appellants herein for the regularisation 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 for 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 regularisation 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, decides the fate of this lis.

The High Court merely confirmed the directions issued by the Tribunal and there is no finding as such recorded even by the High Court on this crucial aspect of the matter.

For the aforesaid reasons, the impugned judgments of the Tribunal as well as of the High Court are set aside. These appeals are allowed. The O.A. filed by the respondents shall stand restored to its file for the hearing on merits with the further direction that the Tribunal may have to consider the question referred to hereinabove and record a finding thereon. We have not

expressed any opinion, whatsoever,

on the merits on any of

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CIVIL APPEAL NOS. 863 OF 2006 and 7566 of 2008

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the contentions placed before us and we have, accordingly, left them open for the decision of the Tribunal.

We request the Tribunal to dispose of the O.A. as expeditiously as possible, preferably within six months from the date of receipt/ production of a copy of this order.

Impleadment ordered.

The appeals are, accordingly, disposed of.

....., J.
[B. SUDERSHAN REDDY]

....., J.
[SURINDER SINGH NIJJAR]

NEW DELHI;
MARCH 09, 2011.