

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

O.A.NO.224/95

19

New Delhi, this the 23rd day of May, 1996

Hon'ble Shri S.R. Adige, Member(A)

Hon'ble Smt. Lakshmi Swaminathan, Member(J)

1. All India Telecom Stenographers
Association (Regd.),
Central Headquarters,
Advani Chambers,
IInd Floor, A.K. Marg,
Bombay-400 016
through
President,
Sector-VI/951,
R.K. Puram,
New Delhi.

2. Shri Mahendra Singh Kushwaha,
s/o Shri Kanihyaya Lal,
Stenographer,
o/o General Manager, South-I,
8, Bhikaji Kama Place,
New Delhi.
R/o RZ-573/313, Geetanjali Park,
Gali No.6-A, Sagarpur West,
New Delhi.

... Applicants

By Advocate: Shri B.K. Aggarwal

Vs.

1. Union of India
through its
Secretary,
Ministry of Personnel,
Public Grievances & Pensions,
Deptt. of Personnel & Training,
North Block, New Delhi.

2. The Chairman,
Telecom Commission,
Ministry of Communications,
Sanchar Bhawan, 20, Ashoka Road,
New Delhi.

... Respondents

By Advocate: Shri E.X. Joseph, Sr. Counsel with Ms. M.ommen

20

O R D E R

Hon'ble Smt. Lakshmi Swaminathan, Member(J)

The applicants are aggrieved by the letters dated 14.9.94 and 5.10.94 issued by the respondents rejecting their request for recognition of their Association, namely, the All India Telecom Stenographers Association (Regd.) under the CCS (Recognition of Service Association) Rules, 1993, in which they have, inter alia, stated that there was no justification for forming a service union exclusively for the stenographers/ PA/Sr.PA etc. as they may join with the other administrative office employees (Annexure A-1 and A-2).

2. After the pleadings in this case were complete, Shri B.K. Aggarwal, learned counsel for the applicants and Shri E.X. Joseph, learned counsel for the respondents agreed that the case may be taken up for consideration of the preliminary issue whether the Tribunal has jurisdiction to entertain the O.A. The learned counsel for the applicants contends that the question regarding granting of recognition of service associations falls within the provisions of the definition "service matter" under section 3(q) of the Administrative Tribunals Act, 1985 and therefore, comes within the jurisdiction of this Tribunal. His contention is that the Full Bench decision of the Tribunal in The Indian National NGO'S & OTHERS

(21)

Vs. The Secretary, Ministry of Defence & Others (O.A. Nos. 1123 and 1124 of 1989 and connected cases) decided on 17.6.92 relates to recognition of registered trade unions and has no application to the present case of an association which is seeking recognition as a Service Association in order to protect and safeguard the interests of its members, namely, ^{the} stenographers/PAs/Sr.PA etc. which is a distinct category, by way of representation of their interests in the office and in the Joint Consultative Machinery(JCM).

3. Shri E.X. Joseph, learned counsel for the respondents on the other hand relies on the aforesaid judgement of the Full Bench of this Tribunal. He submits that the expression "any other matter whatsoever" in section 3(q)(v) of the A.T.Act, 1985 has to be interpreted 'ejusdem generis' to the clauses (i) to (iv). He submits that following the Full Bench judgement in The Indian National NGO'S & Ors Vs. Secretary, Ministry of Defence & Ors. (supra), matters relating to granting ^{of} recognition to associations, like the applicants, in the present case, does not come within the definition of 'service matters' as defined in section 3 (q) of the A.T.Act, 1985. He submits, therefore, that this application does not fall within the jurisdiction of the Tribunal for adjudication. He further submits that a number of similar cases, for example Civil Writ Petition No.2128/95

(22)

where the petitioners are the All India Audit and Accounts Association and others claiming similar reliefs and challenging the validity of the CCS(RSA) Rules, 1993, are presently pending before the Delhi High Court. He, therefore, submits that the Tribunal does not have jurisdiction in the matter under section 14 of the Administrative Tribunals Act.

4. We have carefully considered the matter. The applicants have prayed for the following reliefs -

- a) Annexure A-1 be quashed;
- b) directions be issued to the respondents to grant recognition to the applicants Association separately and
- c) grant any other relief which this Hon'ble Tribunal may deem fit in the circumstances of the case.

5. As can be seen from the above, the main prayer of the applicants is that the respondents should be directed to grant recognition to the applicants Association separately, by quashing the rejection letters. Shri B.K. Aggarwal, learned counsel has submitted that the main purpose of such recognition of the Association is that it would enable them to nominate their representatives to present their common interests before the various levels/offices of JCM. The learned counsel had submitted that the Full Bench decision relied upon by the respondents dealt only with the recognition of a trade union and, therefore, did not apply to their Association which is not a trade union. The main question for consideration here is whether the issue of recognition to be accorded to an Association is a 'service matter' or not within the provisions of section 3(q) of the A.T. Act.

23

6. The Full Bench in The Indian National NGO's & Others Vs. The Secretary, Ministry of Defence & Ors. Case (supra) has, following the decisions of the Supreme Court in State of M.P. v. Shardul Singh (1970) 3 SCR 302), I.N. Subba Reddy Vs. Andhra University (AIR 1976 SC 2049) and State of Punjab Vs. Kailash Nath (AIR 1989 SC 558) held as follows -

"In these decisions of the Supreme Court, it has been laid down that "conditions of service" means all those conditions which regulate the holding of a post by a person right from the time of his appointment till his retirement and even beyond it in matters like pension etc. Hence, it is not possible to accept the broad proposition put forward on behalf of the applicants that every right or privilege that accrues by virtue of his being an employee is a condition of service. The test to be satisfied is as to whether it regulates the holding of the post, it can be said to regulate the holding of the post when there is proximate nexus between the right or matter and the holding of the post. If it does not have any bearing on the holding of the post, it cannot be regarded as regulating the holding of the post."

Further it was held -

"Applying the tests flowing from the decisions of the Supreme Court, we have to examine whether the granting of recognition and the facility accorded to the recognised/registered trade unions for nominating their members at the various levels of the JCM under the scheme of Joint Consultative Machinery and compulsory arbitration for Central Government employee is a service matter falling within the jurisdiction of the Tribunal. With the object of promoting harmonious relations and securing the greatest measure of co-operation between the Government, in the capacity as employer, and the general body of its employees to deal with unresolved difference on matters of common concern and to increase efficiency of the public service, the Government of India have introduced the scheme of Joint Consultative Machinery and compulsory arbitration CPRO 25 (for short 'the Scheme') produced in O.A. 298 of 1987." (emphasis added)

13

24

7. The Full Bench after analysing the performance of the JCM Scheme came to the conclusion that the role of the JCM at different levels is to promote harmonious relations and co-operation between the Government and the employees and to resolve differences on matters of common concern and also with the object of increasing efficiency of the public service. In this connection, it was held as follows -

"The essential role of the council is, therefore, not adjudicatory but recommendatory. It has to play a persuasive and conciliatory role to ensure harmony between the employer and the employees. None of these functions of the JCMs at different levels regulate the holding of the post of the employee. There is no proximate nexus between the two. Until the recommendations for improving the conditions are given effect to and the conditions of service are modified, they do not in any manner regulate the holding of the post. What is necessary is regulation of the existing right to hold the post. Improvement of conditions of service by mutual agreement has a bearing on policy. The jurisdiction of the Tribunal can be invoked only when the cause of action has accrued. Cause of action accrues when there is violation of existing conditions of service. It has no jurisdiction to issue directions as to what the future conditions should be. Though some of the ultimate recommendations they may make bearing on improving the conditions of service, until such improvement actually takes place on the Government accepting the recommendations and taking a decision in that behalf, they do not have the effect of affecting the conditions of service of the employee in any manner. Such being the role of the council of the JCMs at different levels, we are of the considered opinion that the right to recognition and the facility to nominate members on the councils of the JCM at different levels are not matters which regulate the holding of a post by the employee. As there is no proximate nexus between the right claimed and the holding of the post by the employee, it cannot be regarded as a condition of service." (Emphasis added)

The above decision of the Full Bench regarding interpretation of of clause (v) of section 3(q) of the Act is applicable to the

facts in this case on the question of interpreting "service matters" in relation to "any other matter whatsoever". The Full Bench came to the conclusion that the granting of recognition and the facility accorded to the recognised/registered trade unions for nominating their members at various levels of the JCM are not service matters as defined in section 3(q) of the A.T. Act and, therefore, do not fall within the jurisdiction of the Tribunal for adjudication.

8. The relief claimed for in this application relates to a direction to the respondents to grant recognition to the applicants Association which is a registered Association in accordance with the CCS (Recognition of Service Associations) Rules, 1993. The purpose of the Association is stated to be for the welfare of the members i.e. Stenographers/ P.A/Sr.P.A etc. Shri B.K. Aggarwal, learned counsel for the applicants had put forward the plea ^{that is} while the case dealt with by the Full Bench concerned the recognition of a trade union, ^{whereas} the present case dealt with an Association and, therefore, that ruling does not apply to the facts of the case. However, he had argued that by affording recognition to the Association, the purpose was to enable the members of the Association to be represented before the JCM at various levels so that their interests regarding

(26)

conditions of service can be better represented and safeguarded. If that is so, then we find that the status of the body to be afforded recognition under the Rules, whether it is a trade union or not is immaterial to the issue raised before us. As already held by the Full Bench of this Tribunal, so far as the jurisdiction of this Tribunal is concerned, it can only enforce existing conditions of service when the cause of action has accrued and cannot issue directions as to any future conditions of service in a post. The direction for recognition of the Association which is sought here, cannot, therefore, be taken to relate to the conditions of service as contemplated under section 3(q) of the Administrative Tribunals Act. The fact that it is an Association which is seeking recognition under the relevant rules is not relevant to bring this case within the provisions of "service matters" as defined in section 3(q) because what is important is to see whether it is a "condition of service" over which the Tribunal can adjudicate. The expression "any other matter whatsoever" has to be read "ejusdem generis" with other clauses in section 3(q) of the Act, and has to have some nexus to the "conditions of service" to be a service matter so as to bring it within section 14, which confers jurisdiction on this Tribunal. We also note, ^{that is} in other similar cases, they are sub-judice before the Delhi High Court. Therefore, having regard to the facts in this case and the provisions of section 14 read with section 3(q) of the Administrative Tribunals Act, 1985 and the decision of the Full Bench referred to above, this application fails for want of jurisdiction of the Tribunal to adjudicate in the matter.

13.

27

9. In the result the application is dismissed with liberty to the applicants to file the same in the appropriate forum, as advised. Registry may retain one copy of the application for record and return the other papers to the applicants.

Lakshmi Swaminathan

(SMT. LAKSHMI SWAMINATHAN)
MEMBER (J)

S.R. Adige

(S.R. ADIGE)
MEMBER (A)

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