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CENTRAL ADMINISTRATIVE TRIBUNAL  
BOMBAY BENCH  
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Original Application No: 572/91.

~~Transfer Application No~~

DATE OF DECISION: 26.10.94

Western Railway Promotee  
Officers' Association & Anr. Petitioner

Shri G. K. Masand, Advocate for the Petitioners

Versus

Union Of India & Another, Respondent


Shri P.M.A. Nair, Advocate for the Respondent(s)

CORAM :

The Hon'ble Shri B. S. Hegde, Member (J).

The Hon'ble Shri M. R. KOLHATKAR, MEMBER (A).

1. To be referred to the Reporter or not ? ☒
2. Whether it needs to be circulated to other Benches of the Tribunal ? ☒

  
(B. S. HEGDE)  
MEMBER (J).

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BEFORE CENTRAL ADMINISTRATIVE TRIBUNAL

BOMBAY BENCH

O.A. NO.: 572/91.

Western Railway Promotee  
Officer's Association & Anr. ... Applicants

Versus

Union Of India & Another. ... Respondents.

CORAM :

Hon'ble Shri B. S. Hegde, Member (J).

Hon'ble Shri M. R. Kolhatkar, Member (A).

APPEARANCE :

1. Shri G. K. Masand,  
Counsel for the Applicant.
2. Shri P. M. A. Nair,  
Counsel for the Respondents.

JUDGEMENT :

DATED : 26-10-94

|| Per. Shri B. S. Hegde, Member (J) ||.

1. We have heard the Learned Counsel, Shri G.K. Masand, Counsel for the Applicant and Shri P.M.A. Nair, Counsel for the Respondents. Though the Respondents have taken a plea on the last occasion as to whether the Tribunal had jurisdiction to entertain the subject matter, as it does not appear to be a matter related to service matters. However, the said contention has been dropped during the course of hearing.

2. The applicants are aggrieved by the order of the Respondent No. 1 vide its Order dated 14.12.1990 at Exhibit 'A', vide Order dated 01.02.1991 at Exhibit 'C' and Exhibit 'D' vide order dated 07.02.1991, giving directions to the Applicant No. 1 to replace those <sup>executive</sup> members of the association, who have been promoted to Group 'A' Service from Group 'B' Service, etc.

3. The Applicants Association is called as "Western Railway Promotee Officers Association" whose aims and objects are as follows :-

- (i) To safeguard and promote the interest of the Railway Class-II Officers including those promoted to Class-I from Class-II.
- (ii) To deal with matters pertaining to the service conditions and prospects and welfare of Railway Class-II Officers including those promoted to Class-I from Class-II, etc.

It is stated that prior to July 1990, the Applicant No. 1 Association was known as "Western Railway Class-II Officers Association". It is affiliated to the Indian Railway Promotee Officers Federation which is an All India Body which looks after the welfare of the Promotee Officers in the Ministry Of Railways. In this connection, the Learned Counsel for the Applicant draws our attention to the Indian Railway Establishment Manual Rules for recognition of Service Associations of Gazetted Railway Servants. The rules for the said purpose are Rules 3601 to 3609 contained in India-n Railway Establishment Manual.

3. In the light of the above, the main contention of the Learned Counsel for the Applicant is that, the main aims and objects of the (Association) is to safe-guard and promote the interest of Railway Class-II Officers including those promoted to Class-I from Class-II service. Pursuant to the aims and objects of the Association, they contend that the Respondents have granted recognition not only to the Applicant No. 1 Association but also to its Constitution. Therefore, as per the Constitution of the Applicant No. 1 Association, eligibility for membership of the Association is open to any Class-II Officers as well as those promoted to Class-I from Class-II working on Western Railway. (The very) object of the Association is to consider the welfare activities of both Class-II and Class-I Officers and does not entertain Class-I direct recruit officers, since the object of the association is not contrary to the rules. Considering the same, the Respondents have granted recognition. Initially, in the year 1971, the Association consisted of only Class-II Officers. Later on, the same was modified including Class-I Officers. Therefore, since there is no proposal on the part of Class-I Officers that they should not be included in the aforesaid association of Class-II Officers once they become Class-I Officer, it is not open to the Respondents to interfere in the affairs of the Association stating that the officers who have been promoted to Glass-I Group 'A' cannot become members of the Western Railway Class-II Officers Association, which is a clear case of hostile discrimination (and administrative power) and the same is not tenable.

4. The Respondents in their reply negatived the contention of the Association and stated that the Applicant No. 1 is an association functioning at the zonal level on Western Zone of Indian Railways, which is an affiliate of the erstwhile Indian Railway Class-II Officers' Federation recognised by the Government of India, Ministry Of Railways vide dated 10.11.1971. which has now become the Indian Railways Promotee Officers' Federation, after the IVth Pay Commission. Before 1971, there was one Association of Officers on the Indian Railways, which is to represent the interests of both class-I and Class-II categories of Officers. However, keeping in view of the grievances of Class-II Officers, the Railway Board acceded to the request of the Class-II Officers' Association and recognised a separate Class-II Officers' Federation to represent the ~~cause~~ of Class-II Officers' on Indian Railways. In the light of the above, they contend that the post of Office bearers of the Governing Body of the Federation would be restricted to the Class-II Officers on the Railways and no outsiders should be allowed to either be a member of the office Bearer of the Federation. They further contend vide their letter dated 25.03.1991 at Annexure R-5 that the Executive Committee of your Federation and the membership enrolment should be in strict adherence to the norms laid down in the Board's letter recognising your Federation, failing which the Ministry of Railways will be constrained to withdraw the recognition accorded to the Federation. Accordingly, they have been directed to replace the Office Bearers of the Federation, who have since been substantively appointed to Group 'A' Service, by eligible Group 'B' Officers, etc.

5. In the light of the above pleadings, the only objection raised by the Applicant No. 1 Association is that the Association is formed only to look after the interest of the promotee officers both Class-II and Class-I, therefore, it is not open to the Respondents to restrict the membership only to Class-II Officers. As a matter of fact, the Applicants Association, before granting the recognition letter dated 23.07.1990, they have placed a modified aims and objects of the association, ~~after~~ <sup>for</sup> consideration of the Respondents. In that, they have clearly mentioned that the aims and objects of the association are to safeguard and promote the interest of the Railway Class-II Officers including those promoted to Class-I from Class-II. Pursuant to that, the Railway Board vide its letter dated 23rd July, 1990, granted recognition stating that the name of "Western Railway, Class-II Officers' Association" should be known as "Western Railway Promotee Officers' Association". Since no other condition has been laid down, as stated in Annexure 'A', 'C' and 'D', it is not open to the Respondents to put any embargo on the membership of the Association that those who are promoted to Class-I cannot become the members of the Association. Whereas, the contention of the Respondents is that, once they become Class-I Officer, they cease to become the member of Class-II. This precaution the Respondents ought to have been taken while giving recognition to the Association, which is open to them. Nevertheless, the Respondents did not impose <sup>any</sup> such condition at the time of granting recognition.

6. During the course of hearing, it is pointed out to the respective counsel that as and when there is a

proposal for seeking recognition of the Association, it is open to the Competent Authority to impose reasonable condition, as they deem fit ~~for~~ the facts and circumstances of the case. In the circumstances, having allowed them to change the name from "Western Railway Class-II Officers Association to Western Railway Promotee Officers' Association" they did not put any embargo on the membership of the Association. In the Constitution submitted to the Respondents, they have clearly mentioned that it includes both Class-I and Class-II Officers. The documents furnished by the Respondents at Annexure R-3 pertains to old Constitution which has been modified subsequently. Therefore, it is not relevant to the facts of this case. Similar is the case of Annexure R-1, it pertains to old Constitution. In the Impugned Order dated 14.12.1990 (Exhibits-A) addressed to the President of the Association Shri O. P. Khanna, it is clearly mentioned as "Western Railway Promotee Officers' Association." Similar is the case of exhibit 'C'.

7. In the light of the above, one thing is clear that while granting recognition to the modified Constitution of the Association, they did not restrict to a-ny condition that Class-I Officers cannot become the members of Western Railway Class-II Promotee Officers' Association. That being so, the embargo placed by the Respondents subsequently does not appear to be correct and the same is liable to be quashed. In the result, the prayer made by the Applicant No. 1 Association at Sl.No.8(a) is allowed and the Respondents are directed to implement

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the same within a period of three months from the date of receipt of a copy of this order. However, this will not preclude the rights of the Respondents to make any such modifications, keeping in view of the interest of the Department as well as the Association bifurcating the membership from Class-II to Class-I, if they so desire, subject to the above, *no order is disposed of.*

8. No order as to costs.

*M. R. Kolhatkar*

(M. R. KOLHATKAR)  
MEMBER (A).

*B. S. Hegde*

(B. S. HEGDE)  
MEMBER (J).

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