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CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

Original Application No. 577/92
Transfer Application No. ---

Date of Decision : 1.9.95

Ayudh Nirmani Karmachari Sangh

Petitioner

Mr.D.V.Gangal

Advocate for the
Petitioners

Versus

Union of India & anor.

Respondents

Mr.R.K.Shetty

Advocate for the
respondents

C O R A M :

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 ?X
- (2) Whether it needs to be circulated to other Benches of the Tribunal?


(B.S.HEGDE)
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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

O.A.577/92

Ayudh Nirmani Karmachari Sangh,
Bhusawal
H-6/33, Ordnance Factory,
Bhusawal - 425 203
through their
General Secretary,
Shri Vasant L.Nawade. .. Applicant

-versus-

1. Union of India
through
Ministry of Defence,
South Block,
New Delhi.
2. The General Manager,
Ordnance Factory,
Bhusawal. .. Respondents

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

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

Appearances:

1. Mr.D.V.Gangal
counsel for the
applicant.
2. Mr.R.K.Shetty
counsel for the
Respondents.

JUDGMENT:
(Per B.S.Hegde, Member(J))

Date: 1.9.95

The only prayer made in this O.A. is to hold and declare that the applicant Union is entitled for recognition from 1986 and delay in granting recognition to the applicant union is unreasonable, arbitrary and therefore illegal.

2. Learned counsel for the applicant Shri D.V.Gangal submitted that granting recognition to Union is within the purview of service condition of the employees working in the Factory and secondly, he submitted that the Association has legal right that the union should be recognised. He also drawn our

attention to the decision of the Full Bench in the case of The Indian National NGO's Association of Army Electronic Inspection and Ors. v. The Secretary, Ministry of Defence, New Delhi & Ors., (1991-1993)A.T.F.B.J. 240 and submitted that, that judgment was per incuriam and the Full Bench has not considered all the issues.

3. The respondents in their reply have taken a stand stating that the Tribunal has no jurisdiction to entertain and adjudicate upon the above mentioned application, as the main demand of the Union is for a direction by the Hon'ble Tribunal to the Respondents that the applicant union has a right to be granted a recognition and this is not a service matter u/s. 3 of the A.T.Act. Further, with regard to the recognition of the applicant union the respondents have pointed out that as a general principle, the grant and continuance of recognition to workers' Union or Federation rests with the discretion of the Government and hence the applicant Union cannot claim the same as a matter of right.

4. In the light of above, two issues that arises for consideration. Firstly whether granting of recognition to Union would come within the purview of the service condition as envisaged in the A.T.Act. In the facts and circumstances of the case, we need not have to go into particulars of the case except referring to Full Bench decision which decided the case of Indian National NGO's Association vs. Secretary, Ministry of Defence. The very same issue had cropped up before the Full Bench. It was held, that matters relating to granting recognition and the facility accorded to the recognised/registered trade unions for nominating their members at the various

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levels of the JCM under the scheme of Joint Consultative Machinery and Compulsory Arbitration for Central Government employees are not "Service matters" as defined in Section 3(q) of A.T. Act. Therefore, such matters do not fall within the jurisdiction of the Tribunal for adjudication. Merely because the Recognition Rules were made under the proviso to Article 309 it does not mean that they relate to conditions of service contemplated by Section 3(q) of the Act and in regard to which the Tribunal has been conferred jurisdiction. Accordingly, the Full Bench held that grant of recognition to recognised trade unions are not service matters as defined u/s. 3(q) of the A.T. Act, which is binding on all the Benches unless it is set aside by the Supreme Court. Therefore, we cannot deviate from the decision of the Full Bench and accordingly reject the contention of the Applicant stating that the Full Bench decision is per incuriam. The legal position is that a Full Bench decision of the Tribunal remains effective and binding on Tribunal unless set aside/reversed and modified by the Supreme Court. That is not the case here.

5. Secondly, whether granting of recognition to a trade union is a matter of right. In our view, there is no such right exists and grant and continuance of recognition to workers' unions or federations rests at the discretion of the Government and it is for the competent authority to give or not to give, which is not the main issue in the present case. Hence it is not necessary to answer the second query.

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6. In the light of above, we see no merit in the O.A. and the same is dismissed. 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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