

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

OA-2897/2015

MA-2577/2015

Order Reserved on 07.08.2015

Order Pronounced on: 06.10.2015

Hon'ble Mr. Sudhir Kumar, Member (A)

Hon'ble Dr. Brahm Avtar Agrawal, Member (J)

1. Anish Mishra age about 43 years
S/o Late Shri Ram Niwas Mishra
General Secretary
Bhartiya RMA & MMS Employees
Union Class III
2. Mr. M.S. Chandel age about 54 years
S/o Gopi Singh Chandel
General Secretary
Bhartiya Postal Employees Association Group C
3. A.K. Jain, age about 51 years
S/o Late Shri T.C. Jain
General Secretary
Bhartiya RMA & MMS Employees
Union Mailguard & Gr. D
4. Shri Sanjay Kr. Sinha, age about 49 years
S/o Late Shri Ayoghya Prasad Sinha
General Secretary
Bhartiya Postal Accounts
Offices Employees Association.
5. Balram Pandey, age about 50 years
S/o Late Shri Bake Pandey
General Secretary
Bhartiya Civil Wing
Non Gazetted Employees Union
6. Mr. S.S. Jadhav, age about 57 years
S/o Late Santa Ram Jadhav
General Secretary
Bhartiya Postal Employees Association
Postmen & MTS
7. Rakesh Kumar Srivastava, age about 55 years
S/o S.P. Srivastava
Bhartiya Postal Administrative Offices
Employees Union
8. Shivakant Mishra, age about 54 years
S/o Late Shri R.S. Mishra

Secretary General
Bhartiya Postal Employees Federation
All the Applicants Address
T-21, Atul Grove Road,
New Delhi.

-Applicants

(By Advocate: Shri P.K. Singh)

Versus

1. Union of India
Through its Secretary
Ministry of Communications & IT
Department of Posts
Dak Bhawan, Sansad Marg,
New Delhi-110 003
2. The Secretary
Department of Posts
Dak Bhawan, Sansad Marg,
New Delhi-110 003
3. The Director (SR & Legal) Department
of Posts Dak Bhawan, Sansad Marg,
New Delhi.

-Respondents

ORDER

Per Sudhir Kumar, Member (A):

The 8 applicants of this O.A. are before this Tribunal in their official capacities as the Office Bearers of their respective Employees' Unions and Associations, praying for separation of cadres at the level of Group 'C' in their parent department.

2. The VIth Central Pay Commission (Vith CPC in short) had abolished Group 'D' posts, and all the Class IV/Group 'D' employees in employment earlier had been ordered to be re-trained and promoted to the cadre of Multi-Tasking Staff (MTS, in short), which process has been completed, and MTS employees are now treated at par with Group 'C'

employees, which were employed in the Group 'C' posts, which were existing before the adoption of the VIth CPC's recommendations.

3. The applicants of this OA have prayed for directions being issued to the Department of Posts to separate the cadres of MTS and Supervisor General lines, who should be excluded from Group "C" category, making all of them distinct in terms of CCS (Recognition of Service Association, RSA, in short) Rules, 1993, and to further direct the respondent-Department for rectification/anomaly in the verification procedure as is being presently adopted by the respondent-department for the purpose of recognition of employees' Unions and Associations.

4. The Applicant No.1 before us is the General Secretary of Bhartiya RMA & MMS Employees Union Class III, Applicant No.2 is General Secretary of Bhartiya Postal Employees Association Group C, Applicant No.3 is General Secretary of Bhartiya RMA & MMS Employees, Union Mailguard & Gr. D, Applicant No.4 is General Secretary of Bhartiya Postal Accounts Offices Employees Association, Applicant No.5 is General Secretary of Bhartiya Civil Wing Non Gazetted Employees Union, Applicant No.6 is General Secretary of Bhartiya Postal Employees Association Postmen & MTS, Applicant No.7 is Bhartiya Postal Administrative Offices Employees Union and Applicant No.8 is the Secretary General of Bhartiya Postal Employees Federation, and a common postal address of all the 8 applicants has been provided as "T-21, Atul Grove Road, New Delhi."

5. Even though all the 8 applicants have filed this OA with their names and designations, indicating the Unions/Associations which they

represent, but no individual Member of any of these Unions or Associations, who is not an office bearer of any one of the Unions/Associations has joined as an applicant of this OA, for joining together along with the representatives of the Unions/Associations.

6. The applicants are aggrieved by the dual membership system alleged to have been adopted by the respondent-Telecom Department, which they have alleged to be discriminatory in respect of the treatment of the employees of Posts and Telegraphs Deptt., and have submitted that if the MTS and Supervisor cadres would not be made separate, they would be aggrieved by the non-compliance of the CCS (RSA) Rules, 1993. The applicants have, therefore, prayed for the reliefs and interim reliefs are as follows:-

“a) to direct the Department of post to separate the cadre of MTS and Supervisor General lines should be excluded from Group C category making all of them Distinct in terms of CCS (RSA) Rules, 1993.

b) to direct for rectification of defect/anomaly in the verification procedure Order dated 09.6.2015 and Modification Dated 23.6.2015 by assuring proper notice and proper supply of letter of authorization to entire employees;

c) consider the case of the Applicants on merits;

d) pass such other order and further orders as this Hon’ble Court may deem fit and proper in the circumstances of the case”.

9. **Interim Order if any prayed for:**

The applicant most respectfully prays that he has a very good case on merit and balance of convenience is in his favour. In facts and circumstances of this case, if interim order protecting the interest of the Applicant is not passed it would cause irreparable loss to the Applicant which cannot be adequately compensated in money. In addition, it is submitted that the instant OA may be rendered infructuous in the absence of the interim order. Despite Respondent's letter dated 23.6.2015 and 9.6.2015 respondents are going to complete verification process on 6.8.2015 which was under challenged by way of filing Writ Petition No. 7437 of 2015 before this Hon'ble High Court on 5.8.2015. The Hon'ble High Court was pleased to pass oral observation that the applicants has got a good case of cadre separation but due to earlier order there is no jurisdiction to pass any stay order in Writ Jurisdiction, therefore, a Original Application should be filed before the Central Administrative Tribunal verification and consequent declaration of final result of verification should be stayed during the pendency of the Original Application".

7. The applicants have submitted that any faulty verification and fictitious signing on the verification form would affect the recognition of the Union/Association concerned, because of which the Secretaries etc. and other Office Bearers of the Unions/Associations have joined together in filing this OA.

8. MA No. 2577/2015 had also been filed praying that the Applicant No.1 Association may be permitted to file the OA for joining together under Rule 4 (5) of CAT (Procedure) Rules, 1987. The following prayers have been made in this M.A., and the applicants have filed numerous documents by way of Annexures A-1 to A-13 in support of their contentions:-

"1. That the Applicant No.1 is the Association, registered under the Societies Registration Act, 1860, is a distinct legal entity, and it can sue and be sued in its name as per provisions of section 6 of the Society Registration Act,

1860. Original Application is being filed against the Letter dated 23.6.2015 whereby the department informed that in view of certain representations, the instructions for verification of membership have been re-examined and the some modifications/additions have been incorporated therein. Therefore the applicants prayed to this Hon'ble Tribunal to direct the Department of Post to separate the cadre of MTS and Supervisor General lines should be excluded from Group C category making all of them Distinct in terms of CCS (RSA) Rules, 1993 and/or to direct the rectification of defect/anomaly in the verification procedure by assuring proper notice and proper supply and letter of authorization to entire employees. The applicants are aggrieved by the dual membership adopted by the Telecom Department discriminately treated among the employees of Postal and Telegraph and if the MTS, supervisor cadre would not be made distinct all Secretaries would be aggrieved by prolonged inaction of the Department for non-compliance of the CCS (RSA) Rules, hence the applicants approaching this Hon'ble Tribunal.

2. That in turn would directly affect the status/recognition of the respective associations and the Secretaries herein due to faulty verification and fictitious signing on the verification form.

3. The facts and circumstances of locus standi of the applicants are mentioned in the OA may be read as part and parcel of this M.A.

4. That the OA involves the common cause of action and the common nature of relief is prayed for since the applicants have common interest in the matter”.

9. Heard on the point of admission of the O.A. for issuance of notice, and allowing the M.A. for joining together. The provisions of Rule 4(5) of the CAT (Procedure) Rules, 1987 state as follows:-

“5) (a) Notwithstanding anything contained in sub-rules (1) to (3) the Tribunal may permit more than one person to join together and file a single application if it is satisfied, having regard to the cause and the nature of relief prayed for that they have a common interest in the matter.

(b) Such permission may also be granted to an Association representing the persons desirous of joining in a single application provided, however, that the application shall disclose the class/grade/categories or persons on

whose behalf it has been filed [**provided that at least one affected person joins such an application**]

(Emphasis supplied)

10. In view of the fact that all the 8 applicants of this OA have tried to join together in filing this OA only in their Official Capacities/designations as the Office Bearers of their respective Unions/Associations, without at least one affected individual person joining such an application, it is seen that the requirement of Rule 5(b) of the CAT (Procedure) Rules, 1987 has not been fulfilled, while filing this OA. It is also seen that the prayers as made out in the O.A. do not actually concern any aspect of administrative law/service law, and have been made in a manner more related to the laws relating to the recognition of Employees' Unions and Associations, which, to our mind, does not constitute a *lis* requiring any judicial determination by this Tribunal.

11. Therefore, at the admission stage itself, both the OA No.2897/2015 and MA No.2577/2015 are rejected, in *limine*.

(Dr. Brahm Avtar Agrawal)
Member (J)

(Sudhir Kumar)
Member (A)

cc.