

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

O.A.No. 3591/2011
M.A.No. 2627/2011
M.A.No. 2721/2011

New Delhi, this the 6th day of January, 2012

HONBLE MRS. MEERA CHHIBBER, MEMBER (J)
HONBLE MR. SHAILENDRA PANDEY, MEMBER (A)

1. Association of Radio and Television Engineering Employees (ARTEE)
Through its General Secretary,
Sri Anilkumar S.,
H-143, Sarojini Nagar,
New Delhi - 110023.
2. All India Radio and Doordarshan Technical Employees Association (ADTEA),
Through General Secretary,
Sri Kulbhushan Bhatia,
12/3A, Moti Nagar,
Double Story, New Delhi-110015.
3. Programme Staff Association of All India Radio & Doordarshan (PSA),
Through its General Secretary,
Sri R. Srinivasan,
C/o Shri Sanjay Kumar,
E-201, Pavitra Apartments,
Vasundhara Enclave,
Delhi-96.

.. Applicants

(By Advocate : Shri A.K. Behera)

1. Union of India through the Secretary,
Government of India,
Ministry of Information and Broadcasting,
6th Floor, A Wing,
Shastri Bhawan, New Delhi-01.
2. Prasar Bharti through its Chairperson,
2nd Floor, PTI Building,
Parliament Street,
New Delhi-110 101.

3. Sri Rajiv Takru,
Nominated member by Ministry of I&B
in Prasar Bharti,
2nd Floor, PTI Building,
Parliament Street,
New Delhi-110 101.
4. Director General,
All India Radio,
Aakashwani Bhawan,
Parliament Street, New Delhi-01.
5. Director General, Doordarshan
Doordarshan Bhawan,
Coprnicus Marg,
New Delhi-01.

(By Advocate : Shri Rajeev Sharma)

ORDER (ORAL)

Mrs. Meera Chhibber, Member (J)

Applicants, who are 3 Associations, viz. Association of Radio and Television Engineering Employees, All India Radio and Doordarshan Technical Employees Association and Programme Staff Association of All India Radio and Doordarshan through their Joint Secretaries had filed this OA seeking the following relief:

- 8.1 impugned office order No.120/2011-PPC dated 08.09.2011.
- 8.2 transfer of office bearers at serial No.8, 24, 26, 27, 38 in order No.36/2011, Transfer of officer bearers at serial No.1 and 4 in order No.37/2011, Transfer of office bearers at serial No.8, 16 and 18 In office order No.38/2011 dated 12.9.2011. Transfer of office bearer of applicant No.1 vide Office Order No.CEW/EA-TRANSFER/2011/PCELL dated 14.9.2011. Office Order No.40/2011 dated 15.9.2011 and Transfer of Office Bearers at Sl.No.6 in Office Order No.70/2011-SI (B) dated 12.9.2011. Transfer of office bearers at Sl.No.1,2,3 and 4 in Office Order No.32015/3/P-CELL/CEW/2011 dated 13.9.2011 for Sr. Engg. Assts., Transfer of office bearer at Sl.No.6 in office order No.32015/3/P-CELL/CEW/2011 dated 13.9.2011 for Engg. Assts. and Office Order No.75/2011/S.III dated 26.9.2011. Transfer of office bearers at Sl.No.1 and 2 in Office Order No.28/2011-12 dated 14.9.2011. Transfer of office bearers at Sl.No.2,3 and 9 in Office Order No.CE(NEZ)/1(27/2011-S/EA dated 14.9.2011;
- 8.3 direct the respondents to complete the process of recognition of applicants according to the Central Civil Services (Recognition of service Associations) Rules, 1993, in a time bound manner.

8.4 this Honble Tribunal may be further pleased to grant any other relief which it may deem fit and proper under the circumstances of the case.

8.5 That this Honble Tribunal may be further pleased to award the costs of this petition in favour of the applicants.

2. The OA was listed on 30.09.2011 when notices were issued to the respondents. However, no stay was granted. The pleadings in this case are complete.

3. The matter was listed for final arguments today, when the counsel for the applicant stated at bar, on instruction from his clients, that he does not wish to press relief 8.1 & 8.2 as all persons have already joined on the places of their transfer under protest. He would be pressing only relief for the time being viz. to direct the respondents to complete the process of recognition of applicants according to the Central Civil Services (Recognition of service Associations) Rules, 1993, in a time bound manner.

4. There were detailed arguments on the point. However, the case can be disposed of without going into other aspects of the matter, in view of the subsequent development which has been brought to our notice by the counsel for the respondents. He has produced notice dated 22.11.2011, copy of which is taken on record and also given to the counsel for the applicant, which reads as under:

It is brought to the notice of all employees serving in Prasar Baharti/All India Radio/Doordarshan that the guidelines for Recognition of Service Associations Rules notified by DOP&Ts on the 5th of November, 1993 (OM No.2/10/80-JCA (Vol.IV) dated 5.11.1993) are available on DOP&T website.

2. Those groups of employees who would like to form any Association and would like to follow the process of recognition are hereby advised to submit proper applications, complete in all respects in accordance with the above DOP&Ts OM dated 5.11.2011, within a period of 3 months from the date of issue of this Notice and in any case not later than 29th of February, 2012 to Prasar Bharati Secretariat, for further action.

3. All Heads of Departments/Offices/Kendras/Stations of All India Radio, Doordarshan and CCW are requested to prominently display this Notice on the Notice Board of the office and the Action Taken Report in this regard may be sent to Manager (P), Prasar Bharati Secretariat latest by 1.12.2011 without fail.

4. This issues with the approval of the competent authority.

5. Counsel for the respondents submitted that once they receive the applications, they would process them in accordance with the rules and take a final decision in the matter within a period of 6 months from the last date of receiving the applications, i.e. 29.02.2012.

6. Counsel for the applicant, on the other hand, submitted that they had submitted their applications way back in 1993 itself and has invited our attention to various annexures to show that their applications for recognition are under consideration since 2007 (page 84, 87, 88, 89 etc.).

7 It is submitted by the that as per Central Civil Services (Recognition of Service Association) Rules, 1993, respondents are required to verify the Membership by the check-off system in pay-rolls which is further clarified by the office memorandum dated 31.01.1994 wherein certain more conditions are laid down. To be specific, in para 2 thereof, it has been mentioned as follows:

2.1 In terms of Rules 7 of the above mentioned Rules, the verification of membership for the purpose of recognition of a Service Association shall be done by the check-off system in pay-rolls.

2.2 Check-off system is a means to verify the membership of an Association on the basis of deduction of subscription from the pay-rolls. Under this system each Government employee, who is a member of an association is required to apply, in writing, to the DDO or any other designated authority, his consent, for the deduction of annual subscription, for the financial year, from the pay-roll in favour of a particular Association. A specimen of the application is enclosed at Annexure-I. On receipt of the application, the Association is required to confirm the membership, and thereafter pass on the application to the DDO for effecting recoveries.

2.3 Consent for deduction of annual subscription shall remain valid till altered or withdrawn. The revised option for deduction, if any, can be exercised only in the month of April each year to be effective from July of that year.

2.4 Under the check-off system a Government Servant may subscribe to only ONE Association. For the purpose of fulfillment of the requirement of minimum membership under Rule 5 (d) (i) of the CCS (RSA) Rules, 1993 only such of the members who have paid the subscription through the check-off system shall be taken into account.

2.5 Recoveries of annual subscription from pay roll in favour of a particular Association shall be made by the DDO once a year in the month of July.

Counsel for the respondents stated that they have not received applications from the employees as required in para 2.2 above, whereas counsel for the applicant strenuously argued that they have already complied with all the requirements and had already been given applications also to the authorities, therefore, all that is required is to process those applications and pass appropriate orders thereon, therefore, some time bound directions may be passed.

8. We have heard both the counsel and perused the pleadings also.

9. Even though it is clear from the records that applicant associations had applied for recognition way back and there applications were pending for consideration but the fact remains that till date no order has been passed by the respondents recognizing them as an association. Now that respondents have issued notice dated 22.11.2011, it gives right to other group of employees also to form an association and seek recognition. Since applications have been called vide notice dated 22.11.2011 and the last date for receiving applications is stated to be 29.02.2012 naturally respondents have to wait till 29.2.2012. Simply because applicants had given their applications in 1993, it does not mean that other groups would have no right to give applications and form association or seek recognition. Processing of

applications, including those of the applicants would take place only after 29.2.2012 by following due process as mentioned in the rules. We cannot give any finding whether the requirements as mentioned in the rules has been fulfilled by the applicant associations or not. These facts would have to be ascertained by the respondents after scrutinizing each and every application.

10. We, therefore, dispose of this OA with a direction to the respondents to scrutinize the applications received by them either already or fresh applications which are received pursuant to the notice dated 22.11.2011 and pass appropriate orders in those applications within a period of 4 months from the last date of receiving the applications i.e. after 29.02.2012. In case, official respondents find the applications submitted by the applicants associations are deficient to some extent or they are required to fulfill some more conditions as mentioned in the rules, they should point out those deficiencies to the applicants associations within a reasonable time so that they may fulfill those requirements before the last date of receiving the applications, i.e. by 29.02.2012. Once final orders are passed by the respondents with regard to the recognition of Association, law will take its own course. No costs.

(Shailendra Pandey)

(Mrs. Meera Chhibber)

Member (A)

Member (J)