

D. K. Chhangani and Others

Vs

Nitya Ranjan Mukherjee and Others

Civil Appeal No. 490 of 1980

(K. Ramaswamy, G. B. Pattanaik JJ)

17.09.1996

ORDER

1. This appeal by special leave arises from the orders of the Calcutta High Court made on 14-9-1979 and 17-12-1979 in Civil Rule No. 13393(W).

2. The claims relate to the recognition to the rival union of Geological Survey of India Employees' Association. The controversy is as to whether the Calcutta High Court has jurisdiction over the adjudication made by the Industrial Tribunal in Maharashtra on the rival questions of the membership and recognition of an association based thereon? It is not necessary to go into the question, though it is open to grave and grim jurisdictional fault for two reasons. Firstly, since elections were held on 12-9-1975 and more than two decades have passed by since then, it is no longer a live issue. Moreover, the President exercising the power under proviso to Article 309 of the Constitution and clause (5) of Article 148, after consultation with the Comptroller and Auditor General, had issued rules called the Central Civil Services (Recognition of Service Associations) Rules, 1993, which came into force w.e.f. 5-11-1993. Rule 4 deals with Service Associations registered or yet to be registered. They are required to make an application under Section 3. Clause (5) prescribes conditions for recognition of a Service Association and provides as under :

"5. Conditions for recognition of Service Associations. - A Service Association which fulfils the following conditions may be recognised by the Government, namely :

(a) An application for recognition of Service Association has been made to the Government containing Memorandum of Association, constitution, bye-laws of the Association, names of office-bearers, total membership and any other information as may be required by the Government;

(b) the Service Association has been formed primarily with the object of promoting the common service interest of its members;

(c) membership of the Service Association has been restricted to a distinct category of government servants having common interest, all such government servants being eligible for membership of the Service Association;

(d)(i) the Association represents minimum 35 per cent of total number of a category of employees provided that where there is only one Association with second highest membership, although less than 35 per cent may be recognised if it commands at

least 15 per cent membership;

(ii) the membership of the government servant shall be automatically discontinued on his ceasing to belong to such category;

(e) government employees who are in service shall be members or office-bearers of the Service Association;

(f) the Service Association shall not be formed to represent the interests, or on the basis of any caste, tribe or religious denomination or of any group within or section of such caste, tribe or religious denomination;

(g) the Executive of the Service Association has been appointed from amongst the members only; and

(h) the funds of the Service Association consist exclusively of subscriptions from members and grants, if any, made by the Government, and are applied only for the furtherance of the objects of the Service Association."

3. Rule 6 deals with conditions subject to which recognition is continued to the Associations and Rule 7 gives power for verification of the membership. Rule 8 deals with withdrawal or recognition. Rule 9 gives power to the Government for relaxation. Rule 10 relates to interpretation of the Rules.

4. It would, thus, be seen that if there are more than one rival unions of the Service employees, the Government of India have evolved a policy as to how the Service Associations required to be recognised by the appropriate authority should represent the interest of the members of the respective unions. In this view, it would be open to the appropriate union to approach the Government in the light of the above rules and seek recognition in accordance with law to avoid any future litigation in this behalf.

5. The appeal is accordingly disposed of. No costs.