
(2020) 08 SC CK 0008

In the Supreme Court Of India

Case No : Civil Appeal No. 7138 Of 2010

Government Of India & Ors

APPELLANT

Vs

ISRO Drivers Association

RESPONDENT

Date of Decision : 10-08-2020

Acts Referred:

Constitution Of India, 1950 — Article 148(5), 309

Central Civil Services (Recognition Of Service Association) Rules, 1993 — Rule 3, 5(c), 5(d), 10

Department Of Space (Classification, Control & Appeal) Rules, 1976 — Rule 30

Citation : AIR 2020 SC 3678 : (2020) 8 SCC 657 : (2020) 9 Scale 616 : (2020) LIC 3503 : (2020) 3 LLJ 513 : (2020) 3 LLN 273

Hon'ble Judges : Sanjay Kishan Kaul, J;Ajay Rastogi, J;Aniruddha Bose, J

Bench : Full Bench

Advocate : Raj Bahadur Yadav, Shekhar G.Devasa, Manish Tiwari, Luv Kumar

Final Decision : Allowed

Judgement

“

Ajay Rastogi, J",,,

1. he instant appeal is directed against the order and judgment dated 22nd September, 2008 passed by the Division Bench of the High Court of Andhra",,,

Pradesh at Hyderabad holding the association formed by the drivers based on job description as a “distinct category” laid down under Rule 5 (c),,,

of Central Civil Services (Recognition of Service Association) Rules, 1993 (hereinafter being referred to as “Rules 1993”) overruling the view",,,

expressed by the Single Bench of the High Court dated 9th October, 2001.",,,

2. The seminal facts in brief which are relevant for the present purpose are that the respondent approached the High Court by filing a writ petition,,,

seeking a declaration in treating their association comprising of drivers operating in appellant no. 4ÂShar Centre a Unit of ISRO, Nellore District,",,

Andhra Pradesh eligible to participate in the verification process by according recognition and rejection of their application by order dated 29th June,",,

1999 on the premise that association formed by a group of employees based on job description will not qualify for recognition under Rules 1993 is in,,

contravention to Rule 5 (c) which is not sustainable in law.,,,

3. Learned Single Judge of the High Court taking note of the scheme of Rules 1993 and R5(c) & R10 in particular with later Office Memorandum,,

dated 22nd April, 1994 of the Government of India, Ministry of Personnel P.G. & Pension read with decision of the Department of Space dated 30th",,,

May, 1996 arrived at the conclusion that the object of the scheme is to protect the common interest of the employees of the establishment and the",,,

respondent represents only the interests of drivers but the association must have a collective voice of all the groups for the purpose of recognition and,,

after the expression â??distinct categoryâ?? as referred to under R5(c) being explicitly clarified by the Department of Personnel and,,

Training(DOPT) and Department of Space, any association formed on the basis of job description or trade will not qualify to accord recognition and",,,

later communication dated 22nd April, 1994 is supplementing the scheme of Rules 1993 for its proper implementation in fulfilment of the object with",,,

which the scheme has been framed and there appears no apparent error in the decision of the authority rejecting their claim seeking recognition in,,

forming the association representing interest of the drivers based on job description not being covered under the scheme of Rules 1993 dismissed the,,

writ petition by its judgment and order dated 9th October, 2001 which came to be challenged by the respondent in writ appeal.",,

4. While revisiting the undisputed facts on record, the Division Bench was of the view that the term â??distinct categoryâ?? defined under Rule 5 (c)",,,

is not open to be clarified by the DOPT and with its literal interpretation held the association of drivers as a â??distinct categoryâ?? and accordingly,,

directed the appellants to examine whether the respondent satisfy other preÂconditions of the scheme and, thereafter, take a decision subjected to the",,,

verification process for being accorded recognition under the Rules 1993. The appellants being aggrieved by the order and judgment of the Division,,

Bench impugned dated 22nd September, 2008 came up in appeal before us.",,,

5. Mr. Vikramjeet Banerjee, learned Additional Solicitor General submits that the expression "distinct category" as referred to under Rule 5 (c)",,,

of the Rules 1993 has not been defined and that was the reason the rule making authority visited the scheme and by its clarificatory memo dated 22nd,,

April, 1994, had entrusted this responsibility to concerned Ministry/Department to take a decision keeping in view the functional, administrative and",,,

organizational set up. In furtherance thereof, the Department of Space held its meeting in April 1994 with all the service associations and except the",,,

respondent, other associations agreed that all the employees covered by the Joint Consultative Machinery scheme of the Department should be treated",,,

as single category and any association/Union exclusively formed by certain group of employees based on job description in the organization such as,,

drivers, stenographers, tradesmen, etc. would not qualify for recognition under the Rules 1993. Taking note of the overall view of the functional",,,

administrative and organizational set up of the Department, a letter was issued to the centres/units on 30th May, 1996 to call for application of service",,,

association who wished to be recognized under the scheme of Rules and it was clarified by the Department that the term "distinct category" as,,

defined under Rule 5(c) will constitute all the employees in the particular region and not a cluster of employees based on job or trade description like,,

the members of the respondent, all of whom were drivers, did not constitute a "distinct category" of government servants and were rightly held",,,

not entitled for recognition.,,,

6. Learned counsel further submits that while the rules are framed under proviso to Article 309 read with clause 5 of Article 148 of the Constitution,,

which indeed cannot be supplanted but the administrative circulars could, nonetheless, be issued to supplement the Rules and the unoccupied gaps of",,,

the Rules could be filled, the expression "distinct category" not being defined in the Rules has been clarified by the Department of Personnel by",,,

its clarificatory memo dated 22nd April, 1994 to promote harmonious relations and securing cooperation between the Government and its employees in",,,

matters of common concern and with the object of promoting common service interest of its employees being the primary object with which the,,

scheme of Rules 1993 were framed.,,,

7. Learned counsel further submits that once a clarification was made of the expression "distinct category" as referred to under Rule 5 (c) by,,

the rule making authority taking recourse to Rule 10 of Rules 1993, the manner in which the expression "distinct category" has been examined",,,

by the Division Bench of the High Court by taking its literary meaning borrowed from the Dictionary is not legally sustainable and deserves to be,,

interfered by this Court.,,,

8. Per contra, Mr. Shekhar G. Devasa, learned counsel for the respondent, on the other hand, while supporting the finding recorded in the impugned",,,

judgment submits that as long as the respondent fulfil the pre-conditions for recognition as envisaged under the scheme of Rules 1993, it was not open",,,

for the appellants to take aid or assistance and place reliance on the Office Memorandum dated 22nd April, 1994 or 30th May, 1996 to deny their",,,

claim which has been conferred on them under the statutory rules framed under proviso to Article 309 read with clause 5 of Article 148 of the,,

Constitution of India.,,,

9. Learned counsel further submits that they had formed their association with the object of common service interest of the drivers employed in Unit,,

ISRO and remain restricted to a "distinct category" of Government servants, i.e., drivers all of whom had a common interest and were eligible",,,

to be members of their association and representing 120 out of 150 drivers of ISRO Unit and more than 35% of the membership required and nature,,

of duties discharged by the drivers in ISRO being distinct from the duties discharged by employees working in other categories of posts, were rightly",,,

held to be eligible for recognition under Rules 1993.,,,

10. Learned counsel further submits that the test to determine a "distinct category of government servants" was homogeneity and commonality,,

of interest which is being fulfilled by the association of drivers which had a commonality of interest, and was a homogenous group and entitled for",,,

recognition as an association exclusively of drivers and this what has been examined by the Division Bench of the High Court in the impugned,,

judgment extensively taking note of the scheme and in the absence of any express prohibition under the scheme in having a number of associations, it",,,

would justify claim of the first respondent of their right to be recognized as a service association under the scheme of Rules 1993 and needs no,,

interference of this Court.,,

11. We have heard learned counsel for the parties and with their assistance perused the material available on record.,,

12. The question that emerges is whether the association formed on the basis of job description such as drivers etc. which has been classified in,,

group constitute a distinct category of Government servants under Rule 5 (c) of Rules 1993.,,

13. With the object of promoting harmonious relations and securing cooperation between the Government and its employees in the matters of common,,

concern and to increase efficiency of public service, the Government of India established in 1966 the Machinery for Joint Consultation and Arbitration.",,

The Joint Consultative Machinery Scheme was introduced at the national level and at two lower levels, namely, departmental and regional/office level.",,

The Joint Councils operate with the official members and staff members. The staff members are represented by recognized service association of,,

Government servants belonging to Group C & Group D and Group B (non-gazetted staff). Recognition of service associations for the purpose of,,

representation in the Joint Councils of JCM is to be carried out in accordance with the Central Civil Services (Recognition of Service Association),,

Rules, 1959 which were superseded by the Rules 1993 by a notification dated 5th November, 1993.",,

14. The Department of Space under the Government of India (Allocation of Business) Rules, 1961 formulated its own scheme of JCM in 1977 with",,

the object of promoting harmonious relations and securing cooperation between the Department and its employees. As per the scheme of JCM, all",,

Group C & D employees and Group B (non-gazetted staff) working in the Department of Space are eligible for participation in the scheme. After the,,

notification of the Rules 1993, the Department of Space decided to implement these rules in respect of the JCM Scheme.",,

15. In exercise of the powers conferred by the proviso to Article 309 and clause (5) of Article 148 of the Constitution and in supersession of the,,

Central Civil Services (Recognition of Service Associations) Rules, 1959, Rules 1993 have been framed. The rules relevant for the purpose are",,

extracted hereunder:Â?,,

Â?In exercise of the powers conferred by the proviso to article 309 and clause

(5) of article 148 of the Constitution, after consultation with the",,,

Comptroller and Auditor General in relation to persons serving in the Indian Audit and Accounts Department, and in supersession of the Central Civil",,,

Services (Recognition of Service Associations) Rules, 1959 except as respects things done or omitted to be done before such supersession, the",,,

President hereby makes the following rules, namely:",,,

1. â?|â?|...,,

2. â?|â?|â?|,,

3. Application : These rules shall apply to Service Associations of all Government servants including civilian Government servants in the Defence,,

Services but shall not apply to industrial employees of the Ministry of Railways and workers employed in Defence Installations of Ministry of Defence,,

for whom separate Rules of Recognition exist.,,

4.,,

5. Conditions for recognition of Service Associations:,,

A Service Association which fulfills the following conditions may be recognised by the Government, namely:Â?"",,,

(a) An application for recognition of Service Association has been made to the Government containing Memorandum of Association, Constitution,",,

ByeÂ?laws of the Association, Names of OfficeÂ?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 which commands more than 35 per cent membership, another 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)â?(h)â?!...,,

6â?9 â?!...,,

10. Interpretation:,,

If any question arises as to the interpretation of any of the provisions of these rules or if there is any dispute relating to fulfilment of conditions for,,

recognition it shall be referred to the Government, whose decision thereon shall be final.",,

(J.C. Mathur),,,

Joint Secretary to the Govt of Indiaâ??.,,

16. These rules apply to service associations of all Government servants referred to under Rule 3 to be formed primarily with an object of promoting,,

the common service interest of its members and it may be noticed that the expression â??distinct categoryâ?? referred to under clause (c) of Rule 5,,

has not been defined under the scheme of Rules 1993.,,

17. R5(d)(i) defines the membership of service association who can be granted recognition has been restricted to a â??distinct category of,,

Government servantsâ?? having common service interest and represents 35% of total number of category of employees with a proviso that where,,

there is only one association which commands more than 35% membership, another association may be recognized if it commands at least 15%",,,

membership and this clearly indicates that the rule making authority intended to avoid plurality of service associations with an object to promote the,,

common service interest of all the group of employees/Government servants.,,

Â POINTS OF DOUBT,,CLARIFICATION

1., "Whether the Rules are applicable to casual

labourers, extraDepartmental agents, Contingent

paid staff, industrial employees working in

Telecom factories.", "No. The Rules are applicable only to those

Central Government employees to whom the

CCS (Conduct) Rules, 1964 apply.

2., "Whether a Federation or

Confederation of Associations can be recognised under the Rules.", "These Rules do not relate to a Federation/Confederation of Associations and as such, they cannot be recognised under the present Rules.

3., "Whether the term 'distinct category' used in Rule 5(c) means group wise categorization i.e. group 'A', 'B', 'C' or 'D' or cadrewise categorization.", "By a distinct category is meant an Association whose members have a commonality of interest and function as homogenous group. The responsibility for defining a distinct category has been left to the concerned Ministry/Department.

4., "Whether the first two associations are to be recognized even in neither of them fulfills the conditions of having the minimum membership of 35%.", "No fulfilment of the condition prescribed in Rule 5 (d) (i) before. In other words, one association, that is the first association, must have 35% membership between the second association with minimum of 15% membership can be recognized.

5., "Whether Association are to be recognized centrally or zone/circle/region wise.", "The Associations are to be recognized centrally on all ministry/Department basis such

associations may have their branches in the subordinate formulations.

6., "Whether the minimum membership prescribed in Rule 5(d)(i) is for the entire Department or zone/circle/regionwise etc.", "The condition of minimum membership as laid down in Rule 5(d)(i) is for the entire Department. In other words, an Associations must have the minimum percentage of members amongst all employees in that distinct category in that Department.

7., "Whether an Association having fulfilled the conditions of Rules 5(d) (i) in the entire Department must also have the minimum membership as prescribed in Rule 5(d)(i) in each of its branches.", No

8., "Whether vacant posts will be taken into account for the purpose of calculating minimum membership.", "Percentage of membership is to be determined on the number of employees in each distinct category and not on the number of posts.

9. -12, ,

Senior Project Assistant, Personnel Assistant and Private Secretary, their recruitment is regulated by the Rules called the Department of Space,, (Group -12, Posts) Recruitment Rules, 2009 and with partial modification, the

method of recruitment and designation to the post of Assistant",,,
 (Group of non-gazetted) called the Department of Space (Assistant) Recruitment Rules, 2016. At some stages, for other purposes",,,
 categorization of posts have been made indicating ministerial, non-ministerial, industrial and non-industrial, tenure posts but broadly under the",,,
 scheme of recruitment rules, the service conditions of employees have been broadly classified in four groups A,B,C & D of which a reference has",,,
 been made supra.,,,

25. In compliance of the scheme of Rules, applications were invited from various associations in SDSC, SHAR for according recognition. It has come",,,
 on record that four associations/Unions who represent combination of group of employees and who fulfil the requirement to participate in the",,,
 verification process for recognition under the rules submitted their applications:Â?,,

1. SHAR Employees Association (SEA),,,
2. SHAR Employees Trade Union (SETU),,,
3. SHAR Employees Union (SEU),,,
4. SHAR Antariksh Staff Association (SASA),,,

26. Out of the above four Associations/Unions, three participated in the process of verification held on 10th January, 2002. The results of verification",,,
 of membership in SHAR Centre is as follows:Â?,,

1. Total number of employees eligible to participate in the verification process in SHAR Centre 1207,,
2. Number of employees who actually participate in the verification process 1105,,

27. The breakup of the numbers of letters of Authorization (i.e. number of employees who subscribed for each association) received on 10th January",,,
 2002 as a result of the verification of membership is given below :Â?,,

1. SHAR Employees Association (SEA) 651,,
2. SHAR Employees Trade Union (SETU) 327,,
3. SHAR Antariksh Staff Association (SASA) 124,,

28. As per the scheme of Rules 1993, service associations of SEA and SETU got the required membership and accordingly recognition was",,,

accorded.,,

29. The primary object of forming service association is to promote the common service interest of its members and the membership of the service,,

association remain restricted to such Government servants having common interest and all group of employees covered under the existing JCM,,

scheme were categorized as a "distinct category" for forming their association. At the same time, if association/Union is being exclusively",,,

permitted to be formed by the group of employees based on job description in the organization such as drivers, stenographers, etc. apart from various",,,

category of employees who are working in SDSC SHAR i.e. technical attendants, nursing attendants, technicians, office attendants, radiographers",,,

etc. for the purpose of recognition under the scheme of Rules 1993 treating them to be a "distinct category" as considered by the Division,,

Bench in the impugned judgment, there is a greater probability that the employees of each of the above mentioned trades/jobs would form into",,,

association in each of the centres/units qualifying themselves into "distinct category" and seek representation in JCM that would not only defeat,,

the purpose of JCM but would lead to groupism obstructing the working atmosphere and neither joint consultation nor consensus would prevail and,,

that will jeopardize the service interest of the government servants.,,

30. It has come on record that presently the strength of the staff working in various groups is over 16,000. In the given situation, if any group of",,,

employees based on their job description is permitted to form an association under the guise of "distinct category" as prayed, it will indeed have",,,

an adverse consequential effect which would never be the intention of the rule making authority while framing the scheme of Rules 1993. Our view is,,

being strengthened noticing Rule 5 (d) which lays down that subsequent association with less than 35% of total number of categories can be,,

recognized if it commands at least 15% of the membership. The respondent confining itself to drivers as members cannot command 15% of the total,,

number of employees covered by the scheme in SDSC SHAR as the sanctioned strength of the drivers (around 160) is less than 15% of the members,,

under the scheme, as a distinct category considering the Group of employees (A,B,C & D) respectively.",,,

31. The Latin maxim "noscitur a sociis" states this contextual principle,

whereby a word or phrase is not to be construed as if it stood alone but",,,

in the light of its surroundings â?" Bennion on Statutory Interpretation, Fifth Edition AAG Prince Ernest Augustus of Hanover [1957] AC 436,",,

Viscount Simonds has opined that â?"a word or phrase in an enactment must always be construed in the light of the surrounding text. â?"â?"words,,

and particular general words, cannot be read in isolation, their colour and their content are derived from their context.â?"",,,

32. Adverting to the facts of the instant case, the scheme of Rules 1993 clearly manifests that the primary object of the scheme is to promote the",,,

common service interest of its members and service association which intends to accord recognition must represent minimum 35% of the total,,

category of employees with a rider that where there is only one association which commands more than 35% membership and another association,,

with second highest membership must be recognized if it commands at least 15% membership. The intention appears to be to avoid plurality of,,

associations which indeed may not be in the overall interest of the Government servants in forming service association on their job description. In this,,

context, the expression â?"distinct category of government servantsâ?" referred under Rule 5 (c) with its due emphasis in furtherance of the",,,

clarification which has been made by the rule making authority is, in fact, supplementing the scheme of rules for its effective and proper",,,

implementation which is permissible under the law unless held to the contrary and that was never the case of the respondent at any stage in grouping,,

the classification of posts in group â?"Aâ?", â?"Bâ?", â?"Câ?" and â?"Dâ?" as a â?"distinct categoryâ?", is in contravention to Rule 5 (c) of",,,

Rules 1993 and any further subÂclassification of posts based on job description is not permissible under the recruitment and conduct rules if permitted,,

under the guise of expression â?"distinct categoryâ?" to form service association, it would defeat the purpose and object with which the scheme of",,,

Rules 1993 have been framed according recognition to service association which has been primarily formed with an object of promoting the common,,

service interests of its members at large and the literal interpretation in isolation of the term â?"distinct categoryâ?" made by the Division Bench of,,

the High Court in the impugned judgment granting permission to each group of employees based on job description/trade to claim recognition and form,,

their service association would not only defeat the primary object of the scheme of Rules 1993 but the purpose as well with which the Joint,,

Consultative Machinery has been formed to watch albeit the common service interest of its members/Government servants.,,

33. On the overall analysis, the appeal deserves to succeed. The impugned judgment passed by the Division Bench of the High Court dated 22nd",,,

September, 2008 is unsustainable and accordingly set aside.",,

34. The appeal is allowed. No costs.,,

35. Pending application(s), if any, stand disposed of.",,