

IN THE HIGH COURT AT CALCUTTA

Constitutional Writ Jurisdiction

Appellate Side

Present:

The Hon'ble Justice Shampa Dutt (Paul)

WPA 12853 of 2023

Asit Bangabash and Others

Vs.

Union of India & Ors.

For the Petitioners : Mr. Sabyasachi Chatterjee,
Mr. Kiron Sk.,
Mr. Badrul Karim,
Mr. Aritra Ghosh,
Ms. Monalisa Sinha.

For the State : Mr. Jayanta Samanta,
Mr. Supriyo Majumder.

For the Respondent No. 6 & 7 : Mr. Swarup Paul,
Mr. Anish Roy,
Mr. Guru Saday Dutta.

Judgment reserved on : 16.09.2025

Judgment delivered on : 19.11.2025

SHAMPA DUTT (PAUL), J. :

1. The writ petition has been preferred challenging an E-Mail Communication by the ADG (SR & Legal) postal departments dated 15.05.2023 directing all heads of circles to ensure that the money for the subscription of members of the Petitioner's

Association shall not be deducted through DDO till further order in compliance to the decision of the competent authority in terms of the Department order No SR -10/7/02022-SR-DOP Dated 26-04-2023. The said Departmental order pertains to the cancellation of the recognition of Petitioner's Union as a Service Association under the Central Civil Services (Recognition of Service Associations) Rules 1993.

- 2.** It is stated that the impugned E mail Communication seeking to impose a ban on the right of a member of an association to make any contribution from their salary account for the purpose of depositing the subscription for the membership, is nothing but a gross violation of right to be part of an association as guaranteed by Article 19(1)(c) of the Constitution of India.
- 3.** The reason which has been cited in support of the impugned communication is an order of the competent authority being Departmental Order No Sr-10/7/2022-sr-DOP dated 26.04.2023 whereby the Department of Post has withdrawn the recognition of the Association of the Petitioners as an 'Service Association' under the Central Civil Service (Recognition of Service Associations) Rules 1993.
- 4.** The Petitioners state that the petitioners' right to contribute for the purpose of subscription of an association of his choice is not dependent on the recognition of said association, as a service

association is recognized under the Central Civil Service (Recognition of Service Associations) Rules 1993. Moreover, by imposing such a ban, the respondents have violated the right to freedom of association of the petitioners guaranteed under article 19 (1) (c).

5. The petitioner states that the membership of an association is the first important feature of that association and the members are the life line of an association. **Whether an association is a recognized association under the civil services rules, is not a condition to be fulfilled as an existence of an association.**
6. The petitioner states that the department of Post had issued an order no. 10-1/2004-SR dated 25th June 2004 compiling several instructions on trade union facilities. In item no. VI, clarifications were given on 'MEMBERSHIP SUBSCRIPTION OF ALL ASSOCIATIONS **RECOGNISED OR OTHERWISE**'. The term 'otherwise' makes it clear that even the associations not having recognition are entitled for membership subscription. Under this item, the protocol of collection of subscription from salary of the members and its remittance to the central body or Divisional Secretary was clarified. Further, an order bearing no. 13-4/2004-SR dated 14.02.2007 issued by the department, clarifies that even the associations, not recognized, are entitled and it has

been instructed to continue deduction of subscription from salary of the members of such associations as well.

7. Thus, there is violation of Article 14, 19, 21, of the Constitution of India and hence the writ petition.

8. In their **supplementary affidavit** the petitioners have brought the following facts before this Court:-

- a) Writ Petition (Civil) No. 9049 of 2023, dealing with similar subject-matter to this instant matter, had earlier been filed before the Hon'ble High Court at Delhi.
- b) One writ petition has been filed before the High Court of Jharkhand at Ranchi being W.P. (C) No.7135 of 2023 In re: All India Postal Employees Union Group 'C', (A recognized Service Association) through its Circle Secretary -Vs- Union of India, Ministry of Communications, Department of Posts & Ors. Inter alia challenging the order dated 26.04.2023 being No.SR-10/7/2022-SR-DOP passed by the respondent-Department of Posts whereby, the recognition of applicant's association has been withdrawn under Rule 8 of the Central Civil Services (Recognition of Service Associations) Rules, 1993.

9. The said writ petition has been finally disposed of on the following findings on 18th February, 2025:-

“44. As a cumulative effect of the aforesaid findings, there is no doubt that out of the three transactions/allegations made in the show cause notice, two were duly proved against the petitioner which is sufficient to sustain the impugned order.

45. It has been held by the Hon'ble Supreme Court in the case of **"Union of India v. ISRO Drivers Association" reported in (2020) 8 SCC 657** that 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 are categorized as a "distinct category" for forming their association.

46. This Court is of the considered view that interest of the members of the Service Association of the petitioner cannot be jeopardized for all times to come and for an indefinite period merely because some of the transactions were not found to be in consonance with the Rules of 1993. Rule 6(k) of the Rules of 1993 provides that the Service Association shall not do any act or assist in the doing of any act which, if done by a government servant, would contravene any provision of the Central Civil Services (Conduct) Rules, 1964. This Court is of the considered view that in case any member of the Association has acted against any provision of the Central Civil Services (Conduct) Rules, 1964 while dealing with the funds of the Association, such person can certainly be proceeded in terms of Central Civil Services (Conduct) Rules, 1964 but the interest of the members of the Service Association cannot be jeopardized for all times to come. This Court also finds that the impugned order of de-recognition is "till further order" and certainly the derecognition is not for all times to come.

47. This Court is of the view that when the recognition was granted for a period of five years, the order of de-recognition cannot extend beyond the expiry of the period of recognition which has already expired. In such circumstances, it would certainly be open to the petitioner to apply for fresh recognition if

the petitioner is otherwise found eligible under the Rules of 1993. Grant or denial of fresh recognition would be within the exclusive domain of the respondents who are expected to act in accordance with law.

48. *During the course of argument, it transpired that the recognition to the petitioner was granted only for a period of 5 years with effect from 19.07.2019 which expired on 18.07.2024. The office memorandum dated 30th July 2024 has been produced by the learned Addl. SGI whereby the validity of recognition of Service Association which was till 18th July 2024 has been extended for a period of one year with effect from 19th July 2024 or till completion of verification process, whichever is earlier.*

49. *Vide order dated 12th April 2024 the impugned order was stayed. The stay order was continued by virtue of the order dated 24.09.2024 passed by the Hon'ble Supreme Court in Transfer Petition (Civil) Nos. 1614-1617 of 2024 which was directed to operate till the matter is finally decided. After the order of the Hon'ble Supreme Court, this case was placed before this Bench for the first time on 04th December 2024 and the arguments were concluded on 16th December 2024. Consequently, the interim order dated 12th April 2024 has continued throughout. In such circumstances, the petitioner might have been benefitted by the aforesaid office memorandum of extending the validity of recognition of Service Association of the petitioner.”*

- 10.** In their counter affidavit the respondents before the Delhi High Court stated as follows:-

“Therefore, it is clear that the Federation/Association has violated the rules laid down on this subject. As far as giving limited trade union facilities to BPEF is concerned, advice was sought from DoP&T on this subject. DoP&T had advised that there is no such provision as limited trade union facilities, but if the department wants, it can provide trade union facilities from its own level to BPEF for maintain better Industrial Harmony. Therefore, it is clear that

*the Federation/Association has violated the rules laid down on this subject. The department followed the laid down procedure and gave them full opportunity to present their case. **When their answers were not found satisfactory, their recognition was withdrawn with the approval of the competent authority. They are free to function as unrecognized federations/Associations.***

11. In their **affidavit-in-opposition** the President of All India Postal Employees Union Group-C, West Bengal Circle, respondent no. 6 & 7 have stated as follows:-

“6. I further state and submit that in clause IV (under heading Membership) of the said Instruction it has clearly mentioned that "Membership of the Service Association is restricted to a distinct category of Government Servants having common service interests, all such Government Servants being eligible for membership of the Service Associations and no person who is not a Government Servant belonging to that distinct category which the Service Association is representing, is permitted to be connected with the affairs of the Service Association. The Membership of Government Servant shall be automatically discontinued on his ceasing to belong to such a category." It is also important to mention here that in the said Instruction some doubts were clarified by the authority by saying that in case a member is expelled from one union the membership subscription of the said employee would stop immediately but he/she can exercise option in favour of another association with effect from the month of April. It is important to mention here that as per the said clarification the

membership of any employee can be discontinued in case of his ceasing to belong to such category or if the said member expelled from one union with a provision that the said employee can continue to be a member if he/she joins in another union and his/her membership subscription will continue to be deducted by the authority like earlier year. Thus except these situations the membership of any employee cannot be discontinued by the management. **It also shows that it does not matter as to whether the union is recognized or not, the authority/management will deduct subscription of any employee, as per his/her option, and will deposit to the account of the concern union/Association.** But the process adopted by the management shows that they are acting in clear violation of the said clarification.

7. It is to be stated that as per the said Instruction of the management the recognized union/Association shall get some extra facilities which other unions does not get. As per statute the recognized union shall be treated as bargaining agent/body with the management, which un-recognized union or the union whose recognition has been withdrawn does not have. The office bearer of the recognized union/association also invited in certain occasions celebrated by the authority which un-recognized union can be claim. **So there is no nexus between withdrawal of recognition of any union with deduction of subscription of the employees of the said union/association and deposited the same with the concern union/association's**

account. *In this organization there are so many union/association exists which are not recognized but the management deducted the subscription of their members from the salary of the concern union and deposited the same in the account of the said union.”*

12. Rest of the **respondents** (Contesting) in their opposition have stated as follows:-

- i. The recognition to the All India Postal Employees Union Group "C" under CCS (RSA) Rules, 1993 as well as National Federation of Postal Employees (NFPE) was withdrawn vide Directorate's Order no. SR-10/7/2022-SR-DOP dated 26.04.2023 after providing them with ample opportunities and following all due procedure. The said withdrawal of recognition of the All India Postal Employees Union Group "C" under CCS (RSA) Rules, 1993 as well as National Federation of Postal Employees (NFPE) is not under challenge in this writ petition.
- ii. Thereafter, all the Heads of the Postal Circles were instructed vide Directorate's communication dated 15.05.2023 to ensure that monthly subscription of members of the AIPPU Group "C" shall not be deducted through the DDO (Drawing and Disbursing Officer) till further orders. The same was again reiterated clarified vide

Directorate's Communication no. SR-10/7/2022-SR-DOP (Part) dated 23.05.2023.

- iii. The plea of the petitioners that Directorate's letter no. 10-1/2004-SR dated 25.06.2004 which inter alia provides that **"Membership Subscription of all Associations recognized or otherwise"** allows them to collect subscription even after their de-recognition is baseless and is devoid of merits. At paragraph - 4 of the aforesaid-letter regarding the compilation of instructions on matters concerning service association, Department of posts, it is clearly mentioned that "The Union facilities herein mentioned are admissible to the recognized Service Associations only, unless specifically relaxed in favour of the non-recognized Service Association".
- iv. Rule 8 of CCS (RSA) Rules, 1993 inter alia stipulates that if in the opinion of Government, a Service Association recognized under these rules has failed to comply with any of the conditions set out in Rule 5 or Rule 6 or Rule 7, the Government may after giving an opportunity to the Service Association to present its case, withdraw the recognition accorded to such Association. Ample opportunities were provided to the Association and all the due procedures were

followed before withdrawing the recognition by passing a reasoned order.

- v. In the instant case, the recognition of the Association has been withdrawn as a measure of punishment for violating extant instructions/provisions of CCS (RSA) Rules, 1993. This is not a case that an Association is having less number of members and their application for recognition under the CCS (RSA) Rules, 1993. As such, they cannot be covered under the clause VI of Directorate's OM no. 10-1/2004-SR dated 25.06.2004 (Compilation of Instructions on matter concerning Service Association, Department of Posts) which provides that "Membership Subscription of all Association recognized or otherwise". The Union facilities herein mentioned are admissible to the recognized Service Associations only, unless specifically relaxed in favour of the non-recognized Service Association". The petitioners are trying to misinterpret the clause. Their arguments are devoid of any merit and deserve to be rejected.
- vi. **It is submitted that the petitioners still remain members of the Association whose recognition has been withdrawn.** They have by no way been restricted from payment of membership subscription on their own. The petitioners cannot claim any right that their membership

subscription has to be deducted through the DDO (Drawing and Disbursing Officer) from their salary once the recognition of their Association has been withdrawn following due process of law and also following the extant instructions/provisions of CCS (RSA) Rules, 1993. Deduction of membership subscription through the DDO (Drawing and Disbursing Officer) from the salary of the petitioners would mean that as per the rules the said membership subscription has to be remitted to the Association. Once the Association's recognition has been withdrawn there can be no occasion to remit the said membership subscription of the petitioners by the respondent to the said Association whose recognition has been withdrawn.

- vii. Since, the aforesaid Federation/association stood derecognized, all the Heads of the Postal Circles were instructed vide Directorate's communication dated 15.05.2023 to ensure that monthly subscription of members of the AIPEU Group "C" shall not be deducted through the DDO (Drawing and Disbursing Officer) till further orders. The same was again reiterated clarified vide Directorate's Communication no. SR-10/7/2022-SR-DOP (Part) dated 23.05.2023.

13. In reply, the petitioners, have countered the case of the contesting respondents by stating that:-

- a) The respondents have quoted from the paragraph-4 from Annexure P-6 (order of the department dated 25.06.2004 and claimed that the facilities mentioned therein are admissible to recognized service associations only, unless specifically relaxed for non-recognized service association. But in reality, deduction of subscription from salary of the members of any unions/association, recognized or non-recognized, has always been exercised and allowed by the department. There are many non-recognized associations in the department but subscription of their members is being deducted regularly from salary based on the membership form submitted by that particular union/association irrespective of any specific relaxation of rules in their favour.

Bharatiya Postal Employees Federation and its affiliates were allowed such relaxation and provided with limited trade union facilities vide department's order no. F. No. 08/02/2013-SR dated 03.06.2015, then again through order no. 8-20/2013-SR dated 21.06.2017. In these orders, the facility of deduction of monthly subscription from salary were not mentioned as a

relaxation. But the deduction was always made in their favour since long before issuing these orders. Copies of receipts of union subscription deducted and handed over to the Secretaries of Bharatiya Postal Employees Union in Contai Division on different dates in the year 2014 before issuing the relaxation orders are filed. A reply furnished by the Supdt. of Post Offices, Jalpaiguri Division, response to an RTI notice, is also filed wherein he has given the month-wise data for the year 2014 showing deduction of subscription in favour of Bharatiya Postal Employees Federation Group-C. These instances are only illustrative and not exhaustive. There are several other unrecognized unions in this department, e.g., 'All India Postal Accounts Offices Association', for which there is no specific relaxation but monthly subscription is being deducted for years together.

- b)** The question of De-recognition is not contested here. The matter of deduction of subscription is not related with recognition as detailed in the foregoing paragraph. All the unions/associations in the department not recognized till date are enjoying the subscription deduction from the salary of their members since long, without any specific order regarding this.

- c) In the CCS (RSA) Rules 1993, there is no such provision of punishment. Rule 8 of the above Rules only stipulates that in case of non-compliance of Rules 5, 6 and 7, the recognition will be withdrawn. The Rules does not specify anything more than that, and not having the recognition is not a restriction for deduction of subscription from salary, as the department is allowing such deduction for years till today for several other unions/associations without having recognition. The interpretation of punishment is arbitrary.
- d) The existence of a service union/association in Department of Posts is accepted only by the way of deduction of subscription from salary, whether recognized or not. **The moment deduction of subscription stops, the existence of the union/association in the record of the department also ceases. Once deduction of subscription is stopped, the union/association can never take part in the process of recognition conducted by the department in future, because recognition process is based on number of memberships.** Thus, by stopping the deduction of subscription, the department is practically abolishing the

existence of the union of which the petitioners are members.

14. The petitioners in their written notes have argued as follows:-

“The deduction of union subscription from salary is the only official mechanism in the Postal Department to record union membership. The paper receipt system used for new joiners in the middle of the year is temporary and unofficial until formal deduction commences in April as per CCA (RSA) Rules. The CCA (RSA) Rules, 1993 and the circular dated 25.06.2004 do not link salary deduction solely to recognized union. That circular clearly uses the term "recognized or otherwise" indicating that even un recognized unions are eligible for such deduction.

The Asst. Postmaster General made one communication dated 09.08.2023 stating that necessary action to be taken to ensure recovery of subscription from all officials who have given membership authorization letters in time, even if the said union is derecognized. This communication was made in reply to the letter given by the union wherein petitioners is one of the members and the deduction of membership contribution of the said union was stopped in terms of the impugned order dated 15th May, 2023.

The registration of the union, wherein petitioners are member is still valid and only recognition has been withdrawn, so the said

union, as per law can continue its trade union activities which includes collecting of membership.

The Department in its own affidavit submitted before the Hon'ble Delhi High Court stated that AIPEU Group-C is free to function as an unrecognized union, thereby affirming the prayer of the present petitioner.”

15. On hearing the parties and on perusal of the materials on record, the following is evident:-

- (i)** Vide the notification dated 5th November, 1993 vide no. 2/10/80/-JCA the Ministry of Personnel, Public Grievances and Pensions (Department of Personnel and Training), the Central Civil Services (Recognition of Service Associations) Rules, 1993 guides and provides for the rules relating to condition for recognition of trade union.
- (ii)** It is for the alleged violation of some of these conditions, that the recognition of the petitioners Union has been withdrawn.
- (iii)** The withdrawal of the recognition has not been challenged in the present writ application.
- (iv) An email dated 15th May, 2023 is under challenge, where in it has been directed as follows:-**

“With reference to this Department order No. SR-10/7/02022-SR-DOP dated 26.04.2023 wherein it has been decided by the competent

Authority that the recognition of All India Postal Employees Union Group- 'C' as well as NFPE has been withdrawn.

Therefore, all head of circles may please be ensured compliance of the said order and the monthly subscription of members of the AIPPU Gr. C shall not be deducted through DDO till further order.

***Regards
(NS Meena)
ADG (SR & Legal)***

- (v) The **withdrawal of recognition** has been done vide Departments Order No. SR-10/7/02022-SR-DOP dated 26.04.2023, but **there is no official order** directing that *“the monthly subscription of members of the AIPPU Gr. C (Union) shall not be deducted through DDD till further order”*.
- (vi) The said part is a direction by ADJ (SR & Legal) to all circles to comply, but there is no reference to any departmental order to that effect, though vide an administrative order dated 23.05.2023, the ADJ (SR & Legal) issued a clarification to all Chief Post Masters General as follows:-

*“TO
All Chief Postmasters General*

Subject: Clarification on some issues arising as a result of withdrawal of recognition of All India Postal Employees Union Gr.C (AIPPU) as well as National Federation of Postal Employees (NFPE).

Consequent to the withdrawal of recognition of the NFPE and AIPEU Group 'C' Association by the competent authority, several services associations have sought clarifications on certain issues. The main issues on which clarification have been sought are as follows:

I. What will happen to the trade union facilities which are being availed by NFPE and AIPEU Group 'C' Association after the withdrawal of their recognition. Whether monthly subscription of members of AIPEU Group 'C' will be deducted through DDO or not.

II. After withdrawing the recognition of NFPE, what will be the status of other Associations federated to NFPE.

2. The following are clarified in the matter:-

I. The trade union facilities provided to AIPEU Group 'C' as well as NFPE, have also been withdrawn along with withdrawal of their recognition with immediate effect. This also includes discontinuance of deduction of monthly subscription of their members through the concerned DDO.....”

(vii) It appears that vide the following order dated 14th February, 2007, being number 13-4/2006-SR, the Department of Posts, directed as follows:-

10
Department of Posts

Annexure-R-1

Date: Bhawan, Shastri Bhawan
New Delhi - 110001
Dated: 14 February, 2007

No. 13-4/2005-SR

To:

- All Heads of Postal Circles
- All Postmasters General
- All Directors/Dy. Directors of A/C (Postal)
- All Directors of Postal Training Centers
- Postmaster General, Foreign Mails, Mumbai
- Director, Foreign Mails, Chennai, Kolkata and Delhi
- Director, Postal Staff College, Ghazipur (U.P.)
- Chief General Manager, P.L. Chakraparti P.O., New Delhi
- Chief General Manager, S.D. Chakraparti, Dak Bhawan, New Delhi

Subject: Deduction of membership subscription under the CDM (SR) Rules 1993 - clarification regarding.

Sir,

I am directed to draw your kind attention to the Department's letter No. 13-14/96-SR (Vol. III) dated 18.12.97 inter alia stating that deduction of membership subscription in respect of associations which prima facie are all other associations but were not recognized in the initial circular verification may continue to be deducted till further orders based on the written declaration unless the option is withdrawn by the individual employee. The instructions issued vide letter dated 18.12.1997 shall continue to remain unchanged.

2. However, complaints are being received from number of unrecognized unions alleging stoppage of recovery of subscriptions by circles from salary of members of unrecognized unions/associations. Some of the recognized unions have also written for stoppage of such subscriptions based on which certain circle officers have sought clarification in this regard. It is, therefore, clarified that the instructions as referred to in para 1 of the letter may be followed scrupulously as is to avoid unnecessary correspondence in this regard.

3. Please acknowledge receipt of this letter.

Yours faithfully,
Sd/-
(Sahib Singh Chandel)
Director (SR & Legal)

Copy to: All postal federations/unions/Associations.

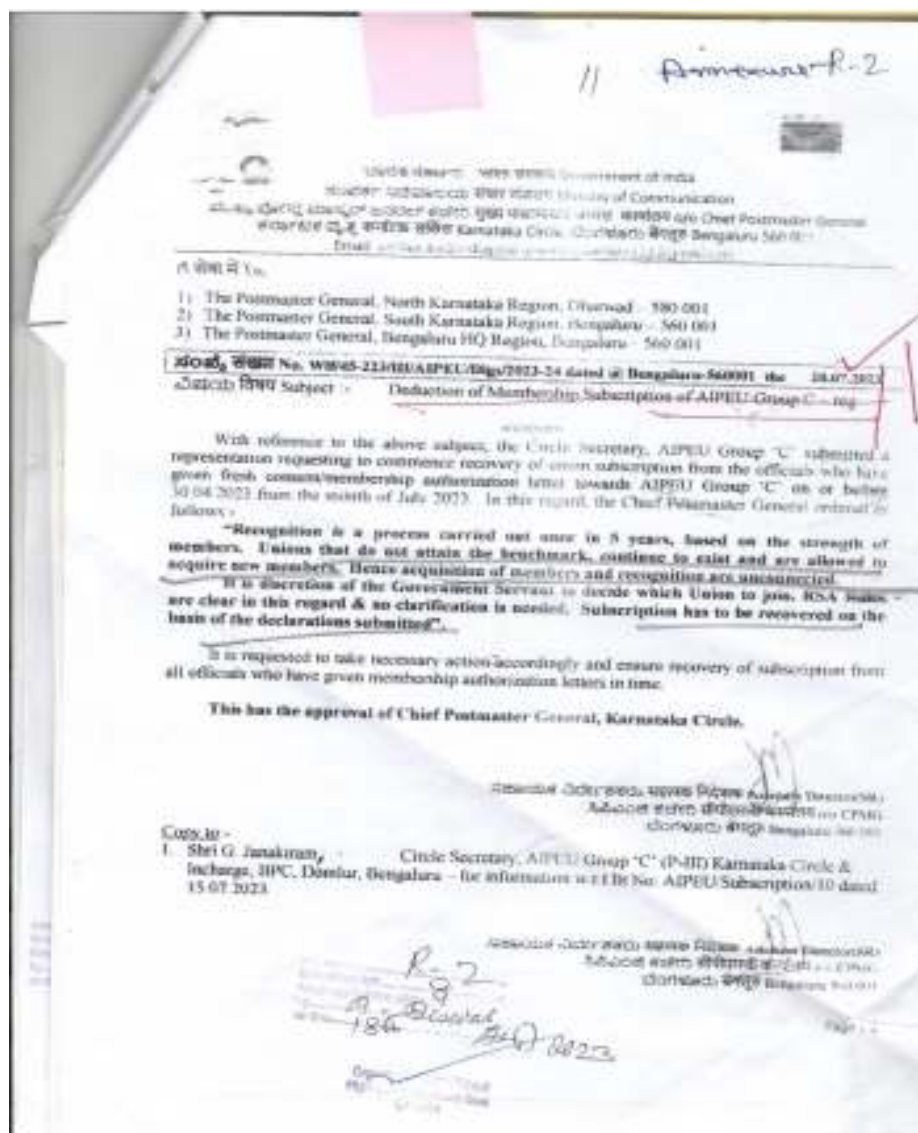
H-22/2107

COPY TO ALL D.N. SECY / OBBG/ H-2107
For Information. Please

Sd/-

R-1
8
A. B. Bhat
1/2/07
General Secy to Govt.
High Court, Lucknow
Uttarakhand

(viii) Vide another order dated 20.07.2023, the Director (SR) issued the following notice:-



(ix) Vide another order no. U/APCO/Dlgs/2018/II dated at Vijayawada -13, the 09.08.2023, the Department of post directed as follows:-

12
भारतीय डाक विभाग
DEPARTMENT OF POSTS : INDIA
मुख्य पोस्टमस्टर जनरल कार्यालय, अंध्र प्रदेश प्रांत, विजयवाड़ा - 520013.
O/o the Chief Postmaster General, AP Circle, Vijayawada - 520013.

To
1-3, The Postmaster General,
Vijayawada Visakhapatnam Region.
3. The Director of Postal Service,
Karnool Region, Karnool.

No. UAPC/WHG/2018/11 dated at Vijayawada-13, the 05.06.2023
Sub: Deduction of membership Subscription of APEU, Group 'C' (now de-recognized) - Reg.

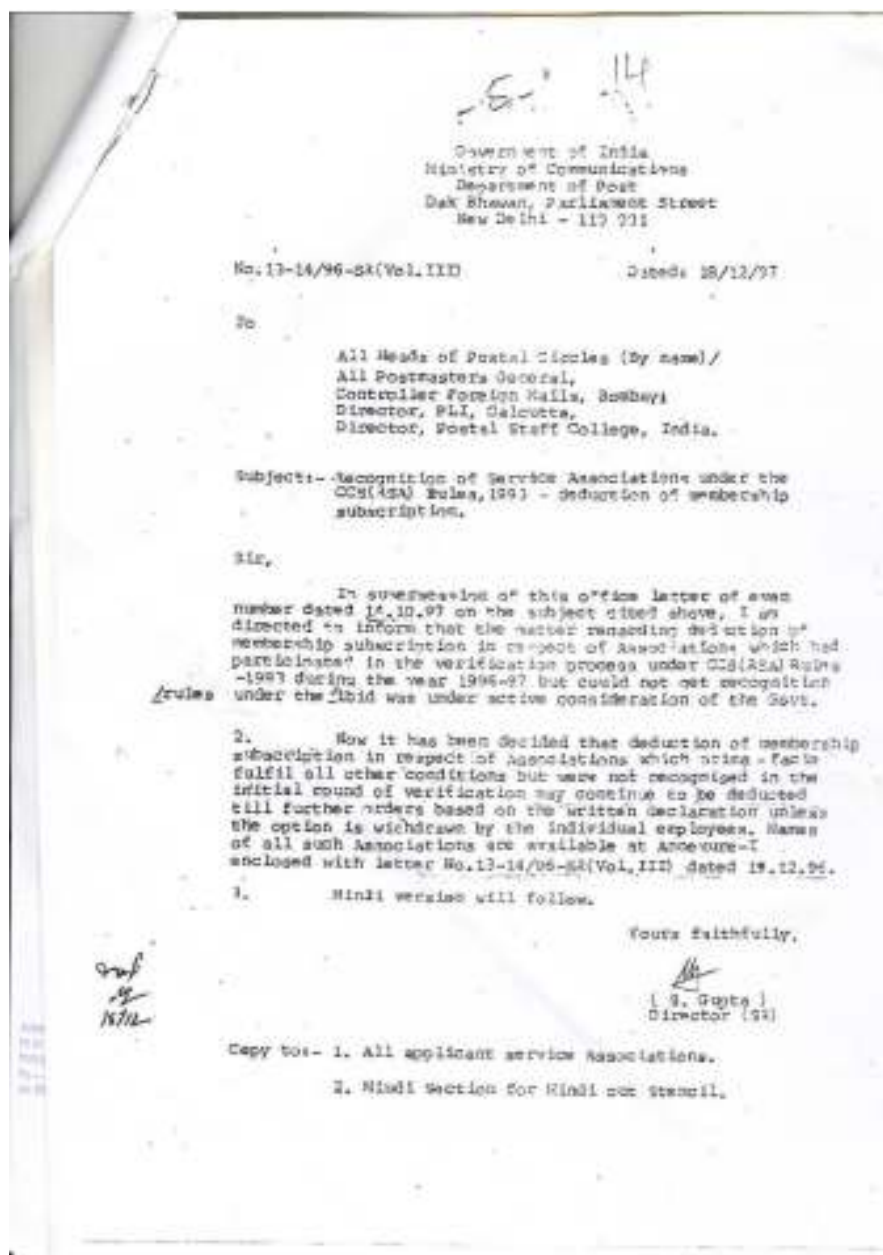
With reference to the above subject, the Circle Secretary, APEU Group 'C' (now de-recognized) has submitted a representation with a request to commence recovery of Union subscription from the month of July-2023, from the officials who have given fresh consent/letter of Authorization for membership towards APEU Group 'C' (now de-recognized) in the month of April 2023.

In this regard, it is requested to take necessary action and ensure recovery of subscription from all officials who have given membership authorization letters in time, unless any extant instructions explicitly prohibits the same, even if the said union is de-recognized.

This issued with the approval of Chief Postmaster General.


सहायक पोस्टमस्टर जनरल - जनरल पोस्ट & डी. डी. (पि.)
Assistant Postmaster General (PG & Welfare),
मुख्य डाक कार्यालय, अंध्र प्रदेश प्रांत, विजयवाड़ा
O/o CPMSG, A.P.Circle, Vijayawada-13.

(x) All these orders have their base in the order no.13-14/96-SR (Vol. III) Dated 18.12.1997.



16. **Thus it appears** that admittedly there is no departmental order to discontinue deduction of monthly subscription of their members through the concerned DDO, **it is only a clarification by the ADG (SR & Legal).**
17. **The Departmental order dated 26.04.2023 relates to only the withdrawal of recognition of the Union and no other**

directions and also no directions as to the deduction of membership subscription.

18. It is thus apparent that the clarification for not deducting subscription has been given without any authority or Departmental Govt. order/orders.

19. In the order dated **14.02.2007**, the direction as follows is very clear:-

*“.....I am directed to draw your kind attention to the Department's letter No. 13-14/96-SR (Vol. III) dated 18.12.97 inter alia stating that **deduction of membership subscription in respect of associations which prima facie fulfil all other conditions but were not recognized in the initial round of verification may continue to be deducted till further orders based on the written declaration unless the option is withdrawn by the individual employee.** The instructions issued vide letter dated 18.12.1997 ibid still remain unchanged.....”*

20. The Chief Postmaster General vide order dated **20.07.2023** directed as follows:-

*“.....Recognition is a process carried out once in 5 years, based on the strength of members. Unions that do not attain the benchmark, continue to exist and are allowed to acquire new members. **Hence acquisition of members and recognition are unconnected.***

*It is discretion of the Government Servant to decide which Union to join. RSA Rules are clear in this regard & no clarification is needed. **Subscription has to be recovered on the basis of the declarations submitted.....”***

21. The Assistant Postmaster General vide order dated 09.08.2023 directed as follows:-

“.....In this regard, it is requested to take necessary action and ensure recovery of subscription from all officials who have given membership authorization letters in time, unless any extant instructions explicitly prohibits the same, even if the said union is de recognized.....”

22. The basis of all these G.O. arise out of a G.O. dated 18.12.1997

wherein it was directed as follows:-

“.....In supersession of this office letter of even number dated 14.10.97 on the subject cited above, I am directed to inform that the matter regarding deduction of membership subscription in respect of Associations which had participated in the verification process under CCS(RSA) Rules -1993 during the year 1996-97 but could not get recognition rules under the ibid was under active consideration of the Govt.

*2. Now it has been decided that **deduction of membership subscription in respect of Associations which prima facie fulfil all other conditions but were not recognised in the initial round of verification may continue to be deducted till further orders based on the written declaration unless the option is withdrawn by the individual employees.** Names of all such Associations are available at Annexure-I enclosed with letter No.13-14/96-SR (Vol. III) dated 19.12.96.....”*

23. The Supreme Court in *Management of Karnataka State Road vs Ksrtc Staff & Workers' Federation & Anr.*, AIR 1999 SC 1059, decided on 18th February, 1999, held:-

*“16. It has also to be kept in view that even assuming that settlement of 1988 had thereby come to an end, its binding effect as contractual obligation continued till it was replaced by other settlement as ruled by this Court in *The Life Insurance Corporation of India v. D.J. Bahadur and Ors.*, (supra). It is also difficult to appreciate how the case of Check-off*

*Facility is not termed as condition of service as by the said facility the Management had agreed to deduct from the wages of the employees the requisite amount to be paid to the Union by way of subscription of the employees. Such permissible deduction from the wages cannot but be treated as condition of service. The contention that from 21st September, 1993 Check-off Facility has been given up by the Corporation cannot be of any assistance to the Corporation for the simple reason that it would amount to violation of a binding settlement by the Corporation which as per Section 29 of the ID Act would be penal. No advantage in law, therefore, can be taken by the Corporation from its unilateral withdrawal of binding Check-off Facility as per settlement of 1988- It is also not possible to countenance the submission that though the Check-off Facility may continue to exist de jure it would cease to exist de facto. **Such unilateral withdrawal of Check-off Facility by one of the parties cannot be treated to be an act which is legal and valid.** Minutes of the meeting held between the representatives of the Corporation and Respondent No. 1 Union held on 18th October, 1995 also cannot amount to substitution of a fresh settlement on the Pay Roll Check-off Facility. To reiterate, the Federation's only agreement was to discuss demands relating to check off and trade union facilities at the Government level. So long as the said discussion had not culminated into any other binding settlement on the topic, the earlier settlement cannot be said to have been replaced or substituted by any other validly binding settlement. Consequently, the aforesaid written submissions do not advance the case of the appellant."*

24. The withdrawal of an individual employee's check-off authorization is distinct from the process of withdrawing union recognition as a whole.

- **Union Recognition:** The recognition of a union is a formal status granted by the management (sometimes

via a Code of Discipline or specific regulations) based on criteria like having majority membership.

- **Impact of Individual Withdrawal:** While individual withdrawals may affect the total membership count used to verify a union's majority status (often done via the check-off system itself), the recognition status of the union is not automatically or immediately withdrawn just because one person leaves the check-off system.
- **Formal Derecognition:** The process for derecognition typically involves a formal review or an inquiry by the government/appropriate authority if the union fails to meet certain conditions or engages in unfair labor practices.
- **Employer's Role:** An employer cannot unilaterally withdraw the check-off facility for all union members without a specific legal order or agreement, as this facility is tied to individual rights and established procedures.

25. Accordingly, the Union/membership subscription is clearly not dependent upon the Recognition of a Trade Union, which is a status which changes with time and circumstances.

- 26.** The said subscription is to paid/deducted/recovered by/from officials, who have given consent/letter of authorization for such membership of a Union, **be it recognized or not, but fulfill all other conditions.**
- 27.** The said clarification under challenge not being based on any Department/Govt. order or authority clearly has no legal force as the said clarification has neither set aside **nor can** set aside the orders dated 14th February, 2007, 20.07.2023 and 09.08.2023.
- 28.** The contention of the petitioners that such a clarification if put into effect would severely effect its membership in numbers, is well founded in view of Clause (d) of CCS (Recognition of Service Associations) Rules, 1993.
- 29.** Such a direction thus would also jeopardize and **prejudice the future recognition of the Union** as, such recognition is given for a fixed tenure, subject to further grant of recognition on conditions being fulfilled.
- 30.** Thus, the clarification vide email dated 15.05.2023 issued/sent by the ADJ (SR & Legal) being not in accordance with law and having no basis **is hereby set aside and quashed.**
- 31. The membership subscription be continued to be deducted through the respective DDO's.**
- 32. The writ petition is allowed.**

- 33.** Applications, if any, connected thereto stand disposed of consequently.
- 34.** Interim order, if any, stands vacated.
- 35.** Photostat certified copy of this order, if applied for, be given to the parties on priority basis upon compliance of all formalities.

[Shampa Dutt (Paul), J.]