

**CENTRAL ADMINISTRATIVE TRIBUNAL  
BOMBAY BENCH, MUMBAI**

**ORIGINAL APPLICATION No.775/2016**

All India Naval Technical Supervisory ..... APPLICANT  
Staff Association

**Vs.**

Naval Dockyard & 2 Ors

..... RESPONDENTS

**CORAM: HON'BLE SMT CHAMELI MAJUMDAR, MEMBER (J)**  
**HON'BLE DR MRUTYUNJAY SARANGI, MEMBER (A)**  
**TRIBUNAL'S ORDER DATED : 21.11.2016.**

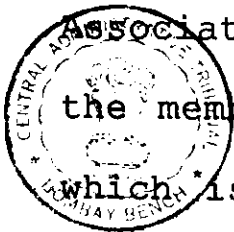
The applicant before us is an Association namely All Indian Naval Technical Supervisory Staff Association through its General Secretary.

2. The Applicant has contended that the applicant Association is the oldest recognised service Association since 1949, functioning through its 3 divisional offices and about 25 branch offices in Ministry of Defence viz. Naval Dockyards (Mumbai, Visakhapatnam & Kochi), NSRY (Karwar), Naval Armament Depots, Warship and Submarine Overseeing Teams, training establishments, Repair organisation/yards under the Navy. The Association represents about 4000 cadre strength of which it has a membership of around 3000 supervisory staff.

3. The applicant Association has annexed a letter dated 06.05.2013 issued by the Under Secretary of Government of India, Ministry of Defence. It appears from the said letter that the Government decided to continue the recognition of this Association alongwith other two Associations in terms of Central Civil Services (Recognition of Service Association) Rules, 1993. The validity of the recognition has been continued for 5 years from the date of expiry of the respective period of recognition. The applicant Association has been

working from the present office in the ground floor of the Zonal canteen for over 2 decades. The ground floor has office of the applicant Association. There are a few empty rooms in the ground floor. The workers' canteen is in the first floor and the Supervisors' canteen is in the second floor. The said canteen has been shut down by termination of the contract of the person running the canteen. The premises of the canteen Association consists of two rooms roughly 140 square feet each. That the applicant Association has been serving from the said premises would be evident from various correspondences between Government ministries and the Association. The respondents also have been addressing letters to the Applicant Association in the present address of the Association.

4. The Applicant has contended that the Association has been acting in the best interest of the members of the Association and the department which is borne out by the various steps taken by the Association to protect the rights of its members by Joint consultative machinery. The Association has been consistently advocating for the rights of its members with the respondent authorities including approaching appropriate legal forum on numerous occasions. Most recently, the



applicant Association challenged the action of the respondents in withholding full payments of some of its members without any cause or justification. The Association also is concerned with the appropriate functioning of the department with the support and cooperation of the members of the Association in rendering proper service in best interest of the department. The Association never indulged in unlawful activities. The working of the Association has been always fair, transparent.

5. Heard Shri Kartikiya Bahadur, learned counsel for the applicant and Smt H.P. Shah, learned counsel who appears on instructions for the respondents. Shri Bahadur submits that the applicants earlier filed an O.A. No.720/2016 which was disposed of on 25.10.2016 by passing an order. Relevant paragraph 5 of the said order is set out


here below:-



5. Respondent No.1 is accordingly directed to get the representations already submitted to the Principal Controller of Defence Accounts (Navy) and Flat Officer Commanding-in Chief, Headquarters Western Naval Command for his urgent consideration. Meanwhile, the applicants are directed to submit an advance copy on similar lines to the Respondent No.1 within a period of one week. The Respondent No.1 is directed to give full consideration to these representations and pass a reasoned and detailed order as per law and rules in force within a period of six weeks from the date of receipt of a copy of this order which will be served by dasti by the applicants.

6. Learned counsel submits that instead of complying with the order, passing a reasoned and detailed order as per law, the respondents in utter vindictiveness are abusing and misusing their power in harassing the members of the Association and acting in a high handed manner (a) by disconnecting internet service to the office of the Association (b) dispossessing the applicant Association from its place of business and (c) creating hindrance for adequate facilities for lunch, breakfast and tea to the members of the Association by shutting the canteen which was serving the members of the Association until 08.11.2016.

7. At the time of argument, learned counsel submits that today the staff members of the Association were surprised to find that the gates of Association office are sealed and a notice has been pasted on the door of the Association office.

 Learned counsel has produced the photoshot of the said notice dated 19.11.2016. Learned counsel submits that the applicant Association was not served with any notice before sealing the office premises.

8. Learned counsel in support of his submission that the Association was duly granted permission to use internet by the authorities themselves has

taken us to Annexure A-4 to the O.A. It appears that on 22.05.2012 the Association sought permission to install wired internet and MTNL telephone connection in their office at supervisor's canteen on the ground that there was necessity for updating the website in due course. The respondents by their letter dated 27.06.2012 informed them that the requirement of the Association could be considered and internet could be provided subject to the following:-

" (a) "The internet machine proposed to be established must conform to all prevailing info sec policies like use of Nav-IOS operating system, use of only officially processed pen drives/sdrives etc. The users are to update themselves on the extant policies."

3. Please confirm the above in writing so that request can be processed for approval to provide internet."

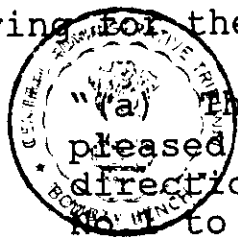
9. Learned counsel has relied on several correspondences wherefrom it appears that the internet connection was taken to the Association office with due permission through the respondent authorities.

10. Learned counsel further submits that the space was given to the applicant to run a canteen by the Association itself. The said canteen has been shut down by the respondent No.1.

11. The Applicant Association has alleged that the unilateral decision of the respondent No.1 to shut down the supervisors canteen which was in existence for last two decades with no alternate arrangement for the breakfast, tiffin or tea and forcing them to buy and eat sub quality food at higher price was inhumane. The members of the Association were forced to skip meals.

12. The Respondents themselves allowed them internet connection since 2012 but the same has been disconnected only to curtail the lawful activities of the Association.

13. The respondent No.1 was trying to dispossess the Association from the premises which was the official address of the applicant Association for more than 2 decades. The applicant Association was apprehensive that they might be dislodged from the present premises. Therefore, they filed this O.A. praying for the following reliefs:-



(a) That this Hon'ble Tribunal be pleased to issue an order or direction, directing the Respondent No.1 to resume internet service to the office of the applicant;

(b) That this Hon'ble Tribunal be pleased to issue an order or direction, directing the Respondent No.1 not to unlawfully dispossess the applicant;

(c) That this Hon'ble Tribunal be pleased to issue an order or

direction, directing the Respondent No.1 to provide adequate facilities for lunch, breakfast and tea to the members of the Applicant Association as was being done until 8<sup>th</sup> November 2016,

(d) For the costs of this Application.

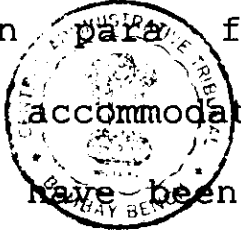
14. While moving this O.A., learned counsel for the applicant has handed over a notice dated 19.11.2016 wherefrom it appears that apprehension of dispossessing the Association from the premises has come true. The respondents have sealed the office premises of the Applicant Association and pasted the notice on the door of the Association office. It is evident that the Applicant Association is a Registered Association under the CCS(RSA) Rules. It is not disputed that the said Association has been working in the best interest of the members of the Association who are officers/supervisors of the respondents department being Naval Dockyard, Mumbai. They have been acting to ensure betterment for employer-employee relation with the object of better functioning of the organisation. The lawful activities of the recognised service Association of the members of the organisation who are part and parcel of the concerned authorities relate to the service matters in relation to a member or members of the

Association as envisaged in sub sections (q) and (r) of Section 3 of the Administrative Tribunals Act, 1985.

**15.** Learned counsel for the applicant has referred to Annexure A-6 which is a Government order regarding facilities to recognised service Associations/Recognised Union. Para F of the said order is set out herein below:-

"(f) Provisions of Government accommodation to set up the office by recognised trade union/associations of Central employees - No Government accommodation including hired accommodation is provided to unions/associations. Surplus Government accommodation already provided to them may not be withdrawn but rent for such accommodation should be recovered in accordance with para 9 of the Quartering Regulations. Recovery of licence fee in respect of surplus accommodation already provided to the recognised unions/associations prior to 9 Feb 73 may not be insisted upon.

(Authority:- Min of Defence letter No.10/2/91/D(lab\_/676/73/D(JCM) dated 9 Feb 73).

Relying on  para f he submits that surplus Government accommodation provided to Association should not have been withdrawn but rent for such accommodation should have been recovered in accordance with para 9 of Quartering Regulations. Recovery of licence fee in respect of surplus accommodation already provided to the recognised unions/associations prior to 09.02.1973 may not be



insisted upon. The authorities without following such provision unilaterally took a decision to seal the office without providing them any opportunity of explaining. Learned counsel has submitted that entire action is a counter blast for the order passed by this Tribunal on 25.10.2016 in OA No.720/2016.

16. Smt H.P. Shah, learned counsel appearing for the respondents submits that these grievances do not pertain to the service matters as envisaged under sub section q of Section 3 of Administrative Tribunals Act, 1985.

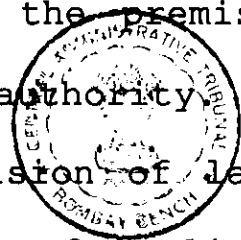
17. We have perused section 3 (q) and 3(r) of the Administrative Tribunals Act, 1985. 3(q) deals with 'service matters'. Clause v of sub section q of section 3 says that service matter may be any other matter whatsoever. 3(r) says that 'service rules as to redressal of grievances', in relation to any matter, means the rules, regulations, orders or other instruments or arrangements as in force for the time being with respect to redressal, otherwise than under this Act, of any grievances in relation to such matters;

18. The applicant being an Association is registered under the CCS(RSA) Rules 1993. Their activities are also legally recognised activities

touching the welfare of the members of the Association who are employees of the department. The concerned authority issued order circular extending various facilities to the recognised service Association/recognised trade union. The applicant Association has annexed one of such guidelines dated 10.04.1996 which deals with the facilities to recognised service Associations/recognised unions. Ordinarily, these Associations/Trade Unions negotiate in between the officers/workers and the authorities concerned of the department with regard to the various conditions of their service like remuneration, promotion, leave and any such matter. These Associations are given permission to hold joint consultation meetings to ensure welfare of the employees vis-a-vis to reach optimum output by the organisation in a healthy manner. These Associations take various measures to hold meetings with the competent authorities to arrive at feasible decision for better functioning of the concerned department. Therefore, the activities of these Associations are very much connected with the service matters in relation to the conditions of the service of the employees of the department.

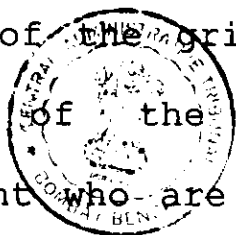


19. We have perused the notice dated 19.11.2016 which has been produced before us today at the time of hearing. Learned counsel for the applicant craves leave to file an amendment application annexing the said notice. However, the learned counsel for the applicant also seeks for an ad interim protection of staying the said notice. Smt Shah, learned counsel for the respondents submitted that this notice can be challenged only before the District Judges Court and not before the Central Administrative Tribunal. After careful perusal of the notice, we do not find that this notice is at all an eviction notice under the Eviction of unauthorised Occupants from Public premises Act, 1971. It further appears that the authorities which issued this notice being the Senior Manager (RP), Estate Officer has gone further from the stage of notice inasmuch as the Estate Officer had already taken action without following due process of law and sealed the premises under the orders of the competent authority. It is not mentioned under which provision of law such notice was issued or such action of sealing the premises was taken by the Estate Officer. Learned counsel submits that important documents, correspondences with the authorities are lying there inside the office of



the Association. The members of the Association are facing difficulties since those documents are not accessible to them causing serious prejudice to them.

20. It is well settled proposition of law that even a trespasser cannot be evicted without due process of law. There are provisions of law for initiating eviction process against unauthorised occupants which has not been adhered to before sealing the office and issuing the notice. Such action has infringed the right of the members of the applicant Association in relation to their service matters or their grievances in connection with their service to be espoused by the Association before the authorities. As such, the arbitrary and illegal action of the respondents in sealing the office premises of the Association, shutting down the canteen and disconnecting the internet connection very much come within the purview of the grievances in relation to service matters of the officers/supervisors of the department who are members of the Association and the object and function of the Association is directly connected with the service matters of the Members of the Association as well as grievances with regard to non adherence of the orders of the



authorities themselves regarding various facilities extended to the said Association including accommodation in the Government premises which in our considered view are maintainable in the given situation.

**21.** That apart, right to form Association and to act lawfully for the members of the Association in taking various steps including collective bargaining power with the authorities are fundamental rights of the members of the Association under Article 19 of the constitution of India. The right guaranteed under Article 19 of the Constitution is enjoyed by all citizens to form an Association.

**22.** The Government has recognised the service Association and Joint consultative Machinery with a view to promote harmonious relations and secure maximum amount of co-operation from the employees of the Association to attain the R&D goals of Central Government organisation with grater efficiency. The recognition is granted to the Association under the Central Civil Services (Recognition of Service Association) Rules, 1993. The applicant Association is duly recognised and the validity period of the recognition is still continuing.

23. The above mentioned actions of the respondents including sealing the office premises which is in use by the applicant Association for more than 2 decades without following due process of law violates fundamental rights of the members of the Association as enshrined under Article 14, 16, 19 and 21 of the constitution of India.

24. The notice dated 19.11.2016 issued by the Senior Manager (RP) for Estate Officer is not a part of this O.A. The notice has been produced before us today praying for an ad-interim order to stay this notice and also for a direction to open the office premises since valuable documents are there inside the said office premises. The said notice in its entirety is set out herein below:-

"

**NOTICE**

1. It is to bring it to the notice of the office bearers of the All India Naval Technical Supervisory staff (AINTSSA) that no Government Order entitles provisions of Government accommodation to set up the office by recognized Association of Central Government Employees. Further, no records or documents exist in the Yard as on date which can possibly elucidate that AINTSSA has been allotted any accommodation in a part of the premises of the Zonal Canteen Naval Dockyard, Mumbai as their office. Therefore, this space is hereby locked and sealed under the orders of the Competent Authority.

2. You are hereby required to approach the concerned authorities

within three working days and produce the documentary evidence with regard to authority / permission to occupy the office premises in the name of AINTSSA. In case of failure to produce the requisite proof, you are hereby directed to submit the list of items held in the office of the AINTSSA so as to enable the Management to open the lock and hand over the listed items for your custody.

Naval Dockyard  
Mumbai

(R.S. Bala)  
Capt.

Senior Manager (RP)  
For Estate Officer "

Date: 19 Nov. 16

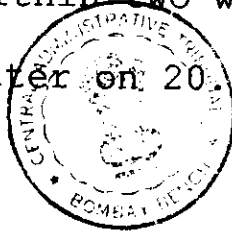
25. Having regard to the discussions of fact and law as stated herein below, we are *prima facie* satisfied that this notice is unsustainable in the eye of law. Accordingly, this notice dated 19.11.2016 issued by the Senior Manager(RP) for Estate Officer is stayed till the next date of hearing. There shall be an interim order of status quo ante with regard to the office premises of the applicant Association as on 18.11.2016. The respondents are directed to take appropriate action to comply with the ad-interim order of status quo ante which is being passed by the Tribunal today within two days from the date of receipt of the order.

26. However, we make it clear that it will be open to the respondents to take appropriate action after following due process of law.

27. Smt Shah, learned counsel submits that she will file reply within two weeks. Rejoinder, if any, may be filed within two weeks thereafter.

28. Post this matter on 20.12.2016.

Dasti.



Certified True Copy  
Date 23/11/2016

*[Signature]*

Section Officer  
Central Administrative Tribunal,  
Mumbai Bench, Mumbai

No/CAT/MUM/JUDL/OA775/2016 | 9615

Section Officer

Dated:-

23/11/16

COPY TOR.

- 1 Shri L. C. Kranti, learned counsel for the applicant.
- 2 Smt. H. P. Shah, learned counsel for the respondents.

**NOTE ( Applicant's Advocate ) : PLEASE NOTE THAT NOTICE ISSUED BY THE TRIBUNAL IS SERVED BY THE PARTY HIMSELF BY "HAND DELIVERY" (DASTI, HE SHALL FILE WITH THE REGISTRY OF THE TRIBUNAL THE ACKNOWLEDGEMENT TOGETHER WITH AN AFFIDAVIT OF SERVICE)( THIS IS AS PER THE C.A.T. PROCEDURE SUB RULE 2 OF RULE NO.11).**