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CHAPTER - VIII

RIGHTS OF THE PERSONNEL

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Rights of the personnel constitute a very important part of personnel administration. Rights are important because, as Harold J. Laski holds, these are the conditions of social life without which no man can seek, in general, to be himself at his best.¹ He also asserts that "any system of rights, therefore, has three essential aspects from which it must be regarded. There is the interest of the individual, always, at least ultimately, finally isolated from his fellow men. There is the interest of various groups in and through which his personality finds channels of expression. There is the interest of the community which is the total result of the whole pressure of social forces".² In fact, whatever is essential to the free development of personality is the right of the individual. The position of the personnel is somewhat unique in certain respects. They are the citizens as well as servants of the sovereign state. As citizens, they are entitled to enjoy equal civil rights with other citizens. But as public employee they are required to act under certain

1. Laski, Harold J., A Grammar of Politics (London : George Allen and Unwin, 1951, P.91.

2. Ibid, P.141.

constraints as regards their political and associational activities. As servants of the sovereign state, they have to serve it loyally. They are in charge of providing certain essential services. On the other hand, as the public servants, they are entitled to enjoy certain special privileges. Like pension, gratuity, provident fund etc. So, there is the necessity for imposing certain restrictions on the public and private behaviour of the public employee. In this chapter our main concern will be the political and associational rights of the public employees and the rights conferred by OIL to its employees, both in executive and workmen level.

1. Political Rights :

Usually, the civil servants are granted limited political rights. In Great Britain, the public employees are divided into industrial and non-industrial categories. The industrial civil servants are granted all political rights like ordinary citizens. The non-industrial civil servants are classified into three classes - (i) Politically 'free', (ii) Intermediate, and (iii) 'restricted' classes. The first category comprising about 62% of the civil are completely free to take part in all varieties of political activities. But their political activities should not involve a blatant violation of the political trust. The second class of

employees are free to engage in all national political activities except parliamentary candidature. The only restriction is that they are required to take the prior permission of the department concerned. The third category of employees are not allowed any political rights except right to vote. However, they are allowed passive membership of a party. They are allowed to membership of local government with the previous permission of the government. While the second class comprises nearly 22%, the third one only 16%.

In the U.S.A. the public employees have the right to vote and to express their opinions on all political subjects. But they have no right to participate actively in political management and political campaigns. They cannot become members of political parties. They cannot contest elections.

In India, the civil servants have the right to vote in parliamentary, state legislative and local elections. But they are required to exercise it in such a way as not to indicate the manner in which they propose to vote or have voted. According to Civil Servants Conduct Rules, they should not indulge in active politics. They are also prohibited from joining any political party or canvassing in support of any candidate. They cannot contest parliamentary or state

legislative elections. They cannot aid any political movement. Thus as in the case of the U.S.A., the political rights of the civil servants in India also are restrictive.

2. Associational Rights :

These include (i) right to associate, (ii) right to affiliate and (iii) right to strike.

(i) In all the democratic countries the civil servants are given the right to form associations or unions. Such associations are usually formed for the purpose of promoting economic, cultural and professional interests of the civil servants. They have nothing to do with politics. Soon after the formation of an association, a copy of the aims, objects and constitution must be sent to the Head of the Department, who may accord recognition to it. The government deals only with associations recognised by it. In India all public employees, except military and police officials, are allowed to form their own associations. These associations come under the general trade union legislation.

(ii) The right to affiliate is permitted in India. The various associations or unions may obtain affiliation to outside organisations. Thus, there are the All India Railwaymen's organisations. All India Postal and R.M.S. Union,

All Postmen and Lower Grade Staff Union. Recently a Central Employees' Confederation of Nine All India Federations and Unions has been set up. Since 1952, the Government has, however, instructed all associations and unions of employees not to have any outsider associated with them. Now a Government servant cannot become a member of any association which has failed to obtain government recognition within a six months of its formation or of any unrecognised association.

(iii) Right to strike is the most controversial of all the associational rights of the civil servants. The right to strike means the right to stoppage of work. Although strikes are prohibited and severe penalties are provided by statutes, they are occurring. Therefore, the question of strike by public employees has received considerable attention of governments in different states.

In practice, the attitude of government towards the strike question differs from state to state. Thus, in the U.S.A. the right to strike is not conceded by the federal government and by most state governments. The courts have also affirmed that right to strike is not a constitutional right. Where it exists, it is legislatively conferred. Therefore, it may be withheld or revoked at any time. In the U.S.A., law not

only prohibits strikes but also provides penalties. In the U.K. strikes are not legally banned. But the government can take disciplinary action against the striking employees. In Japan, Switzerland and Australia strike by government employees is declared illegal. But in France, the employee are permitted right to strike. In India, after the awkward situation that arose with the general strike in 1960, the government has banned strikes in the most important services like Ordnance Post and Telegraphs, Railways etc.

Now let us examine the arguments for and against the right to strike.

The Arguments in Support of Strike :

Those who support the public employees right to strike give the following reasons :

- (i) It is wrong to deny the right to strike to civil servants, while the same right is granted to private industrial workers. The norm of equity calls for similar treatment of both public and private employees. The denial of this right to government employees cannot be justified either in logic or in political philosophy.

- (ii) If the civil servants are not granted the right to strike, their conditions of service may become worse and intolerable.
- (iii) It is argued that collective bargaining is effective only if unions have the ultimate weapon of right to strike. When the government officials know that the unions can legally strike, they will not show rigidity in meeting employee demands. The officials also will negotiate seriously with the employees.
- (iv) Lastly, by restoring to strike the employees can draw the attention of the public to the unsettled problems and grievances and thus secure public support in redressing them.

Arguments Against the Right to Strike :

A number of writers and various committees and commissions in different countries have expressed weighty reasons in support of the denial of the right to strike to government employees. They may be briefly stated as following :

- (i) It is said that, government is different from a private industry. It represents the sovereign state and performs many essential services and provides public utilities. They can paralyse social life by

taking recourse to strikes. Strikes by government employees seriously affect health, safety and welfare of the public. thus, strikes create intolerable conditions in society. According Avasthi and Maheshwari, "a strike by civil servants is a pistol at the very people whom they are supposed to serve".

- (ii) A strike is a militant weapon. By using this militant weapon the civil servants may hold the government for ransom. President Roosevelt expressed his conviction "that militant tactics have no place in the functions of any organisation of government employees". According to B.Shiva Rao, "A General Strike of Government employee..... is a political weapon. Its success must mean the collapse of the administration and that no government can permit". It is, therefore, morally wrong, if the civil servants paralyse the government and interrupt the services essential to the life of the community by stopping the government activities.

- (iii) The Second Pay Commission in India expressed the view that a strike or even demonstration by government servants will contribute to indiscipline in society.

(iv) Lastly, a government servant holds special position in society. He exercises certain powers and enjoys some privileges which are denied to other people in the society. When they are given such a privileged position, they are also under obligation to behave properly towards their employer, i.e. the government itself.

By and large, the arguments against the public servant's right to strike are more weighty than those in favour of it. Such writers as L.D.White, Willoughby and Herman Finer are in favour of denying the right to strike to government employees. The Second Pay Commission and Administrative Reforms Commission in India had also expressed similar opinion.

However, mere banning the public servant's right to strike does not solve the problem. Such an action does not preclude the employees' resorting to equally effective techniques such as "sick in", working to rule, and "slow down" which effect the efficient functioning of government administration. Therefore if strikes are to be eliminated from the public service, there should be set up an adequate machinery for negotiations, redress of grievances and settlement of disputes, including compulsory arbitration.

As regards the right of the OIL Personnel, it has to be noted that they constitute a restricted class within the administrative culture of the country. The executives of the OIL have to work within some limitations. It is no doubt that they are granted some limited political rights as the citizens of India but they are required to act under certain constraints as regards their political and associational rights. The OIL Executives have their own association which is known as the Oil India Executive Employees' Association, registered under the Societies Registration Act XXI of 1860. It implies that executives enjoy the associational rights. Yet, for the clear understanding of the right granted by the OIL Authority to the executives may be discussed as under :-

1. Taking Part in Demonstration :

According to the Oil Executives Conduct, Discipline and Appeal Rules, no employee of the company shall engage himself or participate in any demonstration which involves incitement to an offence. In other words, the OIL Executives are debarred from participating in any demonstration against the Company. They even cannot engage themselves in any demonstration.

2. Connection with Press or Radio :

Provisions have been made in the said rule regarding OIL Executives' connection with Press or Radio. Rule 8 provides

that, no employee of the Company shall, except with the previous sanction of the competent authority, own wholly or in part, or conduct or participate in the editing or management of news paper or other periodical publication. It further provided that no employee of the company shall, except with the previous sanction of the competent authority or the prescribed authority, or in the bonafied discharge of his duties, participate in a radio broadcast or contribute any article or write any letter either in his own name or anonymously, pseudonymously or in the name of any other person to any news paper or periodical. But it is provided that no such sanction shall be required if such broadcast or such contribution is of a purely literary, artistic scientific character.

3. Criticism of Government and the Company :

The OIL Executives are not allowed to criticise the Government and the Company. OIL Authority is very strict in this regard. It has laid down in the rule 9 of the Oil Executives' Conduct, Discipline and Appeal Rules that no employees shall, in any radio broadcast or in any document published under his name or in the name of any other person or in any communication to the press, or any public utterances, make any statement :

- (i) which has the effect of adverse criticism of any policy or action of the Central or State Governments, or of the Company or

- (ii) which is capable of embarrassing the relations between the company and the public.

Of course, the same provision has provided that nothing in these rules shall apply to any statement made or views expressed by any employee, of purely factual nature which are not considered to be of a confidential nature, in his official capacity or in due performance of the duties assigned to him. Provided further that nothing contained in this clause shall apply to bonafide expression of views by him as an office bearer of a recognised association for the purpose of safeguarding the conditions of service of such employees or for securing an improvement thereof.

4. Evidence Before Committee or Any Authority :

The Oil Executives' Conduct, Discipline and Appeal Rules also makes provisions regarding evidence before committee or any other authority by the Oil Executives. It is provided that no employee of the Company shall, except with the previous sanction of the competent authority, give evidence in connection with any enquiry conducted by any person, committee or authority. It is further laid down that, no employee giving such evidence shall criticise the policy or any action of the Central Government or of a State Government, or the Company. Of course, nothing in this rule shall apply to (a) evidence given

in any judicial enquiry or (c) evidence given at any departmental enquiry ordered by authorities subordinate to the Government.

5. Unauthorised Communication of Information :

In the OIL Executives' Conduct, Discipline and Appeal Rules, it is laid down that no employee shall, except in accordance with any general or special order of the Company or in the performance in good faith of the duties assigned to him, communicate directly or indirectly, any official document or any part thereof to any officer or other employees, or any other person to whom he is not authorised to communicate such document or information.

It is interesting to note that the employees of the OIL even are not allowed to accept any gift.

Apart from the rights of the executives, the workmen of OIL enjoy all constitutional rights granted by the Indian constitution. They are granted the associational rights through which they can form Trade Unions. As soon as Oil India Limited emerged from the erstwhile Assam Oil Company Limited, Digboi as an independent Organisation with effect from 1 January 1962, the Assam Petroleum Mazdoor Union, affiliated to Indian National

Trade Union Congress and National Federation of Petroleum Workers, was registered on 10th January 1962 under Registration Number 370. The said union applied to the Management for recognition on 13 January 1962 and the Company accorded recognition to them on 18 January 1962 with a view to maintain harmonious relations between the Management and the workmen.

The Indian Oil Workers' Union was registered on 26 May, 1962 under Registration Number 512 ; however, this union was not recognised by the Management. Since inception of the Indian Oil Workers' Union inter-union rivalry between these two unions started with each one claiming majority of the workmen as their members. At the instance of the IOWU a verification of their membership was initiated by the Ministry of Labour which was carried out by the Assistant Labour Commissioner (Central), Shillong during May, 1965. On the basis of verification of membership of the above two unions operating in Oil India Limited, the Ministry of Labour advised the Ministry of Petroleum & Chemicals on 01 October, 1966 to accord recognition to the Indian Oil Workers' Union under the code of discipline.

The Assam Petroleum Mazdoor Union as well as the Management of Oil India Limited filed objections to the

Ministry of Labour, Government of India pointing out various anomalies in the aforesaid verification. During the period from 1966 till April 1968, there had been series of correspondence between the Ministry of Labour, the Assam Petroleum Mazdoor Union, the Indian Oil Workers' Union and the management of Oil India Limited. On 27 April, 1968, the Ministry of Labour communicated their decision to the Company proposing re-verification of membership. The Management of Oil India Limited advised the Ministry of Labour that they no objection the reverification and requested the Ministry to take up the matter with the union concerned. Accordingly, the Ministry of Labour vide their letter No. 32/3/64-1 & E dated 05 June 1968 conveyed their decision for reverification to the Indian Oil Workers' Union.

On 01 July 1968, the Assam Petroleum Mazdoor Union advised the Assistant Labour Commissioner (Central), Calcutta regretting their inability to be a party to the proposed reverification. The Indian Oil Workers' Union also expressed their unwillingness to participate in the reverification of membership and insisted on their recognition by the Management based on the original verification. The Ministry of Labour and Employment, Government of India vide the enclosed copy of their letter dated 24/29 January 1970 did not accede to the demand of the Indian Oil Workers' Union. The re-verification never took place.

It may be pertinent to point out here that the Indian Oil Worker' Union launched a three day illegal strike on 17, 18 and 19 January 1968 towards fulfilment of their various demands including recognition.

Meanwhile, the Assam Petroleum Mazdoor Union has been working in a most responsible manner over the years and contributed to the harmonious industrial relations prevalent in our organisation. Over the years the Company had continued to recognise the Assam Petroleum Mazdoor Union as the sole bargaining agent representing the workers' interest and terms and conditions of employment and other incidental benefits/amenities provided to workmen had been improved upon through a considerable number of bipartite as well as tripartite Settlements. The Memorandum of tripartite Settlement of Revision of Pay Scales and other incident benefits dated 04 December, 1982 will expire on 31 March 1986 and the Company has been negotiating with the said Assam Petroleum Mazdoor Union over a period of last 5 years and it is presently at the final phase of negotiations.

On 10th June 1993, another Trade Union is coming up as OIL Diploma Engineers, Association with its Registration Number 1412 in view of non-fulfilment of their long standing demands.

Thus, the Oil Indians have been enjoying the associational rights from the beginning of the Company. Of course, like the executives, the workmen of the Company are also to abide by some restrictions which are discussed in the Chapter VII of this thesis. On the whole, the personnel of OIL have been enjoying all the constitutional rights as the citizens of India with certain restriction of their own establishment. Hence, OIL Personnel constitute a restricted class within the country.