

## **M. Thirupathi Reddy and others Vs Andhra Pradesh Co-operative Oilseeds Growers" Federation Ltd., Hyd. and others**

**Court:** Andhra Pradesh High Court

**Date of Decision:** June 6, 2000

**Acts Referred:** Central Provinces and Berar Shops and Establishments Act, 1947 â€” Section 16

Companies Act, 1929 â€” Section 154

Constitution of India, 1950 â€” Article 12, 136, 226, 32, 367

General Clauses Act, 1897 â€” Section 2(42)

National Dairy Development Board Act, 1987 â€” Section 16(1)

**Citation:** (2000) 4 ALD 1 : (2000) 3 ALT 460

**Hon'ble Judges:** S.R. Nayak, J

**Bench:** Single Bench

**Advocate:** M/s. J. Suryanarayana, T. Sudhakar Reddy and P.V. Madhav Rao, for the Appellant; Government Pleader for Co-operation, Mr. Vilas V. Afzalpurkar and Mr. A.K. Jayaprakasa Rao, for the Respondent

### **Judgement**

@JUDGMENTTAG-ORDER

1. This writ petition is filed by 21 employees who were initially appointed by the management of the Andhra Pradesh Co-operative Oilseeds

Growers" Federation Limited (for short "APOILFED"), the 1st respondent herein and who are presently serving in the establishments of Sri

Vijayavardhani Co-operative Oilseeds Growers" Union Limited, Beechpally and Sri Krishna Devaraya Co-operative Oilseeds Growers" Union

Limited, Piler, respondents 2 and 3 respectively. The petitioners have sought for a writ of mandamus declaring that they continue to be the

employees of the APOILFED only and not of any other body or employer including respondents 2 and 3, and that they are entitled to all the

benefits of employment under APOILFED including seniority and parity of salary and service benefits on par with the employees who are presently

serving in the establishment of APOILFED.

2. The background facts that led to filing of the writ petition be stated briefly as under : APOILFED, the first respondent herein, was established

during the year 1983 with financial assistance of National Dairy Development Board (for short "NDDB") under the scheme called ""Operation

Golden Flow"" with an objective of increasing the productivity of edible oilseeds in the Andhra Pradesh State to bridge the gap between demand

and supply of edible oils. To achieve the goal, the APOILFED initiated organisation of Primary Oilseeds Growers" Societies at the village level and

recruited field staff for organising the societies giving training to the farmers on improved package of practices. For the purpose of production of

edible oils, the APOILFED undertook the responsibility of organising and developing Oilseeds Co-operative Societies and to manage them if

necessary and train them to purchase and process locally produced edible oilseeds from the growers and generally to undertake all measures for

increasing the productivity of such oilseeds.

3. The petitioners were recruited in various cadres in the establishment of APOILFED in the years 1983, 1984 and 1985 after going through the

recruitment procedure prescribed by the Service Rules. The respondents 2 and 3 Unions were not in existence when the petitioners were

recruited. The respondents 2 and 3 Unions were formed to give effect to an undertaking given by the Government of Andhra Pradesh to the

NDDB in an agreement dated 19-3-1987. In terms of the said undertaking, the Government was obliged to form Oilseeds Growers" Co-

operative Societies and their Regional/Area Unions and a State level Oilseeds Growers Federation to enable them to function in accordance with

the approved bye-laws, to provide Government guarantee for the repayment of long term loan advanced by the NDDB to the APOILFED. The

APOILFED was adopted as the State-level Oilseeds Growers" Federation. After the above agreement in the year 1987, the Government of

Andhra Pradesh acting through APOILFED and the District administration formed several Primary Oilseeds Growers" Co-operative Societies, as

a first step in the establishment of three-tier pattern contemplated in the undertaking given by the Government of Andhra Pradesh to the NDDB.

Such Primary Co-operative Societies came into existence between the years 1987 and 1990. After the Primary Co-operative Oilseeds Societies

were formed, the next step in the implementation of the undertaking was carried out by forming the Regional/Area Unions between the years 1990

and 1992. Steps were taken to organise the Unions which would have administrative control over Area Office/Field Offices, and the administrative

control over those offices were made over to the Unions. Respondents 2 and 3 are the two Unions formed by the APOILFED to give effect to

common purpose mentioned in the agreement dated 19-3-1987 executed by the Government of Andhra Pradesh in favour of the NDDB. An

Office order dated 2-5-1992 was issued by which the second respondent Union was allotted the Central Processing Unit, Beechpally and the

Divisional Offices at Gadwal and Khammam along with the Field Offices under their control. Similarly, respondent No.3 Union was allotted the

Vegetable Oil Complex, Ananthapur including the Field Offices under its control. The respondents 2 and 3 were registered under the Co-operative

Societies Act by virtue of the initiative taken by the Government of Andhra Pradesh as provided under the agreement dated 19-3-1987. After the

respondents 2 and 3 were thus constituted, a formal order OO No.P&A/T/ U/Staff/92 dated 2-5-1992 was passed transferring the administrative

control of the staff working in the offices of the Unions to the management of the Unions. The preamble of the above Office Order reads as follows

:

The staff working at present in the following office including Area Office, Field Offices etc. shall stand allotted tentatively to the respective Unions.

They shall be under the full administrative control of the respective Union. These orders shall come into force w.e.f., 1-5-1992

In continuation of the office order dated 2-5-1992, another office order No.GU:MD:1:92 dated 22-7-1992 was issued transferring the

administrative control of the operations, assets to the respective Unions pending finalisations of distribution of assets and liabilities between the

APOILFED and the Unions. The material portion of the above order reads as follows :

In continuation of the earlier order No.P&A/T/U/Staff/92 dated 2-5-1992 it is further ordered that along with full administrative control of the

staff working in the offices mentioned in the earlier order, the administrative control of the operations, assets like plants, machinery, buildings,

furniture etc., (movable and immovable assets) also is transferred to the respective Union pending finalisation of distribution of assets and liability

between the Federation and Union, in due course.

Thereafterwards, a circular No.P&A/Staff/ FED/Unions/92 dated 22-8-1992 was issued by the APOILFED to provide the manpower required

by the Unions by deploying some of the staff from amongst the employees working in the establishment of APOILFED including its Head Office

and Oil Packaging Station at Rajendranagar (R.R. District) and Visakhapatnam. The APOILFED, while so allotting the staff, called for

preferences from the employees for allotment either to the APOILFED or to the second respondent union or to the third respondent Union. The

options so provided to the employees were exercised by all the petitioners-employees, and all of them submitted their first option to work in the

establishment of APOILFED through proper channel. The relevant portion of the circular dated 22-8-1992 dealing with the options to be

exercised by the employees reads as under:

In order to give opportunities to the employees, it has also been decided to call for the options from the employees hitherto under the

Administrative Control of the Federation for consideration for allotment of staff to the Federation and the Unions. Each employee may give 3

options in order of preference for his allotment to any of the organizations, namely, A.P. Co-operative Oilseeds Growers" Federation Ltd. and its

offices, Shri Vijayavardhani Co-operative Oilseeds Growers" Union Ltd., Gadwal and Shri Krishna Devaraya Co-operative Oilseeds Growers"

Union Ltd., Piler. However options given by the employees does not confer any right on the employees for allotment either Federation or Unions

or by any particular Union of their choice. Though option will be taken into consideration while making allotments, yet Federation shall have the

right to allot any employee of the Federation to any of the organisations, namely, A.P. Co-operative Oilseeds Growers" Federation Ltd.,

Hyderabad, Union-1 Shri Vijayavardhani Co-operative Oilseeds Growers" Union Ltd., Gadwal and Union-11 Shri Krishna Devaraya Co-

operative Oilseeds Growers" Union Ltd., Piler irrespective of the preferences of the employees.

All the employees of the Federation and its different offices including those employees whose Administrative control has recently been transferred

to the Unions in this office order P&A/T/U/ Staff/92 dated 2-5-1992 are requested to give their option, if so desire by 15-9-1992. In case no

option is received from any employee, Federation shall allot him to any of the organisations mentioned above at its discretion.

4. Although none of the petitioners opted to serve in the establishment of the Unions as a first preference, office orders were issued in the month of

October, 1993 transferring the petitioners to the Unions. When the petitioners were transferred to Unions, the Unions did not have separate set of

rules and regulations governing terms and conditions of service of their employees, and therefore, by virtue of the condition incorporated in the

transfer orders issued by the APOILFED in the month of October, 1993 the petitioners continued to be governed by the rules and regulations

framed by the APOILFED. After the APOILFED transferred the petitioners to the Unions in the month of October, 1993, the managements of the

Unions did not issue any office orders appointing the petitioners as their employees in the respective cadres. When the matter stood thus, since the

APOILFED transferred the petitioners to the Unions against their wish, the petitioners submitted representations to the Chairman and Managing

Director of the APOILFED pointing out the irregularities committed by the managements of APOILFED in the matter of allotting its employees to

the Unions and requesting the management of the APOILFED to retain them as its staff. A representation made by the first petitioner herein,

namely, Sri M. Tirupathi Reddy dated 2-12-1993 to the Chairman and Managing Director of the APOILFED reads as under :

To

The Chairman and

Managing Director,

A.P. Co-op. Oilseeds Growers"

Federation Ltd.,

9th Floor, Parisrama Bhavan,

Hyderabad.

Respected Sir,

Sub:--Request for protest of allotting Regional union-Regarding.

I, M. Tirupathi Reddy, working as Executive (Accounts) would like to bring the following few facts to your kind notice for consideration.

I have joined as a Procurement and Input Assistant in A.P. Oil Federation on 1-7-1983. In the meantime, got promotion and joined as Executive

(Accounts) on 17-7-1989. Since then I have been serving for more than 10 years in this organisation. Recently I was served a circular informing

that I have been allotted to Regional Union-I (Gadwal).

Based on the NDDDB guidelines the Federation of two-tier structure is converting into three-tier structure and asked me to submit my option for

allotting my services to regional unions. Based on the Federation request I have opted my first two options to Federation only third option given to

the Regional Union-I. It was told that my option letter was duly considered for allotting the Union. But I am not able to understand that how my

first two options were not considered. If more options were received for Federation, the seniority must have been taken as criteria for allotting. But

the Management totally ignored seniority and options.

It is very clear that the allotment is done based on the present place of work. Ultimately, who are working in the Federation jurisdiction have got

advantage, moreover we are losing seniority, options and rural service.

The Federation specifically mentioned, the staff who were recruited after 1989, the recruited staff has to work in the regional Unions. But some of

the above staff were allotted to Federation deviating the orders issued, which indicates that the Management has not considered, the pre-

mentioned rules. However, we are again praying to the Hon"ble Chairman and Managing Director to kindly examine my case sympathetically and

giving me a chance by allotting Federation based only seniority and option letter, for which act of kindness I shall be ever grateful to you.

Thanking you Sir,

Yours faithfully,

Sd/-

(M. Tirupathi Reddy)

Executive (Accounts)

CPU, Beechpally

Post Box No.3, Gadwal.

There was no response to the representations of the petitioners. When the matter stood thus, on 15-6-1995 the first petitioner was issued with

office order posting him, on deputation, at Oil Process Station (OPS) Rajendranagar and accordingly, the first petitioner reported at the Oil

Processing Station, Rajendranagar. On 22-8-1996, he was served with an office order by the management of APOILFED ""repatriating"" him to

the Gadwal Union on expiry of the period of deputation with the APOILFED. The first petitioner alarmed by the above order made enquiries in

the administrative department of APOILFED regarding his official status through his letter dated 11-11-1996, and he was orally informed that he

was treated to be an employee of the 2nd respondent Union, and not an employee of APOILFED. Thereafterwards, the first petitioner submitted

letters addressed to the Managing Director of APOILFED and its Manager (P&A) asserting that he is still an employee of the APOILFED and

not the Union, and since there was no response from the management of APOILFED, this writ petition was filed on 18-11-1996 praying for the

reliefs already noted above.

5. In response to Rule Nisi, the management of APOILFED, the first respondent herein, has filed counter-affidavit and additional counter-affidavit.

The petitioners too have filed replies to the counter-affidavits. The petitioners as well as the management of APOILFED have filed large number of

material papers in support of their respective claims. In the counter-affidavits of the first respondent, certain preliminary objections are raised

regarding maintainability of the writ petition while opposing the writ petition on merit. They are :

(i) APOILFED is not a "State" within the meaning of that term as defined under Article 12 of the Constitution nor in authority for the purpose of

issuance of appropriate writ or order under Article 226 of the Constitution of India, and therefore, the present writ petition is misconceived and is

liable to be dismissed in limine:

(ii) A single writ petition on behalf of 21 employees is not maintainable;

(iii) Writ petition is liable to be dismissed on the ground of laches;

(iv) The petitioners are guilty of acquiescence and waiver. The petitioner acquiesced in the action of the APOILFED in transferring the petitioners

to the establishments of the Unions and they did not care to assail the validity of allotment/transfer orders issued in the year 1993, and therefore, at

this distance of time the petitioners cannot be permitted to make any grievance against their transfers to the Unions;

(v) Writ petition is liable to be dismissed in limine inasmuch as it is hit by principle of res-judicata. In WP No.19500 of 1993 filed by the A.P. Co-

operative Oilseeds Growers" Federation Employees" Union the same relief as prayed for in the present writ petition was sought.

6. Touching the merits of the matter, the management of APOILFED in its counter-affidavits has maintained that transfer of the petitioners to the

Unions became imperative and a necessity having due regard to the undertaking given by the Government of Andhra Pradesh to the NDDDB in the

matter of implementation of three-tier system. It is also maintained that by transferring to the Unions the petitioners are not prejudiced. It is stated

that the NDDDB is a funding agency, and since it had directed the management of APOILFED to implement three-tier structure, i.e., village level

Primary Societies, Regional Unions and State level Federation, the APOILFED was obliged to implement the three-tier structure, and in the

process it became absolutely necessary for the management of APOILFED to transfer its excessive staff to the Unions, and in that view of the

matter, there was no irregularity and illegality on the part of the APOILFED in allotting/transferring the writ petitioners to the respondents 2 and 3

Unions.

7. Arguing for the petitioners, Sri J. Suryanarayana, learned senior Counsel would contend that admittedly, the petitioners were appointed by the

APOILFED in the years 1983 to 1985, and the relationship of employer-employee thus established between the petitioners and the management

of APOILFED was subsequently never severed by any mode known to law, and therefore, the petitioners even and till now continue to be the

employees of the APOILFED only, and they cannot be treated as the employees of the respondents 2 and 3 Unions. Learned senior Counsel

would also maintain that the petitioners would never become employees of the respondents 2 and 3 Unions without their consent, and in the instant

case, admittedly, the petitioners did not give their consent to become employees of the Unions.

8. Sri Vilas V. Afzalpurkar, learned standing Counsel for APOILFED would reiterate and highlight the same contentions taken by the management

of APOILFED in its counter-affidavits and would maintain that the writ petition is liable to be dismissed for more than one reason.

9. Sri A. Jayaprakasa Rao, learned Counsel appearing for the respondents 2 and 3 Unions would support the arguments advanced on behalf of

the APOILFED.

10. Having heard the learned Counsel for the parties the only substantial question that arises for consideration and decision is whether the

petitioners continue to be the employees of APOILFED or they have become the employees of the 2nd and 3rd respondent Unions. Before

dealing with that question, it is appropriate to consider and dispose of the preliminary objections raised by the management of APOILFED.

11. In my considered opinion the question whether the writ petition filed under Article 226 of the Constitution of India is maintainable against the

management of APOILFED is already concluded by the judgment of the Division Bench of this Court dated 6-5-1996 delivered in WA Nos.

1279, 1283 and 1285 of 1995. The above three writ appeals were directed against the judgment of a learned single Judge of this Court dated 14-

8-1995 passed in WP Nos.19250, 19500 of 1993 and WP No.15753 of 1994. In those writ petitions filed by certain NMRs., and the A.P. Co-

operative Oilseeds Growers" Employees Union seeking the relief of regularisation of the services of NMRs., and also seeking a writ of Mandamus

directing APOILFED not to change the service conditions of employees appointed by it to the disadvantage of the employees, it was contended

by the management of the APOILFED that those writ petitions were not maintainable against it inasmuch as APOILFED is not a ""State"" within the

meaning of Article 12 of the Constitution of India nor could it be treated as an ""authority"" within the meaning of that term occurring in Article 226 of

the Constitution. The learned single Judge upheld the above contention of the management of APOILFED and dismissed the writ petitions.

However, the Division Bench in the aforementioned writ appeals reversed the opinion of the learned single Judge and held that the writ petitions

are maintainable. In Paragraph 8 of the judgment the Division Bench observed as under :

We are of the opinion that the respondents herein are amenable to the jurisdiction of this Court in exercise of its jurisdiction under Article 226 of

the Constitution and a writ petition lies against it.

12. The management of APOILFED preferred Civil Appeal Nos.16889, 16871 and 16903 of 1996 to the Supreme Court against the common

judgment of the Division Bench. As could be seen from the judgment of the Supreme Court dated 28-4-1998 made in the above civil appeals, the

Supreme Court did not upset any of the findings recorded by the Division Bench of this Court but substituted certain directions as suggested at the



Bar by the parties in the place of the directions issued by the Division Bench of this Court in its common judgment dated 6-5-1996 made in WA

Nos.1279, 1283 and 1285 of 1995. It is also relevant to note that CA No. 16903 of 1996 preferred by the management of APOILFED against

the common judgment was withdrawn and the same was dismissed as withdrawn. In fact, the management in the above civil appeals did not

canvass that APOILFED is not a ""State"" within the meaning of Article 12 or it is not an ""authority"" for the purpose of Article 226 of the

Constitution of India. Therefore, the finding recorded by the Division Bench of this Court in the writ appeals that writ petitions are maintainable

against the APOILFED has become final and the management of APOILFED is bound by that decision. In that view of the matter, there is no

necessity to again deal with the question whether writ petition is maintainable against the management of APOILFED or not under Article 226 of

the Constitution of India. However, the learned Standing Counsel for the APOILFED strenuously contended that since the Supreme Court

superseded the directions given by the Division Bench of this Court and issued separate directions as agreed to by the parties before it, it is

necessary to decide the question afresh on merit. The learned Standing Counsel would also point out that the Division Bench, in fact, did not

decide the question whether the APOILFED could be treated as a ""State"" within the meaning of that term as defined under Article 12 of the

Constitution of India. It is true that the Division Bench did not decide the question whether APOILFED could be treated as a ""State"" within the

meaning of Article 12 of the Constitution. The Division Bench in Paragraph 7 of the judgment observed thus :

..... We do not propose to express any opinion on the question as to whether the respondents-organisation is a ""State"" or an ""authority"" or an

instrumentality of the State within the meaning of Article 12 of the Constitution of India, as no such opinion is required for the disposal of the writ

petitions.

The Division Bench so observing proceeded to consider the question whether the writ petition filed under Article 226 of the Constitution of India is

maintainable against the management of APOILFED and answered the question positively holding that the APOILFED is an ""authority"" within the

meaning of that term occurring in Article 226 of the Constitution of India. In the above premise, the learned Counsel appearing for both the sides

submitted their arguments quite extensively on the question whether APOILFED could be treated as a ""State"" within the meaning of Article 12 of

the Constitution of India or an ""authority"" within the meaning of that term under Article 226 of the Constitution of India.

13. In that view of the matter, I think it appropriate to decide the above issue debated before the Court.

14. Article 12 of the Constitution reads as under:

In this part, unless the context otherwise requires, "the State" includes the Government and Parliament of India and the Government and the

Legislature of each of the States and all local or other authorities within the territory of India or under the control of the Government of India.

Article 12 gives an extended meaning to the words "the State" wherever they occur in Part III of the Constitution. Unless the context otherwise

requires, "the State" will include not only the Executive and Legislative organs of the Union and the States, but also local bodies (such as municipal

authorities) as well as "other authorities", which include the "instrumentalities or agencies" of the State, or bodies or institutions which discharge

public functions of a Governmental character. In other words, in a given case even a private body can be treated as a State within the meaning of

Article 12 of the Constitution. The Apex Court, in large number of decisions, in *Ajay Hasia and Others Vs. Khalid Mujib Sehravardi and Others*, ;

*Life Insurance Corporation of India Vs. Escorts Ltd. and Others*, , *Gujarat State Financial Corporation Vs. Lotus Hotels Pvt. Ltd.*, , *A.L. Kalra*

*Vs. Project and Equipment Corporation of India Ltd.*, ; *Manmohan Singh Jaitla Vs. Commissioner, Union Territory of Chandigarh and Others*, ;

*Workmen v. Food Corporation of India* AIR 1986 SC 670 *Mehta v. Union of India* AIR 1987 SC 1036 to cite the few, has laid down the

following tests to determine the question whether a Corporation or a Government company or a private body is an instrumentality or agency of the

State:

- (i) Whether the entire share capital is held by the Government;
- (ii) Whether the corporation enjoys monopoly status conferred by the State;
- (iii) Whether the functions of the Corporation are Governmental functions or functions closely related thereto;
- (iv) If a department of the Government has been transferred to the Corporation;
- (v) The volume of financial assistance received from the State;
- (vi) The quantum of State control;
- (vii) Whether any statutory duties are imposed upon the Corporation;
- (viii) The character of the Corporation may change with respect to its different functions.

Therefore, the question whether the APOILFED could be treated as a State within the meaning of Article 12 of the Constitution of India has to be

decided by applying the above tests to the facts of this case though the above tests laid down by the Apex Court are not exhaustive.

15. NDDDB was initially established by the Government of India as a Co-operative venture in the year, 1965. Subsequently by an Act, Act 37 of

1987, passed by the Parliament, it was given a statutory status along with other body, namely, Indian Dairy Corporation, then functioning in

Gujarat State. By the provisions contained in National Dairy Development Board Act of 1987 (per Section 16(1)(a)), NDDB is entrusted with the

task of improving the production and processing of dairy products and also for improving agriculture based industries involved in oil production

from vegetable sources. NDDB is the main funding agency of APOILFED and it provides for the total outlay, 54% of it being a loan and remaining

46% being a grant. The NDDB determines the structure of APOILFED and the programmes in various phases of their implementation. The

Government of Andhra Pradesh has issued G.O.Rt.No.441 Agricultural and Co-operation (AGRI.II) Department dated 28-5-1996 through its

Principal Secretary directing that the employees of APOILFED are not eligible to bonus. By G.O.Rt.No.2509 (F and A) FP-II dated 26-10-

1989 the Government of Andhra Pradesh appointed a Committee of Officers incharge to manage the affairs of the APOILFED u/s 32(7)(a) of the

A.P. Co-operative Societies Act, 1964 for a period of 6 months with effect from 3-11-1989 or till the elections were held to the Federation,

whichever was earlier. No such elections had ever been held, and the management and affairs of the APOILFED have been carried on by the

Committee nominated by the Government of Andhra Pradesh consisting of the Officers drawn from the service under the State headed by an IAS

Officer designated as Managing Director. By G.O.Ms.No.764 F and A (FP-II) Department dated 8-9-1989 the Government of Andhra Pradesh

has exempted the APOILFED from the market cess. The agreement entered into between the Government of Andhra Pradesh and the NDDB

dated 19-3-1987 also discloses the all-pervasive administrative control of the APOILFED by the Government of Andhra Pradesh as well as by

the NDDB. The agreement states that in order to avail of benefits under the project and to assist the NDDB/Oilseeds and Vegetable Oil-wing in

complying with the various covenants in the project agreement between NDDB and Co-operative League of the United States of America

(CLUSA), the State Government has undertaken several obligations enumerated in the agreement. They include issuance of required notifications

to facilitate the formation of the Oilseeds Growers" Co-operative Societies, the Regional/Area Unions, if any, and the State Level Co-operative

Oilseeds Growers" Federation in the project area; to provide Government guarantee and execute guarantee deed with NDDB (OVOW) without

levying guarantee fee for repayment of long term loans advanced by the NDDB to APOILFED for implementation of the project; to take

necessary steps to safeguard the provisions that the bye-laws of the APOILFED and the Primary Co-operative Societies could be formulated in

consultation with NDDDB in such a manner consistent with the A.P. Co-operative Societies Act, 1964 and the Rules framed thereunder; to ensure

that for a period of five years from the date of agreement, the Board of Directors of the APOILFED is nominated by the Registrar of Co-operative

Societies and such nominated Board should consist of only senior level officials drawn from the service under the Government of Andhra Pradesh;

to nominate, during the currency of the nominate Board, the Chairman and appoint the Managing Director in consultation with NDDDB/Oilseeds

and Vegetable Oil-wing and the Managing Director thus appointed shall be in position for a minimum period of three years; not to permit or

promote or recommend any unit or organisation or project in the edible oil-oilseeds sector in the project area which is likely to be detrimental or

inconsistent with the functions and interests of the APOILFED; to provide to the Co-operative Institutions, in the form of equity, land owned by

the Government and required for the project such as for setting up of oils and oilseeds processing facilities, District Farms, Area Agronomic

Centre, Federation/ Regional Area Unions, Central Management facilities etc., and assist for providing electricity, water and other facilities within

the control of the State Government, as may be required for the project; to transfer to the Co-operative Institutions upon terms and conditions

mutually agreed upon between the NDDDB/Oilseeds and Vegetable Oil-wing, the Federation and the State Government and satisfactory to Co-

operative League of the United States of America, such edible oil and oilseeds processing plants and other assets for oilseeds production

enhancement programmes of the State Government and/or allied agencies and located in the Project Area; to permit the Co-operative Institutions

full freedom including the right to create posts, fix designations and salaries and other remunerations and to recruit personnel as they fit, however,

subject to the policy; not to oblige the Co-operative Institutions to sell any of their products or the donated edible oil through the public distribution

system or otherwise except in consultation with the APOILFED and NDDDB/Oilseeds and Vegetable Oil-wing and even in such an event, the price

shall be fixed as mutually agreed among the above three mentioned organisations; to exempt or reimburse, by way of share capital contribution, the

sale of edible oils/oilseeds from the payment of Central Sales Tax and the State Sales Tax; to exempt the APOILFED from the payment of

purchase tax and market cess on the oilseeds procured; to extend through the APOILFED and societies to the Oilseeds Growers" in the project

area, all subsidies available from Government for cultivation/ extension of oilseeds available under Central/ State sponsored plans; to contribute

towards the share capital of the Co-operative Institutions; to undertake reorganisation/ winding up of the defunct or inactive Oilseeds Growers"

Co-operatives in the project area to the extent necessary to promote and to nourish and patten cooperatives; to take any other action as is

necessary and feasible for the successful implementation of the vegetable oil project.

16. All the provisions noted above unmistakably show that the affairs of the APOILFED are quite extensively controlled and managed by the State

Government and the NDDDB, which is a statutory authority, though the APOILFED functions as a Cooperative Society. APOILFED is certainly an

extended arm of the State and thus an instrumentality of the State or an ""authority"" as mentioned in Article 12 of the Constitution, if the Court were

to apply the several tests evolved by the Supreme Court to determine the question whether a body or a corporation is a ""State"" within the meaning

of Article 12 of the Constitution.

17. Alternatively, there is no difficulty to hold that APOILFED is amenable to the writ jurisdiction of the High Court under Article 226 of the

Constitution.

18. Clause (1) of Article 226 of the Constitution reads as under:

Notwithstanding anything in Article 32, every High Court shall have power, throughout the territories in relation to which it exercises jurisdiction,

to issue to any person or authority, including in appropriate cases any Government, within those territories directions, orders or writs, including

writs in the nature of habeas corpus, mandamus, prohibition, quo warranto and certiorari, or any of them, for the enforcement of any of the rights

conferred by part 111 and for any other purpose.

The term ""authority"" used in Article 226, in the context, must receive a liberal meaning unlike the term under Article 12. Article 12 is relevant only

for the purpose of enforcement of fundamental rights under Article 32 of the Constitution. Article 226 confers power on the High Courts to issue

writs not only for enforcement of fundamental rights but also for enforcement of non-fundamental rights. The words, ""any person or authority"" used

in Article 226, are, therefore, not confined only to instrumentalities of the State. These words may also cover any other person or body

performing public duty. As quite often said and reiterated by the Apex Court and this Court, the form of the body concerned is not very much

relevant and what is relevant is the nature of the duty imposed on the body. The Supreme Court in *Andi Mukta Sadguru Shree Muktajee Vandas*

Swami Suvarna Jayanti Mahotsav Smarak Trust and Others Vs. V.R. Rudani and Others, , was pleased to observe that the duty must be judged

in the light of positive obligation owed by the person or authority to the affected party, and that no matter by what means the duty is imposed, if a

positive obligation exists mandamus cannot be denied.

19. The Apex Court in Rohtas Industries Ltd. and Another Vs. Rohtas Industries Staff Union and Others, , had to say about the expansive and

extraordinary power of the High Court in the following words:

9. The expansive and extraordinary power of the High Courts under Article 226 is as wide as the amplitude of the language used indicates and so

can affect any person - even a private individual - and be available for any (other) purpose - even one for which another remedy may exist. The

amendment to Article 226(1-A) reiterates the targets of the writ power as inclusive of any person by the expressive reference to "the residence of

such person". But it is one thing to affirm the jurisdiction, another to authorise its free exercise like a bull in a china shop. This Court has spelt out

wise and clear restraints on the use of this extraordinary remedy and High Courts will not go beyond those wholesome inhibitions except where the

monstrosity of the situation or other exceptional circumstances cry for timely judicial interdict or mandate. The mentor of law is justice and a potent

drug should be judiciously administered. Speaking in critical retrospect and portentous prospect, the writ power has, by and large, been the

people's sentinel on the qui vive and to cut back on or liquidate that power may cast a peril to human rights. We hold that the award here is not

beyond the legal reach of Article 226, although this power must be kept in severely judicious leash".

20. In The Praga Tools Corporation Vs. Shri C.A. Imanual and Others, . The Apex Court observed as under:

It is, however, not necessary that the person or the authority on whom the statutory duty is imposed need be a public official or an official body. A

mandamus can issue, for instance, to an official of a society to compel him to carry out the terms of the statutes under or by which the society is

constituted or governed and also to companies or corporations to carry out duties placed on them by the statutes authorising their undertakings. A

mandamus would also lie against a company constituted by a statute for the purpose of fulfilling public responsibilities.

The term "authority" used in Article 226, in the context, must receive a liberal meaning unlike the term in Article 12. Article 12 is relevant only for

the purpose of enforcement of fundamental rights under Article 32. Article 226 confers power on the High Courts to issue writs for enforcement of

the fundamental rights as well as non-fundamental rights. The words "any person or authority" used in Article 226 are, therefore, not to be confined

only to statutory authorities and instrumentalities of the State. They may cover any other person or body performing public duty. The form of the

body concerned is not very much relevant. What is relevant is the nature of the duty imposed on the body. The duty must be judged in the light of

positive obligation owned by the person or authority to the affected party. No matter by what means the duty is imposed, if a positive obligation

exists mandamus cannot be denied.

21. In the same decision the Supreme Court also quoted the following observation of Professor De Smith with approval.

... To be enforceable by mandamus a public duty does not necessarily have to be one imposed by statute. It may be sufficient for the duty to have

been imposed by charter, common law, custom or even contract".

22. In a recent judgment, the Supreme Court, in Uttar Pradesh State Co-operative Land Development Bank Limited v. Chandra Bhan Dubey, ,

after considering important and relevant decisions on the point, opined about the scope and the power of the High Court under Article 226 of the

Constitution as under:

... To understand the explicit language of the article, it is not necessary for us to rely on the decision of the English Courts as rightly cautioned by

the earlier Benches of this Court. It does appear to us that Article 226 while empowering the High Court for issue of orders or directions to any

authority or person, does not make any such difference between public functions and private functions. It is not necessary for us in this case to go

into this question as to what is the nature, scope and amplitude of the writs of Habeas corpus, Mandamus, Prohibitions, Quo warrant and

Certiorari. They are certainly founded on the English system of jurisprudence. Article 226 of the Constitution also speaks of directions and orders

which can be issued to any person or authority including, in appropriate cases, any Government. Under clause (1) of Article 367, unless the

context otherwise requires, the General Clauses Act, 1897, shall, subject to any adaptations and modifications that may be made therein under

Article 372, apply for the interpretation of the Constitution as it applies for the interpretation of an Act of the Legislature of the Dominion of India.

Person" u/s 2(42) of the General Clauses Act shall include any company or association or body of individuals, whether incorporated or not. The

Constitution is not a statute. It is a fountain head of all the statutes. When the language of Article 226 is clear, we cannot put shackles on the High

Courts to limit their jurisdiction by putting an interpretation on the words which would limit their jurisdiction. When any citizen or person is

wronged, the High Court will step in to protect him, be that wrong be done by the State, an instrumentality of the State, a Company or a Co-

operative Society or Association or body of individuals, whether incorporated or not, or even an individual.. Right that is infringed may be under

Part III of the Constitution or any other right which the law validly made might confer upon him. But then the power conferred upon the High

Courts under Article 226 of the Constitution is so vast, this Court has laid down certain guidelines and self-imposed limitations have been put there

subject to which the High Courts would exercise jurisdiction, but those guidelines cannot be mandatory in all circumstances.

23. There is no need to refer to and consider large number of other decisions of the Apex Court and High Courts on the point in deciding whether

the APOILFED could be treated as an ""authority"" under Article 226 of the Constitution. As pointed out supra, the opinion handed down by a

Division Bench of this Court in WA Nos.1279, 1283 and 1285 of 1995 that APOILFED is amenable to jurisdiction of the High Court under

Article 226 of the Constitution of India has become final. In view of the fact that the control of the State Government and the NDDB on the

APOILFED is all-pervasive structurally, financially and functionally, APOILFED should be treated as an authority for the purpose of Article 226

also besides it being an instrumentality of the State under Article 12 of the Constitution. Therefore, I hold that APOILFED is an instrumentality and

agency of the State under Article 12 of the Constitution and it is an ""authority"" under Article 226 of the Constitution and it is amenable to writ

jurisdiction of this Court under Article 226 of the Constitution of India.

24. There is no merit in the contention of the learned Standing Counsel for the APOILFED that a single writ petition on behalf of 21 employees is

not maintainable, and each petitioner shall pay a separate set of Court fee. It is relevant to note that the cause of action to file the writ petition as

regards all the petitioners is common. The cause of action is the refusal of the Management of APOILFED to treat the petitioners as its employees.

Since the writ petition is grounded on a common cause of action and since common relief is sought by all the petitioners, a single set of Court fee

on behalf of the petitioners is sufficient.

25. There is also no merit in the contention of the learned Standing Counsel for the APOILFED that the writ petition is liable to be dismissed on

the ground of laches. There is absolutely no delay on the part of the petitioners in filing the present writ petition. It is true that transfer orders were

issued transferring the petitioners-employees to the respondents 2 and 3 Unions in the year 1993, but those transfer orders did not terminate the

employer-employee relationship established between the APOILFED and the petitioners when they were recruited in various cadres during the



years 1983, 1984 and 1985. It is also relevant to note that even before the Management of APOILFED issued transfer/allotment orders in the

year 1993, the petitioners were serving in the unions on deputation basis, and at no point of time the petitioners were told that they ceased to be

the employees of APOILFED. Only the letter dated 22-8-1996 issued by the Manager (P and A) repatriating the first petitioner to the Gadwal

Union impliedly gave an impression that the first petitioner was treated as an employee of the second respondent union, and the first petitioner,

without any loss of time, submitted a letter dated 11-11-1996 to the Management of the APOILFED to know from it whether he was being

treated as its employee or not, and since there was no response to the letter, the present writ petition was filed on 18-11-1996. In that view of the

matter, dismissing the writ petition on the ground of laches does not arise. For the above same reasons, the contention of the Management of the

APOILFED that the petitioners are guilty of acquiescence and waiver has to be rejected and it is accordingly rejected. The petitioners were never

told at any point of time that they ceased to be the employees of the APOILFED, and on their transfers to the Unions, they became the employees

of the Unions before the writ petition was filed in this Court. Secondly, it is trite to state that the petitioners would never become the employees of

the 2nd and 3rd respondent Unions without their consent and willingness.

26. There is also no merit in the contention of the learned Standing Counsel for the APOILFED that the writ petition is liable to be dismissed in

limine inasmuch as it is hit by principle of res judicata. This contention is based on the asserted fact that the earlier WP No.19500 of 1993 was

filed by the Andhra Pradesh Co-operative Oilseeds Growers' Federation Employees' Union and in that writ petition also a direction was sought to

the Management of APOILFED not to effect changes in the service conditions of the employees appointed by it to the disadvantage of the

employees, and continue to treat them as employees of the APOILFED wherever they are with all consequential and attendant benefits. The

management claims that the present writ petitioners are also the members of the Andhra Pradesh Co-operative Oilseeds Growers' Federation

Employees' Union. This factual assertion is denied by the petitioners in their reply to the counter-affidavit. The management of APOILFED has not

produced any independent evidence or proof to establish that the writ petitioners herein are also the members of Andhra Pradesh Co-operative

Oilseeds Growers' Federation Employees' Union, and WP No. 19500 of 1993 was filed on behalf of them also. On the other hand, it is claimed

by the petitioners that WP No. 19500 of 1993 was filed on behalf of NMRs. and not on behalf of regularly appointed employees. Thus all the

preliminary objections raised by the management of APOILFED are devoid of merits and liable to be rejected and accordingly those objections

are rejected.

This leads us to the substantial question that arises for consideration and decision in this writ petition. The question is whether the writ petitioners

are the employees of the APOILFED or whether they ceased to be the employees of APOILFED and have become the employees of

respondents 2 and 3 Unions. It is well settled position in law that a right to the service of an employee cannot be the subject matter of transfer by

an employer to a third party without the employees consent. In *Nokes v. Doncaster Amalgamated Collieries Limited* (1940) 3 AM. ER 549 where

an order was made u/s 154 of the Companies Act, 1929 transferring all the assets and liabilities of a company to another company, Lord Viscount

Simon L.C., speaking for the House of Lords held that such an order did not mean that contracts of service between the appellant and transferor-

company also stood transferred. The principle that even in cases where the services of an employee are lent to a third party temporarily for a

particular work, the employee still remains the employee of the employer is illustrated in *Denham v. Midland Employees Mutual Assurance Limited*

(1955) 2 QB 437 . In *Mersey Docks and Harbour Board v. Coggins and Griffith (Liverpool) Limited* 1947 AC 1 P.17 where a businessman

joined a partnership firm and took his personal staff into the firm, it was held, his staff could not be made the staff of the firm without the consent of

the other partners. It may be that in certain cases, it is possible to say in common parlance that an employee has different employers, as and when

the employer, in pursuance of a contract between him and a third party, lends or hires out the services of his employee to that third party for a

particular work. In *Century Insurance Company Limited v. Northern Ireland Road Transport Board* 1942 AC 509 it was held, such an

arrangement, however, does not effect a transfer of the contract of service between the employer and his employee, but only amounts to a transfer

of the benefit of his services. In such cases where a third party engages another person's employee it is the general employer who is normally liable

for the tortious acts committed by the employee and his liability is not affected by the existence of a contract between him and the third party

under which the services of the employee are lent or hired out for a temporary period to such third party. The above noted four English cases were

cited by the Supreme Court with approval in *Manager, Pyarchand Kesarimal Ponwal Bidi Factory Vs. Omkar Laxman Thange and Others*, .

27. It is a general rule that contracts of personal service contemplate that the person employed has been selected with reference to individual skill,

competence and other qualifications, and it is, therefore, of the essence of the contract that the contracting party is entitled to personal

performance, and, in default thereof, is entitled to treat the contract as at an end. By reason of this rule, it has been said that contracts of personal

service are not assignable. In Nokes "s case (supra) it was held that the assignment of contracts of personal service is not included in a general

assignment of all the property of a company about to be dissolved to a new company formed for the purpose of taking over the business of that

company.

28. In Jestamani Gulabrai Dholkia and Others Vs. The Scindia Steam Navigation Company, Bombay and Others, , it was held that the benefit of a

contract entered into by A to render personal service to B cannot "be transferred by B to C without A"s consent, and that, however, a contract of

service may be transferred by a statutory provision.

29. In Pyarchand"s case (supra) the appellant-firm was conducting a number of bidi factories at various places in Vidharba including the one at

Kamptee. Its head office was also situated there. The factory at Kamptee and the head office have always been treated as separate entities though

owned by the same firm. Consequently, the head office was registered under the Central Provinces and Berar Shops Establishments Act, 1947

and the factory at Kamptee was registered under the Factories Act. The factory had also its own standing orders certified under the Central

Provinces and Berar Industrial Disputes Settlement Act, 1947. The first respondent-Sri O.L. Thenge was originally employed in the factory at

Kamptee. Two or three years thereafter he was directed to work at the head office and worked therein for about six years prior to the impugned

order of dismissal passed against him by the Munim of the head office. Aggrieved by the said order the first respondent filed an application u/s 16

of the CP and Berar Industrial Disputes Settlement Act alleging that the said order was incompetent and illegal. The application was opposed by

the appellant-firm contending that the dismissal order has not been passed by it as the owner of the said factory and, therefore, the application was

misconceived. The Assistant Commissioner dismissed the application holding that the first respondent at the material time was not the employee in

the factory, but was employed in the firm"s head office. He relied on the fact that the head office and the factory had separate rules, that the first

respondent used to sign his attendance in the register of the head office, that he was being paid his salary by the head office, and lastly, that his

name was not on the muster roll of the factory. He also found that whereas the staff of the head office was governed by the C.P. and Berar Shops

and Establishments Act, the factory was governed by the C.P. and Berar Industrial Disputes Settlement Act. Against the dismissal of his

application the first respondent filed a revision application before the Industrial Court, Nagapur. The Industrial Court dismissed the application

holding that the only question raised before it was whether the first respondent was the employee of the head office and that being purely a

question of fact, he could not interfere with the finding of fact arrived at by the Assistant Commissioner. Respondent No.1 thereafter filed a writ

petition in the High Court challenging the said orders. The High Court held that it was possible in law for an employer to have various

establishments where different kinds of work would be done, in which case an employee in one establishment would be liable to be transferred to

another establishment. But the High Court observed that unless it was established that the employment of respondent No.1 in the factory was legally

terminated it could not be assumed, merely because he was directed to work in the head office that his employment was changed and the head

office was substituted as his employer in place of the said factory. As the order passed by the Assistant Commissioner was not clear on this

question, the High Court remanded the case for disposal according to law. Being aggrieved by the judgment of the High Court the appellant-

factory preferred civil appeal to the Supreme Court under Article 136 of the Constitution. The Supreme Court while dismissing the civil appeal and

affirming the judgment of the High Court in Paragraph 8 observed thus:

A contract of service being thus incapable of transfer unilaterally, such a transfer of service from one employer to another can only be effected by

a tripartite agreement between the employer, the employee and the third party, the effect of which would be to terminate the original contract of

service by mutual consent and to make a new contract between the employee and the third party. Therefore, so long as the contract of service is

not terminated, a new contract is not made as aforesaid and the employee continues to be in the employment of the employer. Therefore, when an

employer orders him to do a certain work for another person, the employee still continues to be in his employment. The only thing that happens in

such a case is that he carries out the orders of master. The employee has the right to claim his wages from the employer and not from the third

party to whom his services are lent or hired. It may be that such third party may pay his wages during the time that he has hired his services, but

that is because of his agreement with the employer. That does not preclude the employee from claiming his wages from the employer. The hirer

may also exercise control and direction in the doing of the thing for which he is hired or even the manner in which it is to be done. But if the

employee fails to carry out his directions he cannot dismiss him and can only complain to the employer. The right of dismissal vests in the

employer"".

30. In General Officer Commanding-in-Chief and Another Vs. Dr. Subhash Chandra Yadav and Another, , the Supreme Court upheld the

contention of the respondent therein that his services under the Cantonment Board is not a Centralised service or a service at a State-level; the

transfer of an employee from one Cantonment Board to another would mean the termination of appointment of the employment of the employee in

the Cantonment Board from which he is transferred and a fresh appointment in the Board where he is so transferred, and such a course of action is

impermissible in law without the consent of the concerned employee. In the same decision it was further held that in any event, one body cannot

transfer its employees to another body even within the same State unless the services of the employees of these two bodies are under a Centralised

or a State-level service placing reliance on the decision of the Supreme Court in Om Prakash Rana Vs. Swarup Singh Tomar and Others, .

31. In Jawaharlal Nehru University Vs. Dr. K.S. Jawatkar and Others, , the Centre of Post-graduate studies was set up at Imphal by Jawaharlal

Nehru University as an activity of the University. To give expression to that activity, the University setup and organised the Centre at Imphal and

appointed a teaching and administrative staff to man it. The respondent was appointed and confirmed as Assistant Professor at the Centre.

Subsequently the Centre was transferred to the Manipur University. The Syndicate of the Jawaharlal Nehru University provided for the transfer of

the Centre to the Manipur University. It was resolved that the Jawaharlal Nehru University for Postgraduate Studies would cease to exist as such

and the Divisions of the Centre would become the Divisions of the Manipur University and function accordingly. It was further resolved that the

members of the faculty employed by the Jawaharlal New University, Centre of Postgraduate Studies, Imphal, immediate before its merger into the

University would on and from that date become members of the staff of the Manipur University. Dealing with the validity of the above resolution of

the Jawaharlal Nehru University by force of which the respondent stood transferred to the service under the Manipur University, the Supreme

Court was pleased to observe as under:

The Centre represented an activity of the Jawaharlal Nehru University the teaching and administrative staff must be understood as employees of

the J.N. University. In the case of the incumbent there could be no doubt whatever that he was and continues to be, an employee of the Jawaharlal

Nehru University. There was also no doubt that his employment could not be transferred by the Jawaharlal Nehru University to the Manipur

University without his consent, notwithstanding any statutory provision to that effect whether in the Manipur University Act or elsewhere. The

contract of service entered into by the incumbent was a contract with the Jawaharlal Nehru University and no law can convert that contract into a

contract between the incumbent and the Manipur University without simultaneously making it, either expressly or by necessary implication, subject

to the incumbent's consent. When the Manipur University Act provides for the transfer of the services of the staff working at the Centre of Post-

graduate Studies, Imphal, to employment in the Manipur University, it must be construed as a provision enabling such transfer of employment but

only on the assumption that the employee concerned was a consenting party to such transfer. It makes no difference that the incumbent was not

shown in the list of Assistant Professors of the Jawaharlal Nehru University or that the provision was not indicate in its budget; that must be

regarded as proceeding from an erroneous conception of the status of the incumbent. No employee could be transferred, without his consent, from

one employer to another. The consent may be express or implied".

32. From the above discussion, it is quite clear that a contract of service being incapable of transfer unilaterally, a transfer of service from one

employer to another can only be effected by a tripartite agreement between the employer, the employee and the third party, the effect of which

would be to terminate the original contract of service and to make a new contract between the employee and the third party. So long as the

contract of service is not terminated, creating a new contract with the third party does not arise. In the instant case, admittedly, there is no tripartite

agreement between the petitioners, APOILFED and the respondents 2 and 3 Unions to terminate the contract of employment of the petitioners

with the APOILFED, and for entering into new contracts of employment with the respondents 2 and 3 Unions. On the other hand, even according

to the pleadings of the APOILFED, the petitioners were "transferred" to the respondents 2 and 3 Unions. It is an admitted position that in the year

1993 the Management of APOILFED issued allotment/transfer orders transferring the petitioners to the establishment of the 2nd and 3rd

respondents Unions completely ignoring the wishes of the petitioners. It is also significant and relevant to note that even in the Circular No.P and

A/Staff/FED/Unions/92 dated 22-8-1992 issued by the Managing Director of the APOILFED, the management asserted that it has right and

discretion to allot any of its employee to one of the three organisations, namely, Andhra Pradesh Co-operative Oilseeds Growers" Federation

Limited, Hyderabad, Union-I: Shri Vijayavardhani Co-operative Oilseeds Growers" Union Limited and Union-II: Shri Krishna Devaraya Co-

operative Oilseeds Growers" Union Limited irrespective of the preferences of the employees. The relevant portion of the Circular reads as under:

Though option will be taken into consideration while making allotments, yet Federation shall have the right to allot any employee of the Federation

to any of the organisations, namely, Andhra Pradesh Co-operative Oilseeds Growers" Federation Limited, Hyderabad, Union-I Shri

Vijayavardhani Co-operative Oilseeds Growers" Co-operative Oilseeds Growers" Limited, Gadwal and Union-II Shri Krishna Devaraya Co-

operative Oilseeds Growers" Union Limited, Piler irrespective of the preferences of the employees"".

33. Thus, I conclude that the relationship of employment established between the petitioners and the management of the APOILFED during the

years 1983, 1984 and 1985 is not yet severed or determined by any mode known to law. Similarly, there is no contract of employment between

the petitioners and the management of respondents 2 and 3 Unions. Transfer/ allotment of the petitioners to the establishments of respondents 2

and 3 Unions are against the wishes of the petitioners. The petitioners at no point of time gave their consent to sever the relationship of

employment with the APOILFED and to become the employees of the respondents 2 and 3 Unions. The resultant position is that the petitioners, in

law, continue to be the employees of the APOILFED and there is no relationship of employer-employee between the petitioners and the

respondents 2 and 3 Unions.

34. In the result and for the foregoing reasons, I make the following Order:

(i) Writ petition is allowed with costs. Advocate fee is fixed at Rs.5,000/-(Rupees five thousand).

(ii) It is declared that the petitioners are the employees of the Andhra Pradesh Co-operative Oilseeds Growers" Federation Limited, Hyderabad-

first respondent in the writ petition.

(iii) The first respondent is directed to treat the petitioners as its employees only and extend all service benefits, pecuniary or otherwise, on par with

its other employees.

(iv) If the petitioners were denied any service benefit or benefits on the ground that they were not the employees of the APOILFED after their

transfer to the respondents 2 and 3 Unions in the year 1993, then, the first respondent-Federation is directed to undo such injustice done to the

petitioners and to extend all permissible service benefits including seniority and promotion, pay-scales and allowances, etc.

(v) This order, however, shall not come in the way of the first respondent on the one hand and the respondents 2 and 3 Unions on the other hand

in arriving at a tripartite settlement with the consent and involvement of the petitioners and the similarly circumstanced other employees to settle the

disputes among them amicably.