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223. Can Retired/Ex-Employees Serve as Office-Bearers of a Trade Union?

The provisions of the Trade Unions Act, 1926 and the Supreme Court judgment in *State Bank of India Staff Association & Another vs. State Bank of India & Others* provide clarity on this issue. Below is a detailed analysis:

Relevant Provisions under the Trade Unions Act, 1926

1. Section 6(e):

A trade union's rules must provide for the admission of:

- Ordinary members who are persons engaged or employed in an industry connected to the trade union.
- Honorary or temporary members as office-bearers, as permitted under Section 22.

2. Section 22:

- At least 50% of the office-bearers of a registered trade union must be actively engaged or employed in the industry.
- Exceptions: The government may exempt specific trade unions from this requirement by special or general order.

Analysis Based on the Judgment

1. Eligibility of Retired Employees as Office-Bearers

- Section 6(e) allows honorary or temporary members to serve as office-bearers, implying that retired or ex-employees can theoretically hold such positions.
- However, this is contingent on the rules of the trade union, which must explicitly allow such individuals to serve as office-bearers.

Case Application:

- In the *State Bank of India Staff Association* case, the association's rules stated that ordinary membership ceases upon retirement unless the individual is re-admitted as an honorary member.
- Since M.R. Awasthi was not re-elected as an honorary member after retirement, he lost eligibility to serve as General Secretary.

2. Proportion of Serving Employees in the Executive

- Section 22 requires at least 50% of the executive members to be actively engaged in the industry.

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- This provision ensures that the trade union is primarily managed by individuals with a direct stake in the industry's operations.

Case Application:

- The Supreme Court held that the association's rules and long-standing practice requiring only serving employees as office-bearers aligned with Section 22.
- This practice, supported by the Staff Federation, was crucial in maintaining harmony and confidentiality in the banking sector.

3. Trade Union Autonomy vs. Employer's Right

While trade unions have autonomy in electing their office-bearers, the employer is not obligated to negotiate with individuals who do not satisfy their policies or practical requirements (e.g., serving employees for confidentiality reasons).

Case Application:

The court upheld SBI's refusal to negotiate with M.R. Awasthi, as his retirement severed his relationship with the bank, and confidentiality in banking justified this policy.

4. Election Validity

Even if retired employees are eligible under the Trade Unions Act, their election must comply with the trade union's internal rules and procedural requirements.

Case Application:

The court found M.R. Awasthi's election invalid because the triennial meeting was held beyond the prescribed timeline without required approvals.

5. Key Takeaways from the Judgment

1. Retired or ex-employees can serve as office-bearers of a trade union only if:
 - The union's rules allow honorary or temporary membership.
 - The election is conducted in accordance with the union's rules and procedures.
2. Employers in sensitive industries, such as banking, can lawfully refuse to negotiate with retired/ex-employees if:
 - Their policies or practices restrict representation to serving employees.
 - Such restrictions are aligned with confidentiality and operational requirements.
3. Section 22 ensures that the majority of office-bearers are serving employees, maintaining relevance and direct representation in the union's leadership.

Summary:

While the Trade Unions Act permits retired or honorary members to serve as office-bearers, this right is subject to compliance with union rules, statutory requirements, and the employer's reasonable policies. In the *State Bank of India Staff Association* case, the court struck a balance between union autonomy and the employer's operational needs, emphasizing the importance of aligning trade union practices with practical realities.