

**DECISION OF THE CERTIFICATION OFFICER ON AN APPLICATION MADE  
UNDER SECTION 55 OF THE TRADE UNION AND LABOUR RELATIONS  
(CONSOLIDATION) ACT 1992**

**IN THE MATTER OF A COMPLAINT AGAINST**

**THE CIVIL AND PUBLIC SERVANTS ASSOCIATION**

**Date of Decision**

**27 May 1994**

**DECISION**

Under section 55 of the Trade Union and Labour Relations (Consolidation) Act 1992 ("the Act") I am empowered to make, or refuse to make, a declaration on the application of a member who claims that their trade union has failed to comply with any of the requirements contained in Part I, Chapter IV of the Act concerning the need for elections to certain positions within the union. In making a declaration, I am required to specify the provisions with which the trade union has failed to comply.

For the reasons which follow I declare that the Civil and Public Services Association failed to comply with section 52(4) and 52(5) of the Act, in that the union failed to publish the scrutineer's report on the 1993 ballot to elect members of the executive in the manner required by the Act.

**The application**

1. On 6 May 1994 I received a formal complaint from a member of the Civil and Public Services Association ("the union") that the report issued by the union in respect of the 1993 ballot to elect its Honorary Officers and National Executive Committee did not fully comply with the requirements of section 52 of the Act. The application was received four days before the end of the period of one year during which such complaints can be made.

## The Facts

2. The National Executive Committee of the union includes the President, two Vice-Presidents and twenty-six Ordinary Members. In accordance with the rules of the union the President, two Vice-Presidents and Ordinary Members of the National Executive Committee, are elected annually. In 1993 the ballot for these posts was held between 8 April and 7 May 1993 with the results being declared at the National Conference of the union on 11 May 1993. At that time the details relating to the number of ballot papers distributed, the number of ballot papers returned and the number of spoiled or otherwise invalid ballot papers returned were declared.

3. Subsequently, on the 17th May 1993, the union issued a circular to Branch and Sub-Branch Secretaries. This listed the successful and unsuccessful candidates, their grade, branch and number of votes cast in their favour.

## The requirements of the legislation

4. Section 52 of the Act contains the provisions relating to the scrutineer's report. The first two sub-sections deal with the contents of the scrutineer's report and include in the first sub-section -

- "52.-(1) The scrutineer's report on the election shall state -
- (a) the number of voting papers distributed for the purposes of the election,
  - (b) the number of voting papers returned to the scrutineer,
  - (c) the number of valid votes cast in the election for each candidate, and
  - (d) the number of spoiled or otherwise invalid voting papers returned.
  - (e) the names of the person (or of each of the persons) appointed under sections 51A or, if no person was so appointed, that fact".

Sub-sections (4) and (5) deal with the provision of the report to members and read as follows:-

"52.-(4) The trade union shall within the period of three months after it has received the scrutineer's report either -

- (a) send a copy of the report to every member of the union to whom it is reasonably practicable to send such a copy; or
- (b) take all such other steps for notifying the contents of the report to the members of the union (whether by publishing the report or otherwise) as it is the practice of the union to take when matters of general interest to all its members need to be brought to their attention.

(5) Any such copy or notification shall be accompanied by a statement that the union will, on request, supply any member of the union with a copy of the report, either free of charge or on payment of such reasonable fee as may be specified in the notification".

#### **Reasons for making the Declaration**

5. The report issued by the union on 17 May 1993 giving the results of the 1993 ballot for the President, Vice-Presidents and Ordinary Members of the National Executive Committee does not satisfy the requirements of section 52(4) and section 52(5). The full details of the scrutineer's report has not been made available to members and the statement, advising members that a copy of the report would be provided on request, was omitted. The union have admitted that "an inappropriate format for the publication of results was adopted".

#### **Observations**

6. The elections for the Honorary Officers and Ordinary Members of the union are held annually. The 1994 ballot for the Vice-Presidents and Ordinary Members was held between 8 April and 6 May and the results were announced at the National Conference on 12 May 1994 some six days after I received this complaint about the 1993 ballot. In his response to my investigation the General Secretary of the union indicated that had the issue been taken

up directly with him earlier steps could have been taken to correct the omission - a response with which I have a great deal of sympathy.

7. I have received a categorical assurance from the General Secretary of the union, that no such oversight will be repeated.

E G WHYBREW  
Certification Officer  
27 May 1994