

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

AT HYDERABAD

O.A.No.329 of 1993

Between

Mohd. Syed Pasha

.. Applicant

and

Asst. Supdt., Tele. Traffic,  
DTO, Karimnagar and  
2 Others.

.. Respondents

COUNTER AFFIDAVIT FILED ON BEHALF OF ALL THE RESPONDENTS

I, T. Hanumantha Rao, S/o Singaiah aged 44 years,  
Occupation: Government service, do hereby affirm and state as follows :

1. I am working as Law Officer in the office of Chief General Manager, Telecom. (Respondents 'Organisation'), and acquainted with all facts of the case. I am filing this Counter Affidavit on behalf of all Respondents as I have been authorised to do so. The material avernments in the O.A. are denied, save those that are expressly admitted herein. The applicant is put to strict proof of all such avernments except those that are specifically admitted

2. The brief history of the case is stated as under :

As per DOT ND orders in Lr. No.270-6/84-STN, dated 30-5-85, no casual labourers are to be employed, yet the applicant was taken by TDE-Karimnagar and deputed to

1st. page.

Corrections:

Attestor:  
सहायक निदेशक (स्टॉक)  
Assistant Director, Stock  
For C. G M Telecom A P.  
हैदराबाद, Hyderabad-500 001.

Deponent:  
विधि अधिकारी  
Law Officer  
O/o Chief General Manager, Telecom. Karimnagar  
हैदराबाद, Hyderabad-500 001

Telegraph Office-Karimnagar to work as daily rated messenger. This will not have any claim on the official as he is employed only to meet the exigency of service. As there was ban on recruitment, this applicant was allowed to continue taking the local justification of delivery work into account.

When there was no justification or need he was terminated but again utilised at Nizamabad for similar reasons. Again he was employed at Karimnagar to meet the shortages. The claim that he should be employed for certain fixed hours of duty is not born out any rules/condition of employment as he was engaged to meet the shortages in different offices including Jyothinagar Telegraph Office. He was employed only after the ban orders on employment of outsiders were in force and hence he can neither be regularised nor given temporary status in the Department as demanded.

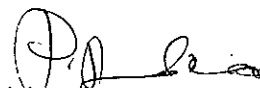
The applicant cannot demand employment for certain fixed hours of duty irrespective of work load and justification as he is not born on the regular rolls of the staff and establishment to be regularised.

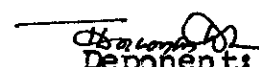
Further, the official has approached the Hon'ble Tribunal without exhausting the departmental channel available to him. Hence, the application is to be dismissed on this ground alone.

3. In reply to para 1, it is submitted that the applicant is not eligible for grant of temporary status for the following reasons :

1) The applicant was engaged in Telegraph Office, Karimnagar w.e.f. 19-5-86 vide ASTT I/C, Karimnagar Lr No.E-7/P-T/Mazdoor/KF/86-87, dt. 2-6-86 on daily rate of Rs.9-75 per day.

2nd page  
Corrections:

  
**Attestor:**  
सहायक निदेशक (स्टाफ)  
Assistant Director (Staff),  
कुते मु. स. प्र. दूरसंचार, आ. प्र.,  
For C. G. M Telecom A. P.  
हैदराबाद, Hyderabad-500 081.

  
**Deponent:**  
विविध अधिकारी  
Law Officer  
मु. स. प्र. दूरसंचार आ. प्र., का कार्यालय  
O/o Genl. Manager, Telecom, A.P.  
हैदराबाद Hyderabad-500 001

ii) Casual labourer can be employed within the recruitment unit i.e. Telegraph Traffic Division, Warangal according to needs.

iii) In accordance with the instructions contained in DOT New Delhi Lr.No.269-10/89-STN dt.7-11-89, that no casual labourer engaged after 30-3-85 should be granted temporary status.

iv) His case for absorption as regular Group-D cannot be considered now as he does not fulfil the conditions stipulated for regular absorption.

4. In reply to para 3, it is submitted that the applicant is not eligible for absorption as per existing orders of DOT New Delhi Lr.No.269-10/89-STN dt. 7-11-89.

ii) The applicant was employed in Telegraph Office, Karimnagar from 19-5-85 to 19-9-88 on daily wages to deliver Telegrams.

iii) According to the needs of the post allotted to Telegraph Office, Nizamabad in the same Warangal Telegraph Traffic Division.


iv) The employment of casual labourer was stopped and the hours of work were reduced to six hours according to needs of service.

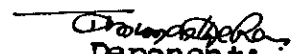
v) The re-employment to Karimnagar is at his request.

vi) No distinction has been made in matter of payment. He is being paid prorata wages for six hours on the basis of DA of Group-D post. There is no violation of Supreme Court order.

3rd. page.

Corrections:

  
Attestor:  
सहायक निदेशक (स्टाफ)  
Assistant Director (Staff),  
कृते मु. म. प्र. दूरसंचार, ऑ. प्र.,  
For C. G. M. Telecom. A. P.  
हैदराबाद, Hyderabad-500 001.

  
Deponent:  
विधि अधिकारी  
Law Officer  
मु. म. प्र. दूरसंचार ऑ. प्र., का कार्यालय  
O/o Chief General Manager, Telecom. A. P.  
हैदराबाद Hyderabad-500 001

vii) There is no recruitment and employment of casual mazdoors after 30-3-85. The engagement is on contingent basis to cover shortage and absenteeism. The question of preparation of seniority list does not arise.


5. In reply to para 5 it is submitted that :

- i) The hours of employment was on the basis of need and work.
- ii) As the applicant is not eligible for absorption as Group-D, the question of failure to discharge duty does not arise.
- iii) There is no possibility of clubbing duties.
- iv) The applicant is not eligible for temporary status as per DOT, New Delhi Lr.No.269-10/89-STN, dt. 7-11-89.
- v) Applicant is not eligible for absorption

6. In reply to para 6 it is submitted that no application has been made to Superintendent, Telegraph Division, Warangal or Directorate (TT), Hyderabad or CGM, Telecom., Hyderabad.

The applicant did not exhaust normal channels available to him. The petition is liable to be dismissed on this ground alone.

7. For the reasons stated above, the applicant has not made out any case either on the facts or on law and there is no merit in the O.A. It is therefore prayed that this Hon'ble Court may be pleased to dismiss the O.A. with costs and pass such further and other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.

  
DEPONENT  
विधि अधिकारी  
Law Officer

Solemnly and sincerely affirmed  
this 10<sup>th</sup> day of Feb. 1994 and  
signed his name in my presence.

मु. म. प्र. दूरसंचार, ऑ. प्र., का कार्यालय  
O/o Chief General Manager, Telecom.A.P.  
हैदराबाद, Hyderabad-500 001


Before me

Corrections:

  
Attestor: (स्टाफ)  
सहायक निदेशक (स्टाफ)  
Assistant Director (Staff),

कृते मु. म. प्र. दूरसंचार, ऑ. प्र.,

For C. G. M. Telecom A. P. मु. म. प्र. दूरसंचार ऑ. प्र., का कार्यालय  
हैदराबाद Hyderabad-500 001 Chief General Manager, Telecom.A.P.  
हैदराबाद Hyderabad-500 001

  
Deponent:  
विधि अधिकारी  
Law Officer

Returns SR 128/94

(31)

Material papers should be  
Signed by the Counsel.

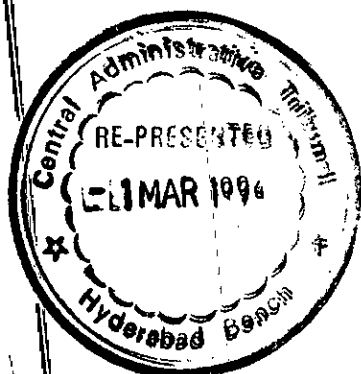


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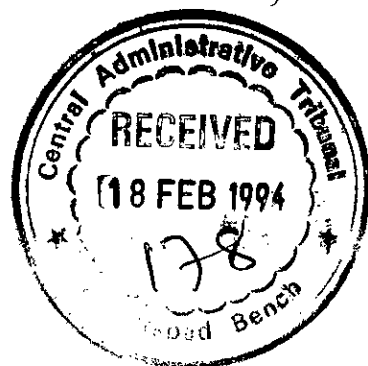
Objection Complied  
With  
By  
1.3.94,  
for N.R. Devaraj  
Sm ✓

OA 329/93



Counter Affidavit

Received Copy  
(without prejudice to  
the right of filing reply-affidavit)  
C. S. S. 18/2/94  
Counsel for Applicant



9/3/94

may be filed  
17/3/94

Filed by

N.R. DEVARAJ  
Advocate &  
Standing Counsel for Railways,  
2, Lalithanagar,  
Janani Osmania,  
HYDERABAD-500 044