

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

AT HYDERABAD

O.A.No.750/94

Date of Order: 11.3.97

BETWEEN:

Ch.Venkateswara Rao

.. Applicant.

AND

1. The Union of India rep. by the Secretary, Dept. of Telecommunications, Ministry of Communications, New Delhi.
2. The Chief General Manager, Telecom., Krishna Telecom District, Vijayawada -50.
3. The General Manager, Telecommunications, Krishna Telecom District, Vijayawada-50.
4. Assistant General Manager (Admn.) Krishna Telecom District, O/o the General Manager, Krishna Telecom Dist. Vijayawada.
5. Sri S.Ranga Rao, Sub-Divisional Engineer, O/O. the Assistant Engineer M.D.F., E 10 B Exchange, Vijayawada-10.



.. Respondents.

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Counsel for the Applicant

.. Mr.V.Venkateswara Rao

Counsel for the Respondents

.. Mr.N.R.Devraj

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CORAM:

HON'BLE SHRI R.RANGARAJAN : MEMBER (ADMN.)

HON'BLE SHRI B.S. JAI PARAMESHWAR : MEMBER (JUDL.)

- - -

J U D G E M E N T

X Oral order as per Hon'ble Shri R.Rangarajan, Member (Admn.) X

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Heard Mr.V.Venkateswara Rao, learned counsel for the applicant and Mr.N.R.Devraj, learned standing counsel for the respondents.

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(iii) The applicant herein is a Section Supervisor of the Ministerial cadre and on his option he was brought to the legal cell and he was asked to work in that cell. For the purpose of convenience in identifying the nature of work performed the cell is named as legal cell. though by the officials in that cell. The cell / called as legal cell

there is no legal obligation on the part of the respondents to post only the legally qualified staff in that cell. If the applicant is having legal qualification it is of incidental nature and that legal qualification does not give him any status to be considered for promotion as Assistant Engineer (Legal).

(iv) The learned counsel for the respondents also submit that the necessity of forming a legal cadre was considered by the DOT and it was decided by memo No.30-10-89/Admn.I, dated 25.10.89 that there is no need for any separate legal cells to be formed. The <sup>existing</sup> practice of bringing the willing officials to the legal cell will be continued and that cell will deal all the legal matters. It is also decided not to form any lawyer cadre as it was not found essential.

6. We have heard arguments on both sides. Formation of a legal <sup>cell</sup> ~~cadre~~ is a policy matter. Whether a legal cell <sup>should be</sup> ~~should be~~ manned by officials having legal qualification or not is <sup>also</sup> ~~also~~ a matter of policy. If the respondents ~~counsel~~ feel that such a cell manned by the legally qualified employees may not be of much necessity to the department then the Tribunal/Court cannot give any further direction to insist on formation of a legal cell manned as above.

It is for the respondents to decide the necessity of and the method of manning that cell. formation of such a cell. Though we may of opinion that such a cell may be of use to the respondents organisation in view of the increasing litigations in various courts, we do not give any direction to that effect as a policy decision cannot be dictated by a court of law. It is for the respondents to decide on the basis of the necessity.

The applicant submits that memorandum referred to above, in Para 2(i), (iii), (iv) & (v) <sup>emphasises</sup> the need for formation of a legal cadre. Though Para 2(ii) states that no lawyer cadre need be created in the Telecom department, the purpose of forming a legal cell manned by ~~\_\_\_\_\_~~ suitably qualified persons is a must.

4. This OA is filed challenging the posting order dt. 10.6.94 posting R-5 as Assistant Engineer (Legal) and for a consequential direction to consider his candidature as Law Officer against the post of Assistant Engineer (Legal) w.e.f. the date on which R-5 was posted to work in the said post by framing the recruitment rules for filling up the post of Law Officer in the department of Telecommunication.

5. Reply has been filed in this OA. The main points brought-out in the reply are as follows:-

(i) There is no legal cadre as such in the Telecom department. One of the cadre posts of Assistant Engineer is designated as Assistant Engineer (Legal) and that being a cadre post of Assistant Engineer Group-B the suitable Assistant Engineer <sup>been</sup> from amongst those working as Assistant Engineer had ~~had~~ posted as Assistant Engineer (Legal).

(ii) There are no posts of Assistant Engineer (Legal) earmarked exclusively for promoting from the legal cell. Hence the applicant though working in the legal cell cannot claim to be posted in the post of Assistant Engineer (Legal) claiming that this is a cadre post of the legal cell. Further there is no sanctioned legal cell available in the department. All the ministerial posts were treated as one unit and out of that unit a legal cell has been formed drawing personal from the ministerial cadre on the basis of the option exercised by the ministerial staff to work in the legal cell. Hence the applicant cannot claim to be an official belonging to the legal cadre.

9. In the result, the OA is dismissed as having no merits. However this dismissal will not stand in the way of the respondents to create a legal cell and framing rules for manning that legal cell if they so desire .

10. No costs.

प्रमाणित प्रति  
CERTIFIED TO BE TRUE COPY

*Devendra Ram*

न्यायालय अधिकारी  
COURT OFFICER  
केन्द्रीय प्रशासनिक अधिकरण  
Central Administrative Tribunal  
हैदराबाद न्यायपीठ  
HYDERABAD BENCH

केस नम्बर	750794
CASE NUMBER	750794
नणय का तारीख	11/3/97
Date of Judgement	11/3/97
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अनुभाग अधिकारी (न्य विक्)	
Section Officer (J)	