

FORM NO. 21
(See Rule 114)

IN THE ADMINISTRATIVE TRIBUNAL - HYDERABAD BENCH : HYDERABAD

OA / ~~PA / DA / CP / MA / DP~~ 1270 / 9 of 199

..... Cr. Venkateswaran Applicant(s)
against

Versus

..... Tnu Dr. Teleng. Nandam Respondent(s)
& son

INDEX SHEET

Serial No.	Description of Documents	Pages
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Certified that the file is complete
in all respects.

Signature of
De-link Hand
(In Record Section)

27/10/97

Signature of S.O.

Central Administrative Tribunal Hyderabad Bench: Hyderabad.

D.A. No.

1270

of 1997.

Sri Br. Venkateswar Rao & Anr. Applicants(s).

VERSUS.

the Director General, Telecom
New Delhi & 582

(Respondents).

Date	Office Note	ORDER
24.9.97		<p>List the OA for admission tomorrow i.e. 25-9-97</p> <p>WTH/R M(J)</p>
25.9.97		<p>Heard Mr. Sunya Rao for Mr. Krishna Devan for the applicant</p> <p>Post it along with OA No. 1180/94 with a Division Bench as requested by the Counsel for the applicant.</p> <p>O WTH/R M(J)</p>
15.10.97		<p>O.A. disposed of. Order made separate sheet</p> <p>S WTH/R M(A)</p> <p>HBS JP M(J)</p>

CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH: SEINCHHYDERABAD.

ORIGINAL APPLICATION NO. 1270 OF 1997.

G. Venkateswara Rao & anr

(Applicants(s))

VERSUS

Union of India, Repd., By.

Director General, Telecom,

New Delhi & 503

Respondents(s)(s)

The Application has been Submitted to the Tribunal by Shri
Shri Krishna Devaray Advocate/Party-
in person Under Section 19 of the Administrative Tribunal
Act. 1985 and the same has been scrutinised with reference to
the points mentioned in the check list in the light of the
provisions in the Administrative Tribunal (Procedure) Rules
1987.

The application is in order and may be listed for Admission
No. -

18/9/97 may be listed from
Scrutiny Asstt.

Anusha
DEPUTY REGISTRAR(JUDL).

11. Have legible copies of the annexure duly attested been filed. *77*
12. Has the applicant exhausted all available remedies? *77*
13. Has the Index of documents been filed and pagination done properly. *77*
14. Has the declaration as required by item No. 7 of form. I been made. *77*
15. Have required number of envelops (file size) bearing full addresses of the respondent's been filed. *77*
16. (a) Whether the relief sought for, arise out of single cause of action. *77*
(b) Whether any interim relief is prayed for, *77*
17. (c) In case an MA for coronation of delay is filed, is it supported by an affidavit of the applicant. *77*
18. Whether this cause be heard by single Bench. *77*
19. Any other points.
20. Result of the Scrutiny with initial of the scrutiny clerk. *77*
18/9/97
Scrutiny Assistant. *May be numbered pl.*

Section Officer.

Deputy Registrar.

Registrar.

CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH: HYDERABAD.

Case No. 5003(97)

Report in the Scrutiny of Application.

Presented by Shri Krishna Devam, Adv. Date of Presentation.

16/9/97

Applicant(s) G. Venkateswara Rao

Respondent(s) Director General, Telecom, New Delhi & Ors

Nature of grievance Repatration

No. of Applicants 2 No. of Respondents 6

Repatration

CLASSIFICATION

Subject.....(8) No. Department.....Telecom.....(11)
(a) (No)

1. Is the application in the proper form, (three complete sets in paper books form in two compilations). Yes
2. Whether name description and address of all the parties been furnished in the cause title. Yes
3. (a) Has the application been fully signed and verified. Yes
(b) Has the copies been duly signed. Yes
(c) Have sufficient number of copies of the application been filed. Yes
4. Whether all the necessary parties are impleaded. Yes
5. Whether English translation of documents in a language other than English or Hindi been filed. Yes
6. Is the application on time, (See Section 21). Yes
7. Has the Nakalatnama/Memo of Appearance/Authorisation been filed. Yes
8. Is the application maintainability. (U/S 2, 14, 18, or U/R. 8 Etc.,) Yes
9. Is the application accompanied IPO/DD, for Rs.50/- Yes
10. Has the impugned orders original, duly attested legible copy been filed. Yes

P.T.O.,

~~CENTRAL ADMINISTRATIVE TRIBUNAL, YODHABJI BRANCH, HYDERABAD~~

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OR. NO. 1270 of 1997.

CAUSE TITLE Sri Venkateswar Rao & Anr

VERSUS

The Director General, Telecom

New Delhi & S. 84-

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To direct the respondents to file back the application herein as Telegraph Messenger by holding the delivery under S. 29.5 (2) in arbitary, definitely etc.

IN THE COURT OF CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH

AT HYDERABAD

O.A.No. 1270 of 1997

Between :-

1. Sri Gummadi Venkateswar Rao
2. Sri Sk. Madar

AND

1. The Union of India represented by the Director General, Telecom, Ashok Road, New Delhi - 110 020. & 5 Others



Repetitualation

Telecom (1)
..Applicants

मोर संचार TELECOM

..Respondents

I N D E X 16 SEP 1997

3003

Annexure Nos.

Description of Document

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Original Application	1 to 8
1. Copy of Memo No. PF/ED Messenger/PDP dt. 27-11-81, issued by the Sub Postmaster, Peddapuram.	9 12
2. Copy of Memo No. PF/ED Messenger/PDP dt. 16.4.80, 10 issued by Sub Postmaster, Peddapuram.	10
3. Copy of Director, Telegraph Traffic, A.P. Telecom, Hyd-1, No: TA-TS/12-60/91/2, dated 25-9-91.	11
4. Copy of Memo No. E-5/91.92 dt. Samalkot dt. 31-10-91 issued by Incharge, DTO, Samalkot.	12
5. Copy of Memo No. 5/A/92-93 dt. 22-2-1993 issued by STT, Rajahmundry Division.	13
6. Copy of Lr.No. TC-2/PEP/95-97 dt. 29-5-97 issued by the Sub Divisional Engineers groups, Telecom, Peddapuram.	14
7. Copy of DG, P&T ND Lr.No. 253/41/78-STN, dated 15-2-85.	15
8. Copy of Lr.No. PF/EDMS/Kpath, dt. 26.5.97, issued by the Sub Divisional Inspector, (Postal), Peddapuram.	16
9. Copy of PM NO. PD/ ED Packer/97 dt. 26-5-97 issued by Sub Divisional Inspector (Postal), Peddapuram.	17
10. Copy of Advocate Notice dated 18-8-97.	18-19
11. Copy of Inform order dt. 28/9/94 in O.A. 1180/94 by Hon'ble CAT Andhra	20

Signature of the Counsel

Signature of the Registrar

Signature of the Applicant

(1) G. Venkateswar Rao

(2) Shaik Madar

IN THE COURT OF CENTRAL ADMINISTRATIVE TRIBUNAL:HYDERABAD BENCH
AT HYDERABAD
O.A. No.1270 of 1997

Between :-

1. Sri Gummadi Venkateswar Rao ..Applicants
2. Sri Sk. Madar

AND

1. The union of India represented by the
Director General, Telecom, Ashok Road,
New Delhi - 110 020 & 5 Others. ..Respondents

DATE OF EVENTS

Dates	Description of Events	Page Nos.
01-03-1980	Date on which the Second Applicant was appointed as ED Telegram Messenger in the combined P&T Office, Peddapuram.	2
13-11-1981	Date on which the 1st Applicant was appointed as ED Telegram Messenger in the combined P&T Office, Peddapuram.	2
01-11-1991	Date on which both the Applicants were transferred to newly opened Telecom Centres, Peddapuram.	2
22-02-1993	Date on which the Telecom authorities sought to fill up the posts of Telegraph Messengers through the candidates other than the Applicants.	3
08-01-1997	Date on which the Hon'ble Tribunal disposed of the O.A. No. 203/93 filed by the Applicants.	3
29-05-1997	Date on which the Sub-Divisional Engineer, Telecom, Peddapuram has ordered for the relieving of the Applicants from the post of Telegram Messengers, Telecom Centres, Peddapuram.	3
16-08-1997	Date on which the Applicants got issued Advocate Notice to the STT, Rajahmundry.	3
11-08-1975	Date on which the DG, P&T ND ruled that option should be given to the staff whose scope of service is affected by Commission.	4
15-02-1985	Date on which the DG, P&T, ND decided that till a policy decision is taken on the issue of absorption of ED Messengers consequent upon conversion of EO into DTO.	4

Date : 10-09-1997

Signature of the Counsel

Place: Hyderabad.

APPLICATION UNDER SECTION 19 OF ADMINISTRATIVE TRIBUNAL ACT, 1985

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : A.P. : HYDERABAD

O.A. No. 127C of 1997

Between :-

1. Sri Gummadi Venkateswar Rao, s/o. Appa Rao,
Aged about 37 years, Working as ED Packer
in Jaggampet Post Office, Kakinada Divn.,
East Godavari District, A.P.

2. Sri Shaik Madar, s/o. Md. Mustafa,
Aged about 50 years, Working as ED Messenger,
Katravulapalli branch post office,
Peddapuram Post Office, Kakinada Division.

..Applicants

A N D

1. The Union of India represented by the
Director General, Telecom, Ashok Road,
New Delhi. 110020

2. The Director General, Department of Posts,
Sansad Marg, New Delhi. 110001

3. The Superintendent, Telegraph Traffic
Division, Rajahmundry. 533104

4. The Superintendent of Post Offices,
East Godavari District. Kakinada Division
533001

5. The Sub-Divisional Engineer, (Telecom)
Groups, Peddapuram. 533437

6. The Sub-Divisional Inspector, (Postal)
Peddapuram Division. Sub-Division
533437

..Respondents

The address for services of all notices is that of his
Counsel : Mr. Krishna Devan, Advocate, H.No. 2-2-1105/11, Tilaknagar,
Hyderabad - 44. Phone No. 4652904.

DETAILS OF APPLICATION

1. PARTICULARS OF THE ORDER AGAINST WHICH THE ORDER IS MADE :

Order No.	:	TC-2/ PEP/95-97
Date of Order	:	29-5-1997
Passed by the	:	Fifth Respondent
Sub. in Brief	:	Repatriation of Telegraph Messengers from Telecom to Postal

2. JURISDICTION OF THE TRIBUNAL :

The applicant declares that the subject matter of the present application is within the jurisdiction of this Hon'ble Tribunal Under Section 14 of the Administrative Act, the applicants are working as ED Messengers in the jurisdiction of the respondents herein.

Contd...2

3. LIMITATION :

The applicant further declares that the application is within the period of limitation prescribed Under Section 21 of the Administrative Act, 1985 as the applicant is challenging the order passed by the fifth respondent dated 29-5-1997.

4. BRIEF FACTS OF THE CASE :

- a. Both the applicants herein were originally appointed as Telegraph Messengers (ED) in the Vacant Posts in the then combined Post and Telegraph Office, Peddapuram on 13-11-81 and 1-3-80 respectively. Eversince the date of appointment both the applicants have been discharging the duties of delivery of Telegrams continuously without break or charge.
- b. In the recent post, the combined Post and Telegraph Wings got bifurcated. Consequently Department of Telecommunication having control over Telegraph Wing and the residual Postal Wing are functioning independently. The Department of Telecom has been taking over all types of work relating to Telephones and telegraphs including the work earlier handled by Combined Post Offices having Telegraph facilities.
- c. In that process Telecom Department has started opening Telecom Centres to provide Public Telephones with STD/ISTD facilities as well as manual Trunk booking of Telegrams, Telex, and fax messages and their delivery. Consequently, the telegraph branches in the combined Post Offices are closed and the entire work transferred to the Telecom Centres alongwith the delivery staff including ED Telegraph Messengers. As such both the applicants who were working as Telegraph Messengers in Peddapuram combined Post and Telegraph office were transferred to the newly opened Telecom Centre, Peddapuram on 1-11-91 vide the orders of Incharge, Departmental Telegraph Office, Samalkot, Lr.No. E.5/91-92 dated 31-10-1991.

(6)

d. Both the applicants eversince the date of joining as Telegram Messengers in Peddapuram, Telecom Centre have been discharging the duties without break or charge. While so, the STT Rajahmundry on 22-2-93 sought to fill up the vacancies of Telegraph Messengers by retrenching the applicants, O.A.No. 437/93 433/93 e was filed by the applicants in the Hon'ble CAT, Hyderabad. After considering the records of both the parties, the Division Bench of the Hon'ble Tribunal on 8-1-97 has directed the Telecom authorities not to repatriate the applicants herein until a requisition has been received from the Postal authorities. Inspite of such directions, the Sub-Divisional Engineer (groups) Telecom, Peddapuram has ordered for the relief of the applicants from the Postal Telegraph Messengers, Telecom Centre, Peddapuram so as to report to the Sub-Divisional Inspector Postal, Peddapuram vide Lr.No. TC-2/PEP/95-97 dated 29.5.1997.

e. As the policy decision at the Directorate level in both the departments is pending, the Sub-Divisional Engineer (Res.No.5) cannot order for repatriation. Hence both the applicants have got issued one advocate notice to the Superintendent Tele Traffic, Rajahmundry on 16-8-97 bringing to his notice that the impugned action of the R-5 is arbitrary. But the 3rd respondent has not interfered with that order. Therefore, the applicants are constrained to approach the Hon'ble CAT, Hyderabad seeking immediate interference.

GROUND

(42)5(a) According to Rule 527 of P& T Manual, Vo. IV relating to transfer of an appointment or establishment, it has been laid down as follows :

"527. When it is proposed to transfer an appointment or other establishment charge from one office or Division to another, two proposals should be submitted: (a) one for abolition of the appointment or charge under its old office or Division, and (b) another for the creation of the appointment & charge under the new office or Division".

✓ (b) According to the orders of the former DG P & T, New Delhi issued under his letter No. 271-11/72-STB.I (SPB.I) dated 11-8-75.

"... It has been decided that option should be given to the staff whose scope of service is affected by the conversion" of the COs into Departmental Telegraph Offices (DTOs).

(c) The above orders were issued in connection with conversion of COs into DTOs and the option to be given to Class IV staff of the COs. It has also been decided that the Class IV staff be allowed to exercise option as follows :

(i) If the CO is an independent unit for recruitment of Class IV staff, then the option was to be limited to the Class IV staff of the CO alone.

(ii) where the CO is not an independent unit for recruitment of Class IV staff, option should be given to all members of the Class IV cadre on which the class IV staff working in the CO is borne.

(d) It was further decided that optees equal in number to those required for the work so transferred only be transferred to the DTOs on the basis of seniority of the optees. The options of the remaining staff who were in excess of the number required were thus ineffective and hence cancelled. But those who are transferred to the DTOs would retain their seniority and they will be governed by the conditions of service prevailing on the Telegraph side.

2.2 By another order No. 269/142/75-STB dt. 20-2-1976 the former DG P & T directed that recruitment to regular Class IV establishment be made in the following order of preference:

- (i) Boy peons (then a dying cadre, now not existing).
- (ii) Non-test category Class IV.
- (iii) Extra- Departmental Agents (EDAs).
- (iv) Casual Labourers,
- (v) Part-time Casual Labourers, and
- (vi) Outsiders through Emp. Exges.

It was clarified therein that inclusion of Non-test category staff, who are ready on the regular establishment, was for considering their cases for the test category. Thus it is clear that EDAs were given a high priority for absorption in the regular establishment as Class IV (Gr. 'D') staff.

5.3 With the opening of separate Telecom Centres, the telegraph branches in the combined P & T offices were closed and their entire work was transferred to the Telecom Centres in the respective place. Unlike the other E.D. Agents in the Postal Department, the E.D. Telegraph Messengers were exclusively recruited only for delivering the Telegraph Messages received at the combined P & T office. And a minimum wages of Rs. 240/- per month was assumed where as the E.D. Telegraph Messengers working in Telecom get higher remuneration when they delivered more Telegraph Messages. Their wages are shown under a separate Head of Account and debited to the expenditure of the Telegraphic Traffic Division concerned. Thus they are distinctly a different category of employees known as E.D. Telegraph Messengers. But they are not EDA's in the normal sense or concept of the term. Therefore, it is clear that the applicants have been transferred to the Telecom Centres when the entire work of the combined offices were taken over by Telecom Centres under the cover of Deputation. They were entitled to option for absorption on a regular basis in the Telecom Centres in as much as the scope of their service is affected by the take over.

6.54 The EDTMs are, therefore, on par with the Class IV employees of the COs vis-a-vis the conversion of COs into TCs. Notwithstanding the same, the former DG P & T in his letter No. 253/41/78-STN dt. 15-2-85 on the subject of absorption of EDTMs in a DTO after conversion of the CO decided that till a policy decision is taken on the issue, EDTMs whose services are likely to be terminated may be posted on deputation against vacancies of messengers in a DTO till they get absorbed in Postal Branch. If a policy decision is yet to be taken on the issue, the existing orders applicable to regular employees in a similar situation should be made applicable to the EDTMs also mutatis mutandis till the policy decision is finalised, especially so when it was ready decided that option should be given to the staff whose scope of service is affected by the take over. ~~EDTMs~~ To deny them such a benefit is discriminatory and violative of Article 14 of the Constitution of India. In view of the same, the DG's order dt. 15-2-85 mentioned above is an unjust and inequitable order in so far as it directed that the EDTMs be posted on deputation till they get absorbed in the Postal Branch, even though it was recognised that their services are likely to be terminated consequent the TCs taking over the entire work of the COs.

The 1st respondent also ignored the fact that under the instructions and orders of the former DG P & T, New Delhi, even (and not merely EDTMs) are entitled to be absorbed, vide order, though the applicants were initially taken on 'deputation

for a period not exceeding six months, or until they are absorbed in the Postal Wing, whichever is earlier, they have been retained in the TCs for much more than a year in each case and each of them has rendered more than 240 days service in the Department's TCs after such 'deputation'. In those circumstances when the 1st respondent sought for clarification from the 10 respondent regarding the wages payable to the EDTMs, it was clarified that 'THE MESSENGERS CAN BE PAID AS BEING DONE FOR CASUAL MAZDOORS'. In other words, the service rendered by the EDTMs in the TCs is treated as Casual Mazdoor service and paid for accordingly. Therefore, the 1st respondent ought to have treated them as full time workers of Rajahmundry TT Division and accepted their applications for the recruitment as Group 'D' Telegraphmen. But the 1st respondent has not even included the EDTMs as a category of employees eligible to apply for the posts of Group 'D' Telegraphmen.

¶. 5.6 The applicants have been allowed to continue in the TCs on the so called deputation basis long beyond the maximum prescribed period of six months and each of them has rendered more than 240 days service in the year during their service in the TCs and hence entitled to grant of temporary status in the first instance and regularisation by absorption in the TCs as Group 'D' Telegraphmen according to their turn in the seniority list of Casual Mazdoors under the Jurisdiction of Rajahmundry TT Divn. as per the Supreme Court's mandate in AIR 1987 SC 2342.

¶. 5.7 The applicants may be permitted to urge other grounds at the final hearing.

¶. 5.8 It is humbly submitted that the policy decision in regard to the absorption of ED Telegraph Messengers working on 'deputation' in Telecom Centres is pending consideration at the directorate level. But the 5th respondent hastily, without having the authority or orders from the higher authorities have chosen to relieve the applicants to go to the Postal Wing. Both the applicants were taken over by the ~~newly~~ opened Telecom Centres on deputation. The concept of deputation used by the STT Rajahmundry is only Administrative instructions but not statutory rule. Since both the applicants have completed 240 days in each year and thus worked for more than 6 years and were paid Group-D Pay and allowances and hence for all practical purposes were considered to be Departmental Telegraph Messengers eligible for temporary status and in the matter of regularisation they deserve priority. But the action of the 5th respondent in relieving the applicants from the job of Telegraph Messengers is arbitrary and illegal and violative of Article ~~xx~~ 14 of the Constitution of India.

The applicants there were a quite number of ED now working Telecom Centres were similarly ed the Hon'ble Tribunal and by virtue of the order in O.A no: 1180/94 dtg 28/9/94 in which the Hon'ble Tribunal they were allowed to continue working in under the jurisdiction of the same 3rd respondent. 5 herein were packed up for repatriation and thus clear discrimination.

12. 12.6 DETAILS OF REMEDIES EXHAUSTED :
been relieved under the illegal orders of the 5th respondent, both the applicants were posted as ED Packers in the Post Offices falling under the jurisdiction of 6th respondent. For the facts and grounds stated above it is necessary that the impugned order passed by the 6th respondent must be suspended until further orders, otherwise the applicants who are similarly situated others were discriminated in the matter of repatriation which is not permissible under the existing circumstances.

13.6 DETAILS OF REMEDIES EXHAUSTED :

Aggrieved by the impugned action of the 6th respondent, the applicants made a representation through Advocate dated 16.8.97 which was not acted upon and hence the applicant has not alternative efficacious remedy than approaching the Hon'ble Tribunal.

14.7 MATTERS NOT PREVIOUSLY FILED OR PENDING WITH ANY OTHER COURT :

The applicant further declare that he is not previously filed any application. Writ petition or suit regarding the matter in respect of which this application has been made before any court of law or any other authority or any other such bench of this Hon'ble Tribunal and nor any such application, Writ petition or suit is pending before any of them.

15.8 RELIEF SOUGHT FOR : MAIN RELIEF :

It is therefore prayed that the Hon'ble Tribunal may be pleased to :

- 1) to call for the records relating to the impugned order dated 29.5.97.
- ii) to direct the 3rd respondent to take back the applicants herein as Telegraph Messengers for the Telecom Centre, Puddapuram till a policy decision is being taken by the Director Generals of both the wings, by holding that the act of the 5th respondent in passing the relieving order dated 29.5.97 as arbitrary, discriminatory and illegal being violative of Article 14 of the Constitution of India and set aside the same.
- iii) and pass such other further orders as deem it fit and proper in the circumstances of the case.

16.9 INTERIM RELIEF :²⁴

It is prayed that the Hon'ble Court may be pleased to suspend the impugned order No. passed by the fifth respondent to take the applicants into duty as Telegraph Messengers in the Telecom Centres, Peddapuram, otherwise the applicants will be put to irreparable loss, injury as they have been discharging the duties of Telegraph Messengers from 1981 to till 28.5.97. and pass such other or further orders as deem it fit and proper in the circumstances of the case.

60 PARTICULARS OF POSTAL ORDER :

Q 1.2 687 562 ab 11869

1. Name of the Post Office 2. Amount of Postal Order
2. Date and Nos. *for 50/-*

11. LIST OF ENCLOSURES :

i) Vakalatnama	ii) Postal Order for Rs. 50/- +5/-.
iii) Material Papers	iv) Covers, Pads & Acknowledgements

VERIFICATION

I, the above named applicant do verify that the contents of Paras 1 and 4 are true to my personal knowledge and Paras 5 to 10 are believed to be true on legal advice of my counsel and that I have not suppressed any material facts.

Hence, verified this 11th September, 1997 in my presence,
at Hyderabad.

~~Signature of the Counsel~~

Signature of the Applicants

1 G. Venkateswara Rao

Date : _____

Place : Hyderabad.

Memo No. PF/ED Messenger/PDP - Dated 27-11-81.

Sri Gummadi Venkateswara Rao, s/o. Apparao, holder of Employment Registration No. 1827/79 NCO Code X 02-10 Dated 11-4-1979 is provisionally appointed to work as E.D. Telegraph Messenger in the vacant post with effect from the F.N. of 13-11-81. The appointment is purely temporary and is likely to be terminated at any time without notice. The appointment is governed by EDA (conduct and service) Rules 1964.

1. A copy of this memo is issued to 1. Sri G. Venkateswararao, Nevvulagunta Sh Street, Peddapuram.
2. The Head Post Master, Samalkot, H.O

SUB POSTMASTER
PEDDAPURAM -533437.

// TRUE COPY //

A. Surya Rao
ADVOCATE for K. Devan

OFFICE OF THE SUB POSTMASTER (LSG)
PEDDAPURAM -533437

No. PF/ED Messenger/Peddapuram dated the 16th April, 1980

Letter of Appointment

Sri SK. MADAR, s/o. SK. Mustafa is hereby appointed as ED Messenger with effect from 1-8-1980 in the vacant place of Sri Madina Bhasha who is promoted to Class IV Post vide SP/KD Memo No. SP/Goc/3/VI dated 25-2-1980. He shall be paid such allowances as admissible from time to time.

Sri SK. MADAR should clearly understand that his appointment as ED Messenger shall be in the nature of a contract liable to be terminated by him or the undersigned by notifying the other in writing and that he shall also be governed by the P and T extra Departmental agents conduct and service rules 1964 as amended from time to time. If these conditions are acceptable to him he should communicate in the proforma enclosed.

SUB POST MASTER (LSG)
Peddapuram-533 437

Copy to :

- 1) Sri Sk. Madar ED Messenger, Peddapuram.
- 2) Post Master, Samalkot to draw the allowances.
- 3) Spare.

// TRUE COPY //

A. Surya Rao
ADVOCATE for K. Devan

G.O.I.

TELECOMMUNICATIONS: ANDHRA PRADESH

PAGE

M.O.C.C.

No. II

Office of the Director, Telegraph Traffic, A.P., Telecommunications,
Hyderabad - 500001.

No. TA-TS/12-60/91/2 dated at Hyderabad-500 001 the 25th Sept. 1991.

Sub:- Opening of Telecom Centre at Peddapuram.

-0000-

Approval of the Director (TT) A.P. Telecommunications, Hyderabad is hereby accorded for the opening of Telecom Centre at Peddapuram with the following facilities.

Booking, transmission and delivery of telegrams.
Local/ Trunk PT
STD PT
Phonograms
One~~x~~ service telephone for office use.
Morse working with DTO Samalkot till such time the Teleprinter is provided.

The Telecom Centre will be under administrative control of Superintendent, Telegraph Traffic Division, Rajahmundry and operative control of the Officer Incharge, DTO Samalkot and observe the following working hours.

Week days	--- 0700-2000
Sundays/Holidays	--- 0900-1700

The following staff strength may be diverted from the surplus staff strength of Rajahmundry Telegraph Traffic Division.

Telegraphists	--2
Telegraphmen O/D	--2 (The surplus ED Messengers of Peddapuram GSO may be considered).

The cash collections of the Telecom Centre will be remitted to the DTO Samalkot for accounting purpose.

All the day to day requirement of the Telecom Centre will be met by the controlling DTO Samalkot.

Necessary action may kindly be taken to open the Telecom Centre at the earliest under intimation to all concerned.

(K. PRASADA RAO,
Asst. Director (TS),
% the Director (TT),
A.P. Telecommunications,
Hyderabad - 500001.

Copy to the :

Asst. General Manager (TT) % CGMT, A.P. Hyderabad - 500001.

Superintendent, Telegraph Traffic Dn., Rajahmundry with reference to Lr. No. TFC. 65/91-92 dated 16-9-1991.

Post Master General, Visakhapatnam.
Superintendent of Post Offices, Kakinada.
Telecom District Engineer, Kakinada,
Sub Divisional Officer, Telecom, Samalkot.
Officer Incharge, STO Samalkot.
Sub Postmaster, Peddapuram.
Office Copy.

// TRUE COPY //

GOT.

TELECOMMUNICATIONS ; A.P. CIRCLE

MOC.

OFFICE OF THE INCHARGE DEPARTMENTAL TELEGRAPH OFFICE SAMALKOT.

Memo No. E-5/91.92 DTD AT SAMALKOT THE 31.10.1991

In accordance with the orders contained in Superintendent, Rajahmundry TT Dvn, Rajahmundry Ltr No. EST 70/91.92 dtd 29.10.91 the two ED Messengers are hereby relieved on the a.m. of 31.10.91 and directed to report to Incharge, Telecom Centre, Peddapuram on 1.11.1991 F.N. positively.

1. S/S. G. Venkateswara rao, ED T/Messenger.
2. S/S. Shaik Madar -do-

(MD. SHAHABUDDIN)
INCHARGE,
Departmental Telegraph Office,
Samalkot. E.G. Dist.

Copy to :

1. The superintendent, RY TT Dvn.
Rajahmundry for favour of information.
2. The Incharge, Telecom Centre, Peddapuram for necessary action.
3. The Officials concerned.
4. Office File

11 TRUE COPY
TRUE COPY
ADVOCATE

ADVOCATE

TELECOMMUNICATIONS :: ANDHRA PRADESH
OFFICE OF THE SUPERINTENDENT TELE TRAFFIC
DIVISION RAJAHMUNDHRY 533 104.

* * * *

To

The Superintendent of
Post Offices, Kakinada Division,
Kakinada.

No. Est. 5/A/9293 dated at Rajahmundry the 22-2-93

Sub : Deputation of ED Messengers

Ref : This office lr. Est. 5/A/92.93 dated 22.12.92
and 11-1-1993.

- - -

Please refer to this office letters cited above
regarding relieving of ED Messengers from Traffic Wing. It is
proposed to replace the following ED Messengers by the surplus
casual mazdoors of Telecom, wing during the 1st week of March 91.

Therefore, you are requested to kindly arrange for
accommodation of the following ED Messengers in Postal Wing.

1. Sri T. Satyanarayana ED Messenger (Working as DTO Samalkot)
2. Sri. Gummadi Venkateswara Rao ED Messenger (Working at TC Peddapuram).
3. Sri Shaik Madar ED Messenger (Working at TC, Peddapuram).

- - -

(N.N. MURTHY)
Telegraph Traffic Division,
Rajahmundry - 533104.

Copy to :

1. The Telegraph master i/c DTO Samalkot.	1. The ED Messengers may be informed accordingly.
2. Incharge TC Peddapuram.	1.
3. The Director TT AP Hyderabad.	1.
4. The Sub Postmaster, Peddapuram.	1.
5. The Postmaster, Samalkot.	1.
6. Office Copy.	1.

Superintendent
Telegraph Traffic Division,
Rajahmundry 533104.
T.F. 74610

// TRUE COPY //

Cecil
ADVOCATE

DEPARTMENT OF TELECOM
OFFICE OF THE S.D.E. (urpos), PEDDAPURAM.

Lr.No. TC-2/PEP/95-97 . dated at PRF the 29.05.1997.

Sub:- Reliving orders to E.D. Messengers - Reg.

Ref:- S.D.O. Telecom, SLK No.E-3/97-98/72
dated 15.5.1997.

-00-

With reference to the above cited letter, the following officials who are working on deputation at Telecom centre, Peddapuram are hereby relieved on A/N of 25.5.1997 with instructions to report Sub Divisional Inspector, Post Office, Peddapuram.

1. Sri Sk. Madar ED Messenger TC, PEP
2. Sri G. Venkateswara Rao ED Messenger TC, PEP

Sub-Divisional Engineer Telecom
Groups
PEDDAPURAM, 533437.

Copy to :

1 & 2 Officials through I/C,TC,PEP.

3. SDE (HRD) O/o.GMT, RMY.
4. DET (R) KD
5. SDOT, SLK.
6. SDI, PO, PEP
7. STT % GMT, RMY
8. I/S, TC, PEP

TRUE COPY
C. S. S.
ADVOCATE

(S. white)

ANNEXURE No. 7

Annexure A-8

No. 15
18

Copy of DG P&T, New Delhi Letter No. 253/41/78-STN dt. 15-2-85.

Sub:- Absorption of E.D. Messengers in a DTO after conversion of C.O.

-000-

It has been represented to this office by the T-III & T, IV Union CHQ, that in some circles E.D. Messengers are being terminated after conversion of C.O. into DTO. The case has been considered and it has been decided that till a policy decision is taken on the issue against vacancies of messengers in a DTO, E.D. Messengers, whose services are likely to be terminated consequent on conversion of CO into DTO, may be posted on deputation till they get absorbed in Postal Branch.

sd/-
(V. RAMASWAMY)
Asst. Director General (STN).

TRUE COPY
ADVOCATE

DEPARTMENT OF POSTS INDIA

From :

To

Office of the
Sub-Divisional Inspector (post),
Peddapuram Sub-Division,
PEDDAPURAM-533437.

The SPM
PEDDAPURAM.

NO. PF/EDMS/Kpath dated at the 26.5.97

Sub:- Absorbtion of ED Messenger-Peddapuram.

Sk.Madar a thrown-out ED messenger, Peddapuram SO
is appointed as ED messenger, Katravulapalli BO with immediate
effect by terminating the services of Sri D. Jahangir.

Please admit Sk.Madar as ED messenger, Katravulapalli
and get a sum of Rs.10/- submitted through M.O. to Anantapur
Postal Employees Co-op credit society Anantapur towards FG
Bond and submit the charge report with particulars of MO
number.

Sub-Divisional Inspector (post)
Peddapuram Sub-Division,
PEDDAPURAM-533437.

Copy to :-

1. Sk.Madar thrown-out ED messenger.
He is directed to report to the
SPM, Peddapuram SO.

Sub Divisional Inspector(post)
Peddapuram Sub-Division
PEDDAPURAM-533437.

TRUE COPY

ADVOCATE

DEPARTMENT OF POSTSINDIA

Office of the
Sub-Divisional Inspector (post),
Peddapuram Sub-Division,
PEDDAPURAM-533437.

To
The SPM
Jaggampet S.O.

No. PF/FD PKR/97 dt.at PDP 26.5.97

Sub:- Absorbtion of thrown-out ED messenger
of PBPSO.

-000-

G.Venkateswara Rao thrown-out ED messenger, Peddapuram
S.O. is appointed as ED PKR, Jaggampet with immediate effect and
the services of Sri P.V. Srinivasan is provisionally appointed
as EDPKgr are terminated with immediate effect.

Please admit G.V. Rao as ED Pkr and get a sum of
Rs. 10/- submitted through M.O. to Anantapur Postal employees
Co-op. Society, Anantapur by G.V. Rao towards FB Bond and submit
the charge reports alongwith the particulars of M.O. number.

Sub-Divisional Inspector (post)
Peddapuram Sub-Division
PEDDAPURAM-533437.

Copy to :

G.V. Rao, thrown-out, ED messenger.
He is directed to report to the SPM, Jaggampet
immediately.

Sub-Divisional Inspector (post)
Peddapuram Sub-Division
PEDDAPURAM-533437.

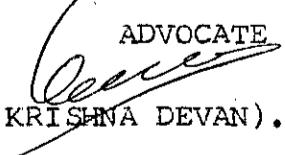
TRUE COPY


ADVOCATE

No policy decision has been taken by the directorate's of both the department till this day regarding repatriation or absorption in or from telecom wing. Sri Gummadi Venkateswar Rao and Shaik Madar all other Telegraph Messengers who have approached the Hon'ble Tribunal and were treated uniformly with directions but only these two persons were picked and chosen for repatriation to postal wing. Thus the Sub-Divisional Engineer, Telecom Groups, Peddapuram in the Lr.No. TC-2/PEP/95-97 dated at Peddapuram the 24.5.97 has ordered them to be relieved and reported to Sub-Divisional Inspector, Peddapuram and thus both the applicants were relieved. According to my information, no requisition has ever made by the postal authorities for repatriation of those Telegraph Messengers working in Telecom Centres. This decision might be the one which is taken by the SDE (G), Peddapuram unilaterally. You being the head of the telegraphic Division is the competent person to order the repatriation of those candidates but the SDE (G), Peddapuram ~~might~~ ^{have} acted after obtaining your order or directions. This has resulted into mental agony, financial loss and affected the scope of service of the employees. Even if you have approved the action of the SDE (G), Peddapuram dated 24.5.97, is in violation of the CAT directions in O.A. No. 203/93 dated 6.1.97 which was solely relied upon the DGPNT letter dated 15.02.85. Thus you have incurred the Contempt of court and also over riding the authority of head of the department.

Therefore, I am instructed to inform you that unless the order issued by the SDE groups, Peddapuram lr.No. dated 24.5.97 whereby the Telegraph Messengers are relieved from the Telecom Wing is rescinded by your orders, the contempt of court proceedings will be against you alone the costs of which have to be borne by you alone. Time two days for rescinding the order passed by the SDE (G), Peddapuram dated 24.05.1997.

Date: 16.08.1997.

ADVOCATE

 (KRISHNA DEVAN).

From :

To

KRISHNA DEVAN
Advocate
2-2-1105/11,
Tilaknagar,
Hyderabad.

The Superintendent,
Telegraph Traffic Division,
Rajahmundry.

Phone No. 4652904.

Sir/Madam,

On behalf of Gummadi Venkateswar Rao and Shaik Madar who were working as Telegraph Messengers in Telecom Centre, Peddapuram, I am to inform you that,

Sri Gummadi Venkateswar Rao and Shaik Madar were working as Telegraph Messengers in the erstwhile combined P & T offices for the last so many years. On bifurcation as separate wing of Telecom, the telegraph branches in the combined offices were closed and the entire work transferred to the telecom centres along with the delivery staff including telegraph messengers under the cover of deputation. According to DGPNT, New Delhi Lr. 271-11/72-STB-I (SPB-I) dated 11.8.75,

" It has been decided that the option should be given to the staff whose scope of service is affected by the conversion of the combined offices into departmental offices".

While working as Telegraph Messengers in Peddapuram Telecom Centre, they were sought to be repatriated to the Postal Wing vide your letter dated Estt/5/A/92-93 dated 22.2.93. Against that these two persons have filed O.A. No. 203/93 on 8.3.93 seeking absorption as Group-D Telegraph Messengers in the Telecom Wing. It was urged therein that DGPNT Lr. No. 253/41/78-STN dated 15.2.85 (letter enclosed), the Hon'ble CAT issued directions not to repatriate them unless the policy decision is taken at the highest level in both the departments.

Contd.. 2

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, HYDERABAD, ENCL
AT HYDERABAD.

OA.1180 of 1994

Date of Order: 28-9-1994

Between:-

1. N.V. Suryanarayana
2. M. Peddil Reddy
3. U.V.V. Suryanarayana
4. N. Rangaraju Rao
5. B. Nagarjun Rao
6. Mhd. Tajuddin Khan
7. N. Rajeswara Rao
8. Y. Suryachandra Rao
9. V. Satyamnarayana



Applicants.

..... And

1. The Superintendent, Telegraph Traffic Division, Rajahmundry-533 104.
2. The Assistant Superintendent, TT, Tanuku-534 211.
3. The Director, TT the CGMT, A.P. Hyderabad-500 001.
4. The Senior Superintendent of Post Offices, Amalapuram-533 212.
5. The Sub-Divisional Inspector, Postal, Razole-533 242.
6. The Senior Superintendent of Post Offices, Eluru-534 001.
7. The Superintendent of Post Offices, Tadepalligudem-534 001.
8. The Superintendent of Post Offices, Rajahmundry-533 104.
9. The Chief General Manager, Telecommunications, A.P. Hyderabad-500 001.
10. The Chief Postmaster-General, Posts & Telegraph, Hyderabad-500 001.
11. The Director-General, Posts (rep. Union of India), Saheb Bhawan, New Delhi-110 001.
12. The Director-General, Posts (rep. Union of India) Dak Bhawan, New Delhi-110 001.

..... Respondents.

Counsel for the Applicants : Mr. C. Suryanarayana, Advocate.

Counsel for the Respondents: Mr. N. R. Devaraj, Sr. CGSC, CAT, Hyd.

CORAM:

Hon'ble Mr. Justice V. Neeladri Rao, Vice-Chairman

Hon'ble Sri R. Rangaraju, Member Administrative.

Hon'ble Tribunal made the following order:-

Until further orders, the applicant should not be repatriated to postal side.

CERTIFIED TO BE TRUE COPY

Date..... 28/9/1994 Dy. Registrar (JUL)

Court Officer
Central Administrative Tribunal
Hyderabad Bench

Copy to:- Hyderabad

1. Mr. The Superintendent, Telegraph Traffic Division, Rajahmundry-533 104.
2. The Assistant Superintendent, TT, Tanuku-534 211.

..... 2

24

CENTRAL ADMINISTRATIVE TRIBUNAL,
HYDERABAD BENCH: HYDERABAD

C.A. NO. 1270/97 CR

DATE OF DECISION: 15-10-1997

Sri Gummadi Venkateswar Rao & anr

PETITIONER(S)

Mr. Krishna Devan

ADVOCATE FOR THE
PETITIONER(S)

VERSUS
U.O. I & Ors.

RESPONDENT(S)

Mr. N. R. Devraj

ADVOCATE FOR THE
RESPONDENT(S)

THE HON'BLE Shri H. Rajendra Prasad, Member (A)

THE HON'BLE Shri B.S. Jai Parameshwar, Member (J)

1. Whether Reporters of local papers may be allowed to see the judgement? No
2. To be referred to the Reporter or not? No
3. Whether their Lordships wish to see the fair copy of the judgement? No
4. Whether the judgement ~~xxx~~ is to be circulated to the other Benches? No

JUDGEMENT DELIVERED BY HON'BLE Shri B.S. Jai Parameshwar, M(J) *Jai*

25

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

HYDERABAD BENCH

O.A. 1270/97

Date of decision: 15-10-1997

Between:

1. Sri Gummadi Venkateswar Rao
2. Sri Shaik Madar

.. Applicants

-versus-

1. The Union of India,
Director General, Telecom,
Ashok Road,
New Delhi.
2. The Director General,
Department of Posts,
Sansad Marg,
New Delhi - 110 001.
3. The Superintendent, Telegraph,
Traffic Division,
Rajahmundry - 533 104.
4. The Superintendent of Post Office,
East Godavari Dist., Kakinada Division
533 001.
5. The Sub-Divisional Engineer (Telecom)
Groups, Peddapuram 533 437.
6. The Sub-Divisional Inspector (Postal)
Peddapuram Sub. Division,
533 437. .. Respondents.

Counsel for the applicants : Mr. Krishna Devan

Counsel for the respondents : Mr. N.R. Devraj

Coram:

Hon'ble Shri H. Rajendra Prasad, Member (A)

Hon'ble Shri B.S. Jai Parameshwar, Member (J)

Jai
...2/-

Date: 15-10-1997

JUDGEMENT

(Per Hon'ble Shri B.S. Jai Parameshwar, Member(J)

Heard Mr. Krishna Devan ^{Learned Counsel} for the applicant
and Mr. N.R. Devraj ^{Learned Sr.S.C.} for the respondents.

2. There are two applicants in this OA.

They were working as ED Telegraph Messengers

in the erstwhile Post & Telegraphs Department.

After bifurcation of the department into

Department of Posts and Department of Telecommu-

nications, the applicants have been working on

deputation basis at the Telecom Centres. Vide

proceedings No.TC-2/PEP/95-97 dt. 29-5-97,

Annexure-6, the applicant were relieved on the

A/N of 25-5-97 with instructions to report

Sub Divisional Inspector, Post Office, Peddapuram.

3. Relying upon the Rule 527 of P&T Manual

Vol.IV and also relying on order dt. 11-8-75 and

20-2-1976 of the DG P&T the applicants have filed

this OA challenging the order of their repatriation

to the Postal Department and to direct the

respondent No.3 to take back them as Telegraph

Messengers in the Telecom Centres till a policy

decision is ~~taken~~ taken by the Director Generals

of both the wings by holding that the action of

the 5th respondent in passing the impugned order dt. 29-5-97 as arbitrary and discriminatory.

4. The fact that the applicants were working in the Telecom Centres on deputation basis is not in dispute. The applicants cannot claim as a matter of right to continue in the telecom centres. When the Postal Department - parent department is willing to take them back the applicants are bound to obey the order and report to Postal Department. Accordingly, it appears that by the impugned order dt. 29-5-97 the applicants have been relieved of their duties with instructions to report to Sub Divisional Inspector, Post Office, Peddapuram.

5. Since some of the officials who are working on deputation are willing to continue in the telecommunication wing we feel it proper and essential to direct respondent No.2 and GM, Telecommunications to take a policy decision as to absorption of such of the employees who have been working on deputation basis and suitably take a ~~decision~~ decision. Such a decision will be applicable to the applicants also.

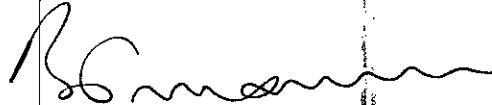
In case decision is taken to absorb ^{them} in the Telecommunication wing then the applicants can ~~offer~~ ^{excuse} their option to

- : 4 : -

28

to go back to the Department of Telecommunication.

With this observation the OA is disposed of at ~~the~~
admission stage ~~with~~ No order as to costs.


(B.S. JAI PARAMESHWAR)
Member (J)


(H. RAJENDRA PRASAD)
Member (A)

15.10.97

Dated 15th October, 1997
Dictated in the open court

MD


Deputy Registrar

0.A.1270/97.

To

1. The Director General, Telecom,
Union of India, Ashok Road, New Delhi.
2. The Director General,
Dept. of Posts, Sansad Marg,
New Delhi-1.
3. The Superintendent, Telegraph, Traffic Division,
Rajahmundry-104.
4. The Superintendent of Post Office,
E.G.Dist. Kakinada Division-1.
5. The Sub Divisional Engineer (Telecom)
Groups, Peddapuram -437.
6. One copy to Sub Divisional Inspector (Postal)
Peddapuram Sub Division, 437.
7. One copy to Mr. Krishna Devan, Advocate, CAT.Hyd.
8. One copy to Mr. N.R. Devraj, Sr.CGSC.CAT.Hyd.
9. One copy to HBSUP.M.(J). CAT.Hyd.
10. One copy to D.R.(A) CAT.Hyd.
11. One spare copy.

pvm.

24/10/97

I Court.

TYPED BY:

CHECKED BY:

COMPARED BY:

APPROVED BY:

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR.JUSTICE.
VICE-CHAIRMAN

And

THE HON'BLE MR.H.RAJENDRA PRASAD :M(A)
The Hon'ble Mr. B.S. Tai Parameswar :M(S)

DATED:- 15/10/97

~~ORDER/JUDGMENT.~~

M.A.,/RA.,/C-A.No..

in

O.A.No. 1270/97,

T.A.No.

(W.P.)

Admitted and Interim directions issued.

Allowed

Disposed of with Directions.

Dismissed.

Dismissed as withdrawn

Dismissed for default

Ordered/Rejected

No order as to costs.

