

34

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH AT HYDERABAD

O.A.NO. 1491/97.

Date of Order: 11-11-97.

Between:

P.Madhava Rao.

.. Applicant.

and

1. The Postmaster General,
Vijayawada Region, Vijayawada-2.
2. The Director of Postal Services,
O/o the Postmaster General, Vijayawada-2.
3. The Supdt.of Post Offices,
Machilipatnam Division, Machilipatnam-1.
4. Sri R.Lakshminarayana,
Enquiry Officer.

.. Respondents.

For the Applicat: Mr. S.Ramakrishna Rao, Advocate

For the Respondents: Mr. J.R.Gopal Rao, Addl.CGSC.

CORAM:

THE HON'BLE MR.H.RAJENDRA PRASAD : MEMBER(ADMN)

THE HON'BLE MR.B.S.JAI PARAMESWAR : MEMBER(JUDL)

The Tribunal madethe following Order:-

Heard Sri S.Ramakrishna Rao, for the applicant and
Sri J.R.Gopal Rao, for respondents.

2. Notice before admission. Reply to be filed within
4 weeks i.e., on or before 10.12.1997. To be listed on 11-12-97
for further orders.

3. As an interim measure it is directed that further
hearings in the enquiry under Rule 18 of CCS(CCA) Rules, 1965
against the applicant shall not be held until 15-12-1997.

AC *M*
Deputy Registrar.

To

1. The Postmaster General, Vijayawada Region, Vijayawada-2.
2. The Director of Postal Services, O/o the Postmaster General,
Vijayawada-2.
3. The Superintendent of Post Offices, Machilipatnam Division,
Machilipatnam-1.
4. Sri R.Lakshminarayana, Enquiry Officer & Asst.Supt.of
Post Offices(HQ) O/o the Supdt.of Post Offices, Machilipatnam-1.
5. One copy to Mr.S.Ramakrishna Rao, Advocate, CAT.Hyd.
6. One copy to Mr. J.R.Gopal Rao, Addl.CGSC. CAT.Hyd.
7. One spare copy.

pvm

~~c.c. today
11/11/97~~

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. Jairamswami : M(G)

DATED:- 11/11/97

ORDER/JUDGMENT.

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

in

O.A.No. 1491/97.

T.A.No. (W.P.)

Admitted and Interim directions issued.

Allowed

Disposed of with Directions.

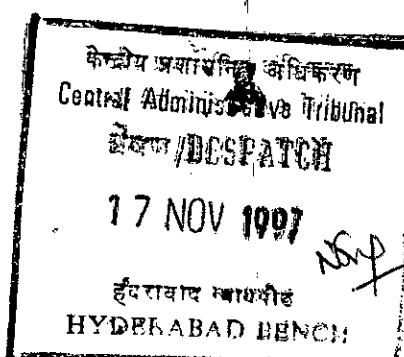
Dismissed.

Dismissed as withdrawn

Dismissed for default

Ordered/Rejected

No order as to costs.



36

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH : HYDERABAD.

OA. NO.1491/97

Between:

P. Madhava Rao

Dated: 11.12.1997

Applicant

And

1. The Postmaster General,
Vijayawada Region,
Vijayawada.
2. The Director of Postal Services,
O/o The Postmaster General,
Vijayawada.
3. The Superintendent of Post
Offices, Machilipatnam Division,
Machilipatnam. Respondents.
4. Sri R. Lakshminarayana

Counsel for the applicant : Mr. S. Rama Krishna Rao
Counsel for the respondents : Mr. J. R. Gopal Rao

CORAM:

THE HON'BLE MR. R. RANGARAJAN : MEMBER (A)

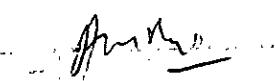
THE HON'BLE MR. B.S. JAI PARAMESWAR : MEMBER (J)

* * *

THE TRIBUNAL MADE THE FOLLOWING ORDERS:-

Heard Sri S. Ramakrishna Rao, counsel for the applicant
and Sri Phalguna Rao for Sri J.R. Gopal Rao for respondents.

Admit. The interim order dated 11.11.1997 will
continue until further orders.


Deputy Registrar

- 2 -

DA. 1491/97

1. The Postmaster General, Vijayawada Region, Vijayawada.
2. The Director of Postal Services, O/o The Postmaster General, Vijayawada.
3. The Superintendent of Post Offices, Machilipatnam Division, Machilipatnam.
4. One copy to Mr. S. Ramakrishna Rao, Advocate, CAT., Hyd.
5. One copy to Mr. J.R. Gopala Rao, Addl. CGSC., CAT., Hyd.
6. One duplicate.
7. ~~Sir~~ R. Krishnamoorthy, Enquiry Officer & Asst. Supdt. of Post offices (H&A), O/o the Supdt. of Post offices, Machilipatnam.

TYPED BY
COMPARED BY

CHECKED BY
APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD

THE HON'BLE SHRI R.RANGARAJAN : M(A)

AND

THE HON'BLE SHRI B.S.JAI PARAMESHWAR :
M (J)

Dated: 11/12/97

ORDER/JUDGMENT

M.A/R.A/G.A.NO.

in
O.A.NO: 1491/97

Admitted and Interim Directions
Issued.

Allowed

Disposed of with Directions

Dismissed

Dismissed as withdrawn

Dismissed for Default

Ordered/Rejected

No order as to costs.

YLKR

II Court

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
HYDERABAD/DESPATCH

15 DEC 1997

HYDERABAD BENCH

39

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

C.A.1491/97.

Dt. of Decision : 03-03-99.

P. Madhava Rao

.. Applicant.

vs

1. The Postmaster General,
Vijayawada Region, Vijayawada-2.
2. The Director of Postal Services,
O/o the Postmaster General,
Vijayawada-2.
3. The Supdt. of Post Offices,
Machilipatnam Division,
Machilipatnam-1.
4. Shri R. Lakshminarayana

.. Respondents.

Counsel for the applicant : Mr. S. Ramakrishna Rao

Counsel for the respondents : Mr. J. R. Gopala Rao, Addl. CGSC.

CORAM:-

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

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

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ORDER

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

Heard Mr.S.Ramakrishna Rao, learned counsel for the applicant and Mrs.Sakthi for Mr.J.R.Gopala Rao, learned counsel for the respondents. Notice has been served on R-4. But called absent.

2. The applicant in this OA who is Postal Assistant Machilipatnam Division was issued with a charge memo No.F1-1/96-97 dated 22-1-97. An enquiry officer was nominated. The applicant nominated one B.V.Narayana retired APMG, Tummuru Village, Naidupet as A.G.S. That nomination of B.V.Narayana was rejected by the enquiry officer by the impugned order dated 29-04-97 (Annexure-I). The enquiry officer has rejected the nomination of B.V.Narayana to assist the applicant as his defence counsel was rejected on three grounds. They are

1) Sri B.V.Narayana is at Tummuru Village (Via), Naidupet, Nellore District as said in his letter dated 23-4-97 and as such huge amounts of TA will have to be incurred for his attendance to the enquiries.

2) In addition to the above Sri B.V.Narayana in his letter dated 23-4-97, informed that the case in question is the fifth case in which he is working as AGS and there may be hindrance in his attendance in the present case as Defence Assistant in view of the number of cases on hand and his age.

3) The third one is that the P.O. in the case is a Non-Gazetted officer whereas the Defence Assistant is a senior retired Gazetted officer in the Postal Department. Therefore the status of the P.O. does not justify to accept Sri B.V.Narayana as Defence Assistant.

3. The applicant appealed against that order to R-3 as provided in the Department of Per.& Trg., O.M.No.11012/3/86-Est. (A), dated 29-04-86 as stated in the Government of India decision incorporated at Note-17 under the Rule-14 of the CCS (CCA) Rules. The said authority viz., R-3 herein rejected his appeal by the impugned order No.F1/1/96-97 dt.26-5-97 (Annexure-I B).

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4. This OA is filed to set aside the impugned order of R-4 / No. Inq. 1/97 dated 29-4-97 as upheld by the R-3 order No. F1-1/ 96-97 dated 26-05-97 refusing to permit the applicant to nominate A.G.S. of his choice by holding the impugned orders as arbitrary, illegal, unwarranted, frivolous and for a consequential direction to the respondents to allow the AGS nominated by the applicant according to his choice, which he had already exercised, duly permitting the AGS to assist the applicant and also to direct the respondents No. 1 to 3 to appoint a separate I.O. as continuing the present I.O. can lead to jeopardise the interest of the applicant.

5. The applicant nominated B.V. Narayana retired APMG of Tummuru Village, Naidupet, Nellore District as his AGS. The Rule-8 (a) & (b) Under Rule-14 of the CCS (CCA) Rules provides for nomination of assisting Government servant to a delinquent employee to ^{defend} argue his case at the time of enquiry. The Rule 8 (a) & (b) under Rule-14 which reproduced below:-

"The Government servant may take the assistance of any other Government servant posted in any office either at his headquarters or at the place where the inquiry is held, to present the case on his behalf, but may not engage a legal practitioner for the purpose, unless the Presenting Officer appointed by the disciplinary authority is a legal practitioner, or, the disciplinary authority, having regard to the circumstances of the case, so permits:

Provided that the Government servant may take the assistance of any other Government servant posted at any other station, if the enquiring authority having regard to the circumstances of the case, and for reasons to be recorded in writing so permits.

NOTE - The Government servant shall not take the assistance of any other Government servant who has (three) pending disciplinary cases on hand in which he has to give assistance.

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(b) The Government servant may also take the assistance of a retired Government servant to present the case on his behalf, subject to such conditions as may be specified by the President from time to time by general or special order in this behalf."

The enquiry officer has got discretion to accept or reject the nominated AGS for reasons to be indicated. The enquiry officer had rejected the case of B.V.Narayana as AGS on 3 account which are enumerated above.

6. ^{and} The second and third grounds is not a relevant consideration for rejection of the AGS nominated by the applicant. The sub-para-(iv) of Note-19 under Rule-14 is relevant in this connection. The above rule is contained in the DoP&T O.M.No.11012/5/92-Estt.(A) dated 22-5-92. The relevant para reads as below:-

"The retired Government servant concerned should not act as defence assistant in more than five cases at a time. The retired Government servant should satisfy the inquiring officer that he does not have more than five cases at hand including the case in question."

As per the above para the retired Government servant can act as a AGS if he is not ~~AGS~~ ^{defending} for more than 5 cases at a time. The rejection of the AGS in this case is that the nominated AGS is having 5 cases including the present case. The above rejection on that ground is not proper and hence the second reason given by R-4 is necessarily to be rejected. The third reason given for rejection of the case is the AGS is a ^{retired} Gazetted Officer whereas the ~~engaged~~ ^{P.O} ~~employee~~ is a Non-Gazetted Officer and hence the nomination of gazetted officer to assist the applicant is not permitted. No rule has been quoted in this connection. The applicant is at liberty to decide the suitable person who can defend his case

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effectively. There is no rule shown to us saying that non-gazetted employee cannot take the assistance of a gazetted employee ~~whether~~ serving or retired to defend his case. Hence, the third ground is also rejected. However B.V.Narayana is not from the same place where the applicant is headquartered or where the enquiry is going to take place. He is from a different place. The R-4 has rejected on the ground that AGS has to pay huge TA for attending the enquiry. No rule to show that payment of TA is one of the consideration for rejecting the nomination of AGS. Hence, the rejection on that ground also does not appear to be in order. However, we do not like to pass any order in this connection as the disciplinary authority has to pass a suitable order in this connection. The appeal filed by the applicant has been rejected solely relying on the 3 reasons given by the R-4. As stated earlier the second and third reasons ~~are~~ is unwarranted. The first reason given by R-4 also needs ~~of the~~ reconsideration. Hence, the appellate order ~~and~~ disciplinary authority order dated 26-05-97 has to be set aside and remitted back to that authority for reconsideration of that issue in accordance with law. The applicant also requests for change of ~~an~~ enquiry officer that he apprehends that the enquiry officer has rejected his ~~xxx~~ nomination of AGS and hence on that account he has biased against the applicant. It is not necessary for us to take a decision to change the I.O. as ~~xxx~~ we remitted back to the disciplinary authority to take a decision whether the present enquiry officer viz., R-4 herein is to be continued or not.

Ministry
 Depends on the reply to be given by the disciplinary authority on the basis of his reconsideration. The applicant may take up his case suitably at the appropriate time if he still feels that the ~~P.O~~ as E.O is biased against him.

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7. In view of what is stated above, the impugned order No. Inq.1/97 dated 29-4-97 of R-4 and the order No. F1-1/96-97 dated 26-5-97 of R-3 are set aside. The R-3 is directed to reconsider the whole issue in the light of the facts and circumstances of the case keeping our observations in mind and decide the case of engaging B.V.Narayana as defence counsel for the applicant as nominated by the applicant herein. The applicant if so advised may also submit another representation as follow up ^{of} earlier representation within a period of 21 days from the date of receipt of a copy of this judgement. If such a representation is received the disciplinary authority shall dispose of his earlier representation ^{with} strengthened by the representation to be filed by him in accordance with law.

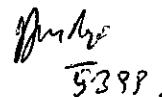
8. The OA is ordered accordingly. No costs.


(B.S. JAI PARAMESHWAR)
MEMBER (JUDL.)

3.399


(R. RANGARAJAN)
MEMBER (ADMN.)

Dated : The 03rd March, 1999.
(Dictated in the Open Court)


D.L.
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1st and IIInd Court. 12/3/99

Copy to:

1. HDHND
2. HHRP M(A)
3. HSSP M(J)
4. D.R. (A)
5. SPARE

Typed By
Compared by

Checked by
Approved by

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH:HYDERABAD.

THE HON'BLE MR. JUSTICE D.H.NASIR:
VICE - CHAIRMAN

THE HON'BLE H.RAJENDRA PRASAD
MEMBER (A)

THE HON'BLE R.RANGARAJAN
MEMBER (A)

THE HON'BLE MR.B.S.JAI PARAMESHWAR:
MEMBER (J)

DATED: 3/3/99

ORDER/JUDGMENT

M.A/R.A/C.P.NO

IN

C.P.NO: 1491/97

ADMITTED AND INTERIM DIRECTIONS
ISSUED.

ALLOWED

DISPOSED OF WITH DIRECTIONS

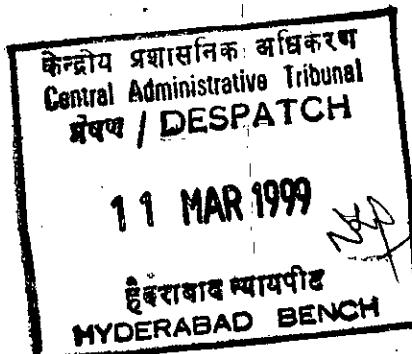
DISMISSED

DISMISSED AS WITHDRAWN

ORDERED/REJECTED

NO ORDER AS TO COSTS

7 copies



Form No.8

(See Rule 29)

BY R.P.A.D.

CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH AT HYDERABAD

1st Floor, HACA Bhavan, Opp: Public Garden, Hyderabad-500 004. A.P.

ORIGINAL APPLICATION NO. 1491.

OF 1997.

Applicant (s)

V/S,

Respondent (s)

P. Mahadeva Rao.

The Postmaster General, Vijayawada &
3 others.

Represented by

Represented by

Advocate Shri:

S. Rama Krishna Rao.

Advocate Shri: J.R. Gopala Rao.
Addl. CGSC.

To

1. The Postmaster General, Vijayawada Region, Vijayawada. 520002.
2. The Director of Postal Services, O/o The Postmaster General Vijayawada.
3. Supdt. of Post Offices, Machilipatnam Division, Machilipatnam. 521001.
4. Shri R. Lakshminarayana. Enquiry Officer & Asst. Supdt. of Post Offices, (HQ) O/o the Supdt. of Post Offices, Machilipatnam. 521001.

Whereas an application filed by the above named applicant under Section 19 of the Administrative Tribunals Act, 1985, as in the copy annexed hereunto has been registered and upon preliminary hearing the Tribunal has directed that you should be given an opportunity to show cause why the application should not be admitted.

Notice is hereby given to you to appear in this Bench of the Tribunal in person or through a Legal Practitioner Presenting Officer in this matter at 10-30 A.M. of the Eleventh day of December, 1997, to show cause, why the application should not be admitted. If you fail to appear, the application will be heard and decided in your absence.

Given under my hand and the seal of this Tribunal, this the Eleventh day of November, 1997.

// BY ORDER OF THE TRIBUNAL //

Det
mehtar



Date : 18-11-97.

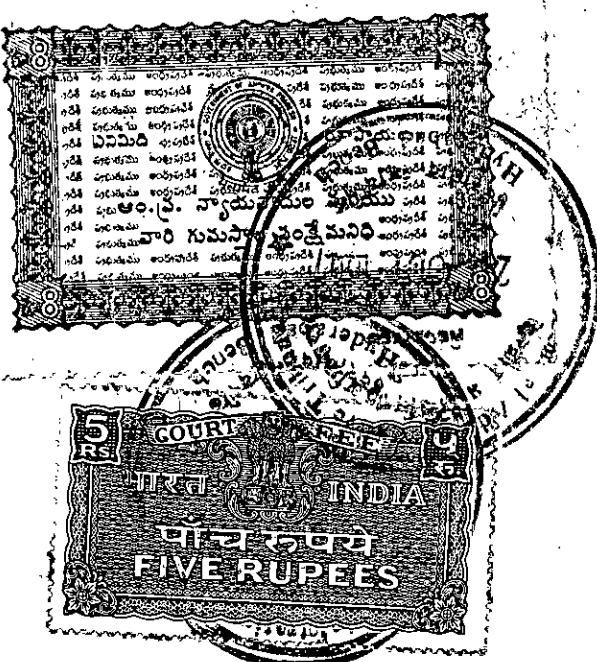
केंद्रीय प्रशासनिक अधिकारण
Central Administrative Tribunal

DESPATCH

26 NOV 1997

हैदराबाद न्यायपीठ
HYDERABAD BENCH

FOR REGISTRAR



IN THE COURT OF THE CENTRAL
ADMINISTRATIVE TRIBUNAL

AT HYDERABAD

O.A No. of 199

BETWEEN :-

P. Madhava Rao

PLAINTIFF
PETITIONER
APPELLANT
COMPLAINANT

AND

The Post master General DEFENDANT
Visagawada, Visagawada 300 RESPONDENT
ACCUSED
300

Accepted *R. Jain*
VAKALAT

Accepted
KJ

ACCEPTED

Advocate for : Appellant

Filed

25-10-1997

Address for Service

SANKA RAMAKRISHNA RAO

B.A.LL.B., P.G.D.C.R.S.,

ADVOCATE

1-1-10/2, Jainahar School Lane,
Jawahar Nagar, RTC X Road, Hyderabad-500 020.
PHONE : 638883

IN THE COURT OF THE CENTRAL ADMINISTRATIVE
TRIBUNAL, HYDERABAD BENCH
AT HYDERABAD

O.A No. 1491 of 1997

BETWEEN :- P. Madhava Rao

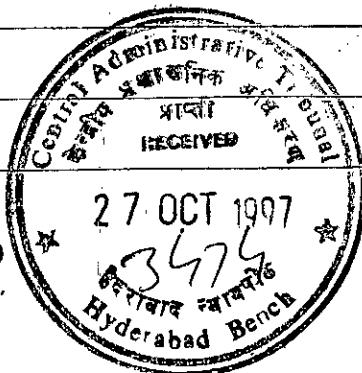
PLAINTIFF
PETITIONER
APPELLANT
COMPLAINANT

AND

DEFENDANT
RESPONDENT
ACCUSED

The Post Master General, Visayawada Region
Visayawada and 3 others

I/W P. Madhava Rao



do hereby appoint and retain

SANKA RAMAKRISHNA RAO
B.A.LL.B., P.G.D.C.R.S.
ADVOCATE

K.J. PRASAD, B.A, B.L
ADVOCATE

Advocate/s to appear for me/us in the above suit/case and to conduct and Prosecute (or defend) the same and all Proceedings that may be taken in respect of any application for execution of any decree or order Passed therein. I/we empower my/our, Advocates to appear in all miscellaneous proceedings in the above suit or matter till all decrees or orders are fully satisfied or adjusted to compromise and to obtain the return of documents and draw any moneys that might be payable to me/us in the said suit or of matter (and I/w do further empower my/our Advocates to accept my/our behalf, service of notice of all or any appeals or petitions filed in any court of Appeal, reference of Revision with regard to said suit or matter before disposal of the in this Honourable Court.)

P. Madhava Rao

Certified that the executant who is well acquainted with English Read this Vekalatnama the contents of the Vekalatnama were read out and explained in Telugu/Urdu to executant or he/she/ they being unacquainted with English/who appeared Perfectly to understand the same and signed or put his/her/their signature/s or/and marks and in my Presence.

Executed

27th

day or

October 1997

U. Siva Rao
Advocate

In The Central Administrative Tribunal.
At Hyderabad.

O.A.No. 1491/97



Memo of Appearance

Filed by: MR. T. R. Gopala Rao
Middle C.G.S.C.

Dated on: 3-3-98

CENTRAL ADMINISTRATIVE TRIBUNAL :: HYDERABAD BENCH

OA/RA/CP/MA. No. 1491

of 1997

P. Madhava Rao

... Applicant(s)

vs.

The Postmaster General, Vijayawada in
Vijayawada and others.

... Respondents

MEMO OF APPEARANCE

I, J.R. GOPALA RAO, ADVOCATE having been authorised by South Central Railway Represented by General Manager by the Central Government Authority notified under Sec. 14 of Administrative Tribunal Act, 1985 hereby appear for Respondents 1 to 4 and undertake to plead and act for them in all matters in the aforesaid case.

Hyderabad.

Dt. 3-3-98



J.R. GOPALA RAO
Signature & Designation of the
Counsel

(J.R. GOPALA RAO, ADVOCATE)
Addl. S.C. for Railways, C.G.

IN THE COURT OF APPEAL UNDER THE POSTAL SERVICES ACT, 1983.

Case No. 1491/97.

Let. o. Circt. 11-11-97.

Between:

I. Madrasa Rco.

... applicant.

and

1. The Postmaster General,
Vijaywada Division, Vijaywada-2.

2. The Director of Postal Services,
c/o the Postmaster General, Vijaywada-2.

3. The Supdt. of Post Officer,
Kachilipetam Division, Kachilipetam-1.

4. Mr. Lekhminarayana,
Enquiry Officer.

... respondent.

For the applicant Mr. S. Venkateswaran, Advocate

For the respondent Mr. J. S. Sopal, Advocate

Also:

Mr. R. Venkateswaran, I.A.S. (Additional)

Mr. S. S. S. J. S. Sopal, I.A.S. (Deputy)

The Tribunal made the following order:-

Order as follows:-

1. For the respondent Mr. J. S. Sopal to respond to the application and for Mr. S. Venkateswaran to respond to the application.

2. Notice before admission. Copy to be filed within 4 weeks i.e., on or before 10.12.1997. To be listed on 11-12-97 for further orders.

3. As an interim measure it is directed that further hearings in the enquiry under rule 10 of CIS(CCR) Rules, 1965 against the applicant should not be held until 18-12-1997.

CERTIFIED TO BE TRUE COPY

M. N.
महानगर न्यायालय का रजिस्टर (वायिक)
Court/Office/Dy. Registrar
महानगर न्यायालय
Central Administrative Tribunal
हैदराबाद न्यायालय

SC-X
Deputy Registrar.

Co HYDERABAD BENCH

1. The Postmaster General, Vijaywada Division, Vijaywada-2.
2. The Director of Postal Services, c/o the Postmaster General, Vijaywada-2.

3. The Superintendent of Post Officer, Kachilipetam Division, Kachilipetam-1.

4. Mr. Lekhminarayana, Enquiry Officer & Asst. Supdt. of Post Officer, c/o the Supdt. of Post Officer, Kachilipetam-1.

5. One copy to Mr. S. Venkateswaran, Advocate, Hyderabad.

6. One copy to Mr. J. S. Sopal, Advocate, Secy. C. S. I. Y.

7. One copy.

PVM

1. 2. 3. 4. 5. 6. 7.

