

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH AT HYDERABAD

O.A.NO. 1491/97.

Date of Order: 11-11-97.

Between:

P.Madhava Rao.

and

.. Applicant.

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 Applicant: 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)

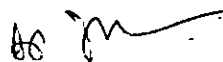
THE HON'BLE MR.B.S.JAI PARAMESWAR : MEMBER (JUDL)

The Tribunal made the 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.



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. Supdt. 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. Jaiprakashwar :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Dismissed as withdrawn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.

केन्द्रीय प्रशासनिक अधिकरण  
Central Administrative Tribunal  
दस्तावेज/DESPATCH  
17 NOV 1997  
हैदराबाद बेंच  
HYDERABAD BENCH

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH : HYDERABAD.

OA. NO.1491/97

Between:

Dated: 11.12.1997.

P. Madhava Rao

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 ORDER:-

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

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. *Sd/- R. Krishnamoorthy, Enquiry officer & Asst. Supt. of Post offices (HQ), O/o the Supt. of Post offices, Machilipatnam -*

err

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

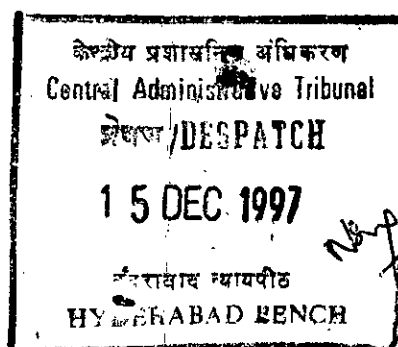
Dismissed for Default

Ordered/Rejected

No order as to costs.

YLKR

II Court



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

AT HYDERABAD

\*\*\*

O.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/e 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.)

R

-2-

ORDER

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 chargememo 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 A.G.S and there may be hindrance in his attendance in the present case as Defence Assistant in view of the number 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).

..3/-

-3-

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 <sup>defend</sup> ~~argue~~ his case at the time of enquiry. The Rule 8 (a) & (b) under Rule-14 <sup>is</sup> ~~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.

R

..4/-

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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 accounts which are enumerated above.

6. The second and third grounds <sup>are</sup> 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 <sup>defensive</sup> ~~AGS~~ 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 that the AGS is a <sup>retired</sup> Gazetted Officer whereas the <sup>P.D.</sup> ~~employee~~ ~~charged~~ 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

effectively. There is no rule shown to us saying that non-gazetted employee cannot take the assistance of a gazetted employee ~~xxxx~~ 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 <sup>are</sup> ~~is~~ unwarranted. The first reason given by R-4 also needs reconsideration. Hence, the appellate order ~~and~~ <sup>of the</sup> 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 enquiry officer <sup>as</sup> that he apprehends that the enquiry officer has rejected his ~~xxxx~~ nomination of AGS and hence on that account he <sup>is</sup> ~~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.

*misfrayss*  
 L 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.

*Dr*

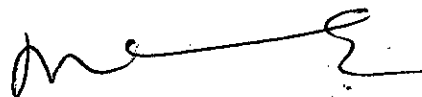
7. In view of what is stated above, the impugned order No.Inq.1/97 dated 29-4-97 of R-4 and the order No.F1-1/96-97 dated 26-5-97 of R-3 are set aside. The R-3 is directed to reconsider the whole issue in the light of the facts and circumstances of the case keeping our observations in mind and decide 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 <sup>his</sup> 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 strengthened by the representation to be filed by him <sup>now</sup> in accordance with law.

8. The OA is ordered accordingly. No costs.



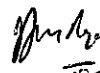
(B.S. JAI PARAMESHWAR)  
MEMBER (JUDL.)

3.399



(R. RANGARAJAN)  
MEMBER (ADMN.)

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

  
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Copy to:

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

Ist and IInd Court.

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.A.NO : 1491/97

ADMITTED AND INTERIM DIRECTIONS  
ISSUED.

ALLOWED

DISPOSED OF WITH DIRECTIONS

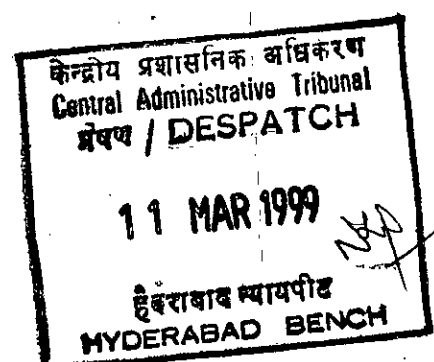
DISMISSED

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. Madhava 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

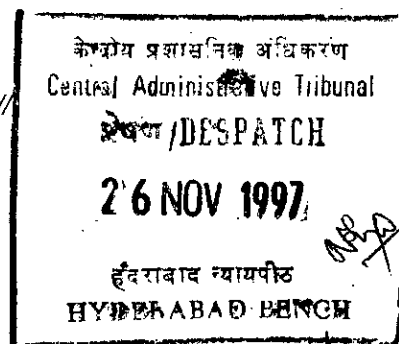
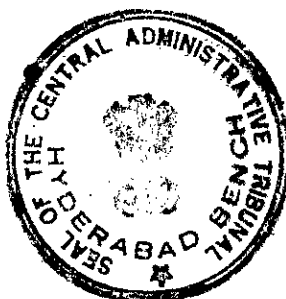
1. The Postmaster General, Vijayawada Region, Vijayawada. 520002.
2. The Director of Postal Services, O/o The Postmaster General Vijayawada.
3. Supdt. of Post Offices, Machilipatnam Division, Machilipatnam. 521001.
4. Shri R. Lakshminarayana. Enquiry Officer & Asst. Supdt. of Post Offices, (HQ) O/o the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

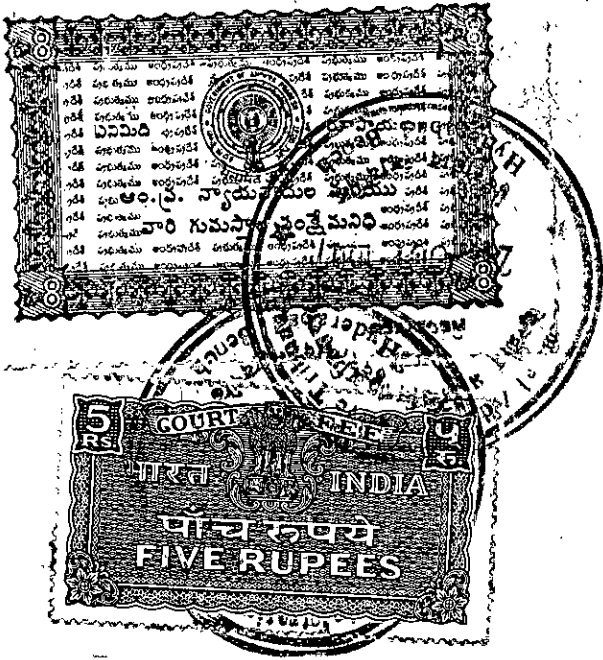
Given under my hand and the seal of this Tribunal, this the Eleventh day of November, 1997.

// BY ORDER OF THE TRIBUNAL //



Date : 18-11-97.

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  
Visagawada, Visagawada and 3 others

DEFENDANT  
RESPONDENT  
ACCUSED

Accepted  
VAKALAT  
Accepted  
KJP

ACCEPTED

Advocate for: Appellant

Filed

27-10-1997

Address for Service

**SANKA RAMAKRISHNA RAO**

B.A.L.L.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 CENTRA 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  
Visayawade and 3 others

I/W P. Madhava Rao

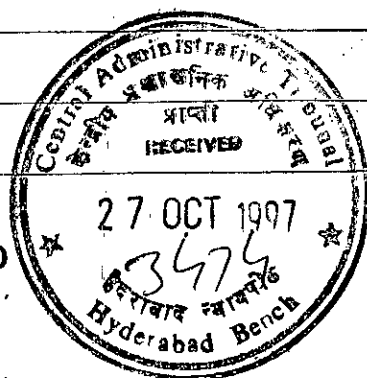
do hereby appoint and retain

SANKA RAMAKRISHNA RAO

B.A.L.L.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 acceptance 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 unacquaintant 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.

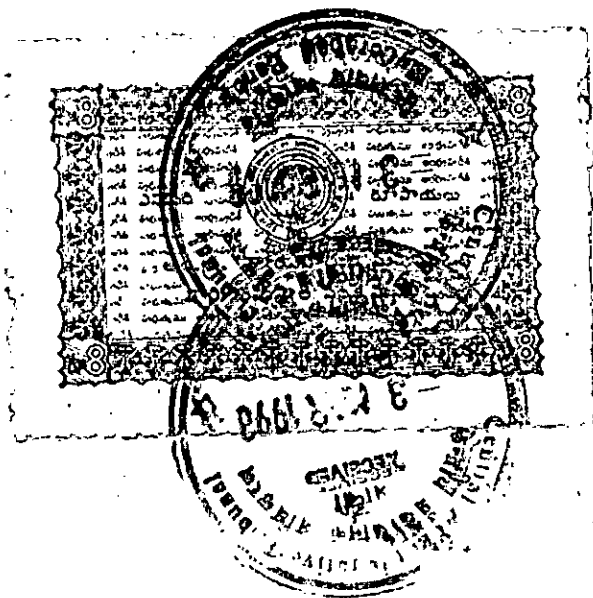
Executed

27th

day or

October 1997

U. Sivas  
Advocate



In The Central Administrative Tribunal.  
At Hyderabad.

O.A.No. 1491/97

Memo of Appearance

Filed by: MR. J. R. Gopala Rao  
Addl. CGSC.

Filed 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 &  
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 164 and undertake to plead and act for them in all matters in the afore-said 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 CENTRAL ADMINISTRATIVE TRIBUNAL (HYDERABAD BENCH)

Case No. 1491/97.

Date of Order: 11-11-97.

Between:

1. Madhava Rao.

.. Applicant.

and

1. The Postmaster General,  
Vijayawada Division, Vijayawada-2.
2. The Director of Postal Services,  
c/o the Postmaster General, Vijayawada-2.
3. The Supdt. of Post Officer,  
Machilipatnam Division, Machilipatnam-1.
4. Sri T. Lakshminarayana,  
Inquiry Officer.

.. Respondents.

For the Applicant: Mr. S. Venkatesh Rao, Advocate

For the Respondents: Mr. J. S. Sopal, Esq., Advocate.

On:

1. For the Applicant: Mr. S. Venkatesh Rao, Advocate  
2. For the Respondents: Mr. J. S. Sopal, Esq., Advocate.

The Tribunal made the following order:-

1. Mr. S. Venkatesh Rao, Advocate, for the Applicant and  
Mr. J. S. Sopal, Esq., Advocate, 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 10 of CAS(CCR) Rules, 1965  
against the applicant shall not be held until 15-12-1997.

प्रमाणित प्रति  
CERTIFIED TO BE TRUE COPY

संयोजक न्यायाधीश एवं रजिस्ट्रार (न्यायिक)

Court Officer/ Dy. Registrar

सेंट्रल प्रशासनिक न्यायाधीश

Central Administrative Tribunal

हैदराबाद ब्याचपीठ

HYDERABAD BENCH

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

Vijayawada-2.

3. The Superintendent of Post Officer, Machilipatnam Division,

Machilipatnam-1.

4. Sri T. Lakshminarayana, Inquiry Officer & Asst. Supdt. of

Post Officer, c/o the Supdt. of Post Officer, Machilipatnam-1.

5. One copy to Mr. S. Venkatesh Rao, Advocate, Hyderabad.

6. One copy to Mr. J. S. Sopal, Esq., Advocate, Hyderabad.

7. One more copy.

pva