

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH AT HYDERABAD

O.A.NO. 1513/97.

Date of Order: 11-11-97.

Between:

1. B.V. Bhaskara Raju.
2. Md. Ibrahim.

.. Applicants.

and

1. The Director General, Dept.of Telecom,
Ashok Road, New Delhi.
2. The Director General, Dept.of Posts,
Sansad Marg, Dak Bhavan, New Delhi.
3. The General Manager, Telecom,
E.G.Dist.Rajhmundry-104.
4. The Sub Divisional Engineer(Groups)
Telecom, Ramachandrapuram, E.G.Dist.
5. The Sub Divisional Inspector, (Postal)
Ramachandrapuram Sub Division,
Ramachandrapuram, E.G.Dist.

.. Respondents.

For the Applicants: Mr.Krishna Devan, Advocate

For the Respondents: Mr.N.R.Devraj, Sr.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 Krishna Devan for the applicants and
Sri Devraj for the respondents.

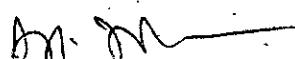
2. Admit. Notice. Reply in six weeks. As an interim
measure the applicant shall not be repatriated to the postal wing
until further orders and the posts which are now offered to them
on repatriation by the postal wing shall not be filled up.

3. In the counter, the following points to be clarified.

i) Will the applicants on their repatriation get the
benefit of continuation of service by way ofounting
the period of deputation as service in the parent
Department(Postal Department)?

ii) What is the policy of Telecom Dept. in this matter?
Are there any instructions issued by the Telecom
Commission or the Directorate in this regard?

If so a copy of the same should be annexed to the counter.


Deputy Registrar.

O.A.1513/97.

To

1. The Director General, Dept. of Telecom,
Ashok Road, New Delhi.
2. The Director General, Dept. of Posts,
Sansad Marg, Dak Bhavan, New Delhi.
3. The General Manager, Telecom,
E.G.Dist.Rajahmundry-104.
4. The Sub Divisional Engineer (Groups)
Telecom, Ramachandrapuram, E.G.Dist.
5. The Sub Divisional Inspector, (Postal)
Ramachandrapuram Sub Division, Ramachandrapuram
E.G.Dist.
6. One copy to Mr. Krishna Devan, Advocate, CAT.Hyd.
7. One copy to Mr.N.R.Devraj, Sr.CGSC. CAT.Hyd.
8. One sparecopy.

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**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH
AT HYDERABAD**

O.A.No.1513 of 1997

Between:

B.V.Bhaskara Raju & Another,

...Applicants

And

The Director General, Dept. of Telecom,
Ashok Road, New Delhi and 4 Others.

...Respondents

REPLY AFFIDAVIT ON BEHALF OF THE RESPONDENTS

I, G.V.R.Setty, S/o G.Govinda Setty aged 51 years R/o. Hyderabad solemnly affirm and state on oath as follows.

1. I am working as Assistant General Manager(Legal) in the office of the Chief General Manager Telecom., A.P.Circle, Hyderabad. I am well acquainted with the facts of the case. I am filing this affidavit on behalf of the respondents and I am authorised to do so. All the material averments save those that are expressly admitted herein are denied and the applicants are put to strict proof of the same.

2. It is submitted that the applicants filed this OA seeking relief of not repatriating the applicants from the Telecom Centre, Ramachandrapuram to Postal Wing till a policy decision is taken by the Director Generals of both the Postal and Telecom Wings in regard to absorption of the E.D. Telegraph Messengers in the Telecom Wing itself.

3. It is submitted that the applicants were initially appointed as Extra Departmental Telegraph Messenger (ED Messenger for brevity) provisional basis on 26.11.82 and 1.7.82 respectively (Annex-1, p-8 of the OA), when the Department of Postal & Telegraphs was a combined Department. Subsequently, the departments were bifurcated into independent departments namely - Department of Posts and Department of Telecom in the year 1985.


ATTESTOR
विधि अधिकारी

LAW OFFICER

म. प्र. दूरसंचार अ०.प्र. का कार्यालय
O/o. C.G.M. Telecom, A.P.
हैदराबाद/Hyderabad-500 001


DEPONENT
G. V. R. SETTY
A.G.M. (Legal)
for C.G.M. Telecom, A.P. Hyd.

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During the same period the combined offices i.e., the offices providing postal and telegraph services were also bifurcated and the Telegraph Wing has come under the Department of Telecom. Accordingly, it was proposed to terminate the services of ED Messengers. The Unions in Telegraph Wing represented the matter to the Central Headquarters and they were pleased to order posting of the ED Messengers, whose services are likely to be terminated consequent on conversion of combined offices into Departmental Telegraph Offices (DTOs for brevity) on deputation basis till they get absorbed in Postal Branch (enclosed as Annexure R-1). As such the applicants were continued as ED Messenger in newly opened Telecom Centre at Ramachandrapuram as per the Superintendent In-Charge, DTO Kakinada orders dated 16.4.92 (Annex A-3 of the OA). The Sub-divisional Inspector(Postal), Kakinada has posted the applicants as E.D.M.C./DA, Someswaram B.O., and Kuvinapuram B.O. vide his letter dated 6.5.97(enclosed as Annexure R-2) and requested for early relief of the applicants. As a deputationist from Postal Wing, the applicants have no right for continuation in the Telecom Wing.

4. The applicants have earlier filed OA 437/93 before this Hon'ble Tribunal. The Hon'ble C.A.T., Hyderabad while disposing of the OAs on 6.1.97 [REDACTED]

[REDACTED] held as follows:-

“ In view of the above, the only direction that can be given in this OA is to relieve the applicants herein only when the postal department is prepared to receive them and accommodate them in the postal wing. Till such time no requisition is received from the postal department, the applicants should be continued in the present capacity under the Telecom wing. **Their regularisation in the postal wing will depend upon the rules in the postal wing on their absorption in the postal wing in their turn.”**

[Emphasis added]

11.11.97

5. The Hon'ble C.A.T., Hyderabad has passed its interim orders on [REDACTED]

[REDACTED] wherein it was held that the applicant shall not be repatriated to the Postal Wing

MS
ATTESTOR

विधि अ. । रा.
LAW OFFICES
म. म. प्र. दूरसंचार आ०प्र. भा कार्यालय
O/o. C.G.M. Telecom, A.P.
हैदराबाद/Hyderabad-500 001.

jean 21/4
DEPONENT

G. V. R. SETTY
A.G.M. (Legal)
for C.G.M. Telecom, A.P. Hyd.

until further orders. The Hon'ble C.A.T., Hyderabad further directed the respondents to clarify on :

- (1) benefit of continuation of service of deputation period in the parent department.
- (2) a copy of the further policy decision taken by the Department of Telecom.

In this regard it is submitted as follows:-

In pursuance to the interim orders of the Hon'ble C.A.T., Hyderabad the applicants are continued as ED Messengers. In reply to clarification sought by Hon'ble C.A.T., it is submitted that the Postal authorities have replied favourably (enclosed as Annexure R-3) in a similar OA No.1404/97 filed by T.Satyanarayana Murthy wherein similar interim orders were passed on the same day i.e., on 23.10.97. In reply to clarification (2), it is submitted that no further policy decision is taken so far.

6. It is submitted that the Hon'ble C.A.T., Hyderabad in OA 1227/94 filed by Kanna Sarangam has held in its orders dt. 2.7.97 as follows. (enclosed as Annexure R-4)

"The applicant shall be continued in the Telecommunications Wing till the Postal Wing issues the order directing the Telecommunications Department to relieve him to join the Postal Wing. Till such time, he will be continued in the Telecommunications Department in the present capacity."

Similar directions were given in the orders dt. 3.8.98 of Hon'ble C.A.T., Hyderabad in OA No.488/96 and in orders dt. 23.9.989 in OA No.1122/96. In the present case the Postal Department issued orders directing the Telecommunications Department to relieve them to join the Postal Department.

7. In reply to para 5.1 the Department of Telecom at present has no idea of going for recruitment of either Class-IV or Telegraph Messengers in view of a total ban on recruitment in Central Govt. services. Further it is submitted that the applicant is recruited by Postal Wing originally and has been working in Telecom department on deputation basis only. As such applicant has no claim for regular post in Department of Telecom.


ATTESTOR

विधि अधिकारी
LAW OFFICES
म. स. प्र. दूरसंचार अ०.प्र. का कार्यालय
O/o. C G. M. Telecom, A. P.
हैदराबाद/Hyderabad-500 001.


DEPONENT

G. V. R. SETTY
A.G.M. (Legal)
for C.G.M. Telecom, A.P. Hyd.

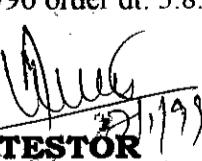
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8. In reply to para 5.2 of the OA it is submitted that the contentions raised by the applicants are not relevant as neither there is transfer of an appointment or establishment. It is the question of sending a deputationist to his parent wing. It is a settled legal position that a deputationist has no claim for continuation in the department.

9. In reply to para 5.7 of the OA it is submitted that the DG P&T orders dt. 15.2.85 are given in the context of termination of the services of ED Messengers on the conversion of Combined Offices into DTOs. The applicant is protected against termination by that order till a policy decision is taken. But it has no application where the deputationist services were called back by the parent department and where there is no termination is involved.

10. In reply to paras 5.4 to 5.7 of the OA it is submitted that continuation of a deputationist for any long period will not give the deputationist any vested right for absorption. The Hon'ble High Courts of Punjab and Haryana in Balraj Singh Sood Vs. Chief Commissioner, Union Territory Administration, Chandigarh (1985) 1 SLJ 200: (1985) 1 SLR 587 (P&H) has held that "Lending department can ask for return and loanee department can insist on returning an employee on deputation. An employee has no right to insist on serving the loanee department or administration. It cannot be said that reversion of the petitioner to his parent State was violative of an executive instruction issued by Government of India or Chandigarh Union Territory Administration." Similar view was taken on deputation by C.A.T., Lucknow Bench in Usha Bhugra Vs. Union of India (1996) 33 ATC 175 (Luck) in (1995) 2 SLJ (CAT) 458.

11. In reply to para 5.8 of the OA it is submitted that in view of the C.A.T., Hyderabad orders in subsequent OAs i.e., OA 1127/94 order dt. 2.7.97 followed by OA 488/96 order dt. 3.8.98 and OA 1122/96 order dt. 23/9/98, the applicant cannot rely upon the


ATTESTOR
विविध अ.वा.पा.रा.
LAW OFFICER
म. स. प्र. दूरसंचार अ०.प्र. का कार्यालय
O/o. C. G. M. Telecom, A. P.
हैदराबाद/Hyderabad 500 004.


DEPONENT
G. V. R. SETTY
A.G.M. (Legal)
for C.G.M. Telecom, A.P. Hyd.

earlier orders of Hon'ble C.A.T., Hyderabad in OA 1180/94 alone.

In view of what is stated above, it is submitted that the applicant has not made out any case either on law or on facts and it is prayed that this Hon'ble Tribunal may be pleased to dismiss the OA as having no merits.

Deonar 21/12
DEPONENT

**Solemnly sworn and signed
before me on this 21st day
of December, 1998 at Hyderabad.**

G. V. R. SETTY
A.G.M. (Legal)
for C.G.M. Telecom. A.P. Hyd.

Deonar 21/12
ATTESTOR
लाल अधिकारी
LAW OFFICER
म. श. प्र. इरसंचार अ०.प्र. का कार्यालय
O/o. C.G.M. Telecom. A.P.
हैदराबाद / Hyderabad 500 021

Annex R-1

ANNEXURE No. 4

Annexure PAGE No. 11

Copy of DC 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
C/ADVOCATE

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Annepure Rd

(10)

DEPARTMENT OF POST - INDIA.
OFFICE OF THE SUB-DIVISIONAL INSPECTOR (POSTAL)
RAMACHANDRAPURAM SUB-DIVISION: RAMACHANDRAPURAM.

MEMO. NO. SD/EDA/Dlgs,dt. RMM the 6-5-1997.

In pursuance of the Orders contained in Superintendent of Post Offices, Rajahmundry Letter No. B2/EDA/Dlgs/RMM dt. 30.04.1997 the following: E.D. Agents are appointed (Otherwise absorbed) in the Posts noted against their names.

SARVASPI:

1. Md. Ibrahim ED Messenger Ramachandrapuram now working at T.C. Ramachandrapuram.	To be	EDMC/DA Kurmapuram B.O. a/w. R.C. Puram NO.
2. B V BHASKARARAJU ED Messenger Ramachandrapuram now working at T.C. Ramachandrapuram.	To be	EDDA / MC. Someswaranam B.O. a/w Chetturu S.O.

2x The Officials should join in the new posts immediately.

(2)

SUB-DIVISIONAL INSPECTOR (POSTAL)
RAMACHANDRAPURAM SUB-DIVISION
RAMACHANDRAPURAM - 533 255.

Copy of this Memo. is issued to:

- 1 and 2 .. Officials.
- 3 and 4 .. PF of E.D. Agents.
- 5 .. Incharge Telecom Centre, Ramachandrapuram
He will please relieve the Officials
immediately.
- 6. .. Supdt. of Post Offices, Rajahmundry.
- 7. .. Post Master, Ramachandrapuram.
- 8. .. SD/EDV/Dlgs. File.
- 9 & 10 .. B.P.Ms. of Kurmapuram and Someswaranam B.Os..

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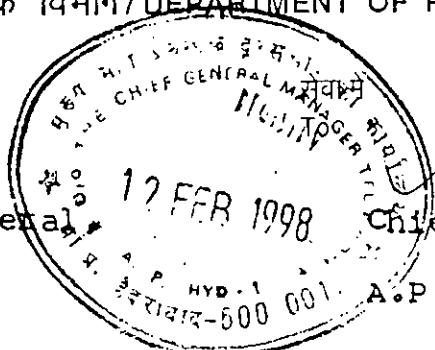
SUB-DIVISIONAL INSPECTOR (POSTAL)
RAMACHANDRAPURAM SUB-DIVISION
RAMACHANDRAPURAM - 533 255.

(2) 8

नव्यवाहर-22
नं. 22

भारतीय डाक विभाग / DEPARTMENT OF POST-INDIA

Chief Postmaster-General,
A.P. Circle,
HYDERABAD - 500001



Chief General Manager,

A.P. Telecom. Circle,

HYDERABAD - 500001

LC - 295 / 97

दिनांक
Dated at

Hyderabad, the 10.2.1998

विषय
Subject

:- O.A.NO. 1404/97 filed by
Sri T.Satyanarayananmurthy,
E.D.Messenger, Pitapuram.

Ref :- Your Letter No.
TA/LC/5-266/97 dated
3.2.1998.

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Parawise comments on behalf of the Respondent
No. 2 and 5 have been forwarded to Sri V. Rajeswara Rao,
Additional C.G.S.C. on 11.12.97 for drafting Reply. Point
No. 1, in the Interim Order dated 23.10.97 has been
favourably answered by the Respondents. Parawise
comments on behalf of Respondent No. 1, 3 and 4 may please
be sent to the Standing Counsel for drafting a Reply.

HS Rao
10/2/98

(H. SESHAGIRI RAO)
Asst. Postmaster-General (S & V)
For C.P.M.G., Hyderabad-500001

Copy to :

Sri V. Rajeswara Rao, Addl. C.G.S.C.,
C.A.T., Hyderabad - 500004, for information.
He is requested to kindly draft the Reply.

Sd/
(H. SESHAGIRI RAO)
Asst. Postmaster-General (S & V)
For C.P.M.G., Hyderabad-500001

BRM*

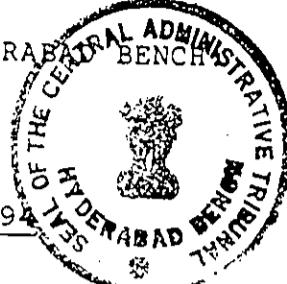
Department of Posts and Telegraphs and on formation of Telecom Centres at Jangaon/Kazipet, had become surplus ED Agent and his services were utilised by the Telecom Centre at Kazipet with effect from 1.1.1992 as Mazdoor in the Telecommunications Department and was working on 8 hours duty per day. It is stated that he was asked to opt to work in ED post and the applicant expressed his unwillingness to work in the ED post and opted to work in the Telecommunications side. R-2 issued the circular to all the ED Agents and also to the applicant informing that certain ED posts had fallen vacant and the applicant should give option to work in any of the posts mentioned therein by 28.9.94 failing which their posts will be brought under the reduction (abolition) with effect from 30.9.94 and the applicant shall not have right for absorption in the postal side.

3. This OA is filed to set aside the order dated 24.9.94 directing the respondents to absorb the applicant in the Telecom Wing by conferring him temporary status with all consequential benefits.

4. The applicant was originally appointed in the Postal Department. Now he is working in the Department of Telecommunications consequent upon the bifurcation of the Department of Posts and Telegraphs into the Department of Posts and the Dept. of Telecommunications and the formation of Telecommunications Centre in Kazipet. The applicant cannot express his unwillingness to work in the Postal Department because his parent department is the Postal Wing and he was handed over to the Telecommunications Department.

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH
AT HYDERABAD



ORIGINAL APPLICATION NO. 1227 OF 1994

DATE OF ORDER: 2nd JULY, 1997

BETWEEN:

KANNA SARANGAM

.. APPLICANT

AND

1. The Sr. Superintendent of Telegraph Traffic,
Hanumakonda-1,
2. The Superintendent of Post Offices,
Hanumakonda Divn, Hanumakonda,
3. The Incharge, Telecom Centre, Kazipet,
District Hanumakonda.

.. RESPONDENTS

COUNSEL FOR THE APPLICANT: Mr. S. RAMAKRISHNA RAO

COUNSEL FOR THE RESPONDENTS: Mr. V. BHIMANNA, Addl. CGSC

CORAM:

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

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

ORDER

ORAL ORDER (PER HON'BLE SHRI B. S. JAI PARAMESHWAR,
MEMBER (JUDL.))

Heard Mr. S. Ramakrishna Rao, learned counsel for the applicant and Mr. V. Bhimanna, learned standing counsel for the respondents.

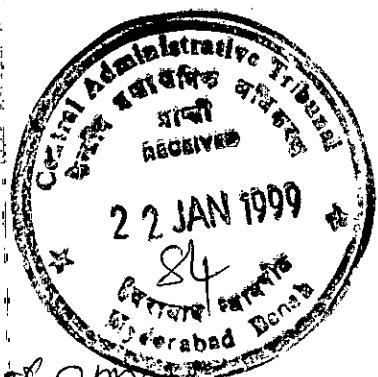
2. The applicant was appointed as ED Messenger (Telegraphs) in Kazipet-II, LSG Post Office with effect from 9.12.81. The applicant upon the bifurcation of the

Tk

Jan 15 CAF at
Hyderabad

OA 1573/92.

Court of Law & Appeals



Recd of copy

Date: 22.1.99

Received
22/1/99

B. NARASIMHA SHARMA
Sr. Central Govt.
Standing Counsel,
Central Administrative
Tribunal, Hyderabad.

copy be filed
22/1/1999

due to the introduction of the modern techniques and there is no order cutting off his lien from the Postal wing and order absorbing him in the Telecom Department.

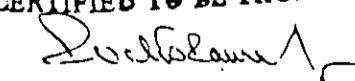
5. Hence the applicant shall continue to work in the Telecom Department till the Postal Wing issues the order to the Telecommunications Department asking the Telecommunications Department to relieve the applicant to join the Postal wing.

6. Hence we feel it appropriate to issue the following direction in this OA:-

The applicant shall be continued in the Telecommunications Wing till the Postal wing issues the order directing the Telecommunications Department to relieve him to join the post in the Postal Wing. Till such time, he will be continued in the Telecommunications Department in the present capacity.

7. The OA is ordered accordingly. No order as to costs.

प्रमाणित गति
CERTIFIED TO BE TRUE COPY



साकालय अधिकारी
COURT OFFICER
केन्द्रीय प्रशासनिक अधिकारा
Central Administrative Tribunal
हैदराबाद वायपोठ
HYDERABAD BENCH

IN THE COURT OF CENTRAL ADMINISTRATIVE TRIBUNAL: A.P. AT HYDERABAD

O.A. No. 1513 of 1997

Between :-

Sri B.V.Bhaskara Raju & another

..Applicants

AND

1. The Director General, Dept. of Telecom,
Ashok Road, New Delhi and 4 others.

..Respondents

REJOINDER AFFIDAVIT ON BEHALF OF THE APPLICANT

I Sri B.V.Bhaskara Raju s/o. Subba Raju, aged 44 years, working as Messenger (Telegraph) in Telecom Center, Ramachandrapuram, E.G.District, having temporarily come down to Hyderabad do hereby solemnly affirm and state as follows :-

1. I am the Deponent herein and applicant in the main OA and as such well acquainted with the facts of the case.
2. The counter affidavit filed by the Telecom Department was read over to me in Telugu and I understood the contents thereof. The material averments in the Counter affidavit are denied except those that are specifically admitted hereunder. The respondents may be put to strict proof of those averments, which are denied hereunder.
3. The present rejoinder may be read out part and parcel of the Original Application.
4. I have filed the O.A challenging the action of the 3rd and 4th respondents in repatriating us from the Telecom Center, Ramachandrapuram, Postal wing till a policy decision is taken by the Director General of both the wings in regard to absorption of ED Telegraph Messengers working in the Telecom wing. While the admitting the case the Hon'ble Division bench of this Tribunal directed the respondents not to repatriate until further orders and to keep the posts in the Postal wing unfilled and further directed the respondents to clarify the following:
 - i) Will the applicants on their repatriation get the benefit of continuation of service by way of counting the period of deputation as service in the parent Department (Postal Department)?
 - ii) What is the policy of Telecom Dept. in this matter? Are there any instructions issued by the Telecom Commission or the Directorate in this regard?

If so a copy of the same should be annexed to the counter.

28

5. Now, the Telecom Department has filed the counter but the Postal authorities who are respondents No.2 & 5 have not filed any counter.
6. The Telecom authorities in their counter affidavit has admitted that no policy decision at the Directorate level as to the absorption of the ED Messengers in Telecom wing itself was not yet taken but chosen to sustain the action of the subordinate authorities at the field level and also by referring to the Judgments given prior to the filing of this O.A. The decisions relied upon by the Telecom authorities were also taken into appeal before the Hon'ble High Court.
7. Further the respondents especially the Postal authorities have not answered the clarifications sought for by the Hon'ble Tribunal as referred in the order dated 11-11-97.
8. For the above reasons the contentions referred to in the reply affidavit are unsustainable and the decisions referred to therein are not applicable to the grounds raised in the present O.A.
9. Therefore, the O.A. may be allowed by awarding costs against the respondents.

Solemnly and Sincerely signed this 10th day
of March, 1999

Before me

ASR
Advocate

B. 29/03/1999
D E P O N E N T

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

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

• • •

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
[Signature]

IN THE COURT OF CENTRAL ADMINI-
STRATIVE TRIBUNAL : A.P.HYD

O.A.No. 1513 of 97

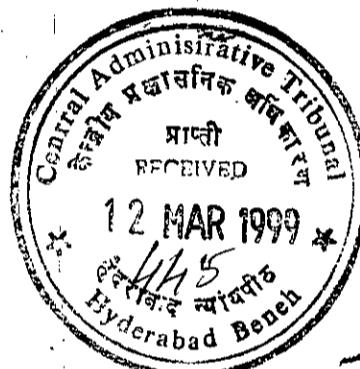
Between :

B.V. Bhaskara Raju *Applicant*

And

The D.G, Dept., of Telecom
Ashok Road, ND & 4 others

RESPONDENTS



REJOINDER

Filed on : 9-3-99

Recd. Copy 12/3/99
B. NARASIMHA SHARMA
Sr. Central Govt.
Standing Counsel,
Central Administrative,
Krishna Deva
Tribunal, Hyderabad.

(Counsel for the Petitioner)

*Case to be filed
on
12/2/1999*

31

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH

AT HYDERABAD

O.A. 1513 OF 1997

Dated, the 15th March, '99

BETWEEN:

1. B.V. Bhaskara Raju
2. Md. Ibrahim

... Applicants.

A N D

1. The Director General,
Department of Telecom,
Ashok Road, New Delhi.
2. The Director General, Department of Posts,
Sensard Marg, Dak Bhavan, New Delhi.
3. The General Manager, Telecom,
East Godavari District, Rajahmundry 533104.
4. The Sub-Div. Engineer (Groups), Telecom, Ramachandrapuram,
5. The Sub-Divisional Inspector (Postal), EG Dist.
Ramachandrapuram Sub-Division, Ramachandrapuram,
E.G. District.

... Respondents.

COUNSELS :

For the Applicants : Mr. Krishna Devan

For the Respondents : Mr. B. Narasimha Sarma

CORAM:

THE HON'BLE MR. R. RANGARAJAN, MEMBER (ADMIN)

THE HON'BLE MR. B.S. JAI PARAMESHWAR, MEMBER (JUDL)

32

-: 2 :-

O R D E R

(PER: HON'BLE MR. B.S. JAI PARAMESHWAR, MEMBER (JUDL)

1. Heard Mr. Krishna Devan, Learned Counsel for the applicants and Mr. H.C. ^{Jacob} Joseph for Mr. B. Narasimha Sarma, Learned Standing Counsel for the respondents.
2. There are 2 applicants in this O.A. They were originally appointed as Telegraph Messengers (Extra Departmental) in the then combined Post & Telegraph Office, Ramachandrapuram, East Godavari District, A.P. w.e.f. 26.4.82 and 1.7.82 respectively.
3. The P&T Department was bifurcated and the Telegraph Wing was brought under the control of Telecommunications (DOT). The Department of Telecom by phases, started taking over all types of business relating to Telephones and Telegraphs including the work hitherto handled by the combined Post Offices. In that process, Telecom Department have set up Telecom Centres to provide Public Telephones with STD and ISTD facilities as well as Manual Trunk Booking of Telegrams, Telex, Fax messages and the delivery of all those have to be done by the Messengers only. Consequently, the Telegraph work in the erstwhile combined P&T Offices is wound up and the same were transferred to the Telecom Centres along with the delivery staff i.e. ED Telegraph Messengers. As such, the applicants, who were then working as Telegraph Messnger in Ramachandrapuram P&T Office were transferred to the newly opened Telecom Centre, Ramachandrapuram vide orders of Incharge Telecom Centre, Departmental Telegraph Office, Kakinada on 24.3.92. and 23.3.92. In the meanwhile, the respondent No.3 ~~in~~ vide letter No. TFC/Estt.5/EDAS/97-98/46 dt. 12.8.97 directed

R

O.A.1513/97

-: 3 :-

the Sub-Divisional Engineer (Groups), Ramachandrapuram to arrange for the repatriation of the applicants to the Postal Wing. The applicants submit that they are entitled to be absorbed as Group-B in the Telegraph side only and the order of the General Manager, Telecom dt. 12.8.97 is being challenged in the present O.A.

4. The applicants have filed this O.A. to call for the records relating to the impugned order dt. 12.8.97 and for a direction to the 3rd respondent and 4th respondent not to repatriate both the applicants from the Telecom Centre, Ramachandrapuram to Postal Wing till a policy decision is taken by the Director Generals of both the wings in regard to absorption of the ED Telegraph Messengers in the Telecom Wing itself, by holding that the action of the third respondent in seeking the relief of the applicants from Telecom to Postal Wing as repatriation, by order dt. 12.8.97, as arbitrary, discriminatory and illegal.

5. At the time of admission hearing we had sought certain clarifications from the respondents.

6. They have filed a reply stating that no policy decision has been taken in regard to absorption of the Messengers who are working on deputation basis from Postal Wing. They relied upon the order passed by this Bench on 2.7.97 in O.A. 1227/94 (Kanna Sarangam Vs. Union of India) and order dt. 23.9.89 in OA 488/96 and order dt. 23.9.89 in OA 1122/96. They further submit that in the instant case, the Postal Department had directed the Telecom Administration to relieve the applicants to join the Postal Department.

7. The applicants have filed a rejoinder ^{stating that we} ~~without giving~~

T

- : 4 :-

respondents have filed their without giving any specific answer to the queries made by this Tribunal in its order dt. 11.11.97.

8. It is an admitted fact that the applicants are working as ED Telecom Messengers in the DOT purely on deputation basis. Their parent department is ^{u/c} Postal Wing. Admittedly, they have lien in the Postal Wing. Further, we had earlier directed in the O.A. referred to by the respondents in the reply that the persons working in Tele-
communication department should ^{not} be repatriated till the Postal Department requests them to relieve the officials of the Postal Department but in the instant case, the Postal Department has itself requested the Telecom Department to repatriate the applicants to the Postal Department. When that is so the applicants cannot ask for absorption, ^{u/c} DOT.

9. The learned counsel for the applicants submits that since the Telecom Department has not taken a policy decision as regards the ED Messengers of the erstwhile P&T working in the Telecom Department for absorption or continuation, the applicants should not be repatriated. We cannot accept this contention. The Postal Department requested the Telecom Department to repatriate its employees to the Postal Department. The applicants cannot take shelter on the ground that the Telecom Department has not taken a policy decision as to the messengers working in their department. The learned counsel for the applicants submits that the Postal Department has not taken any decision as to by staff working the services rendered on deputation basis. In the ^{Postal} Telecommunication Department they have got a lien. The Postal Department has to consider their services in accordance with the Rules. Hence the applicants are not expected to report for duty in the Postal Wing.

2

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10. The learned Counsel for the applicants submits that there is no rule to send ED Staff on deputation, but at the time of bifurcation of the department, the ED Staff who were performing the duties of delivery messengers to various locations were sent to the Telecommunications Department for performing similar and same duties as they were taken over by the Telecommunications Department. Hence, it cannot be said that they have been repatriated to the Telecommunication Department and the designation has been changed. They continued to be ED Staff holding the post of Messengers and performing the duties under the Telecommunication Department as their services were temporarily ^{postal} loaned by the ~~Telecommunication~~ Department. Hence, the above contention is not very appropriate. The applicants submit that the Hon'ble High Court of A.P. has passed an interim order of suspension of repatriation of the officials in WP 30574/97 dt. 1.12.97 and WP 30202/97 dt. 1.12.97. The interim orders passed in those Writ Petitions cannot be taken as a judgement-in-^{rem} ~~the present case~~, as it is applicable to the parties concerned in those petitions.

11. In that view of the matter, we do not find any reasons to direct the respondents to continue the applicants in the Telecommunication Department.

12. Hence, the O.A. is dismissed leaving the parties to bear their own costs.


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

15-3-99


(R. RANGARAJAN)
MEMBER (ADMIN)

Dated, the 15th March, '99.

Dictated in Open Court.

CS

1ST AND 2ND COURT

15/3/99 cc to day

Copy to:

1. HONJ

TYPED BY
COMPARED BY

CHECKED BY
APPROVED BY

2. HHRP M(A)

THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH : HYDERABAD.

3. HSJP M(J)

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

4. D.R.(A)

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

5. SPARE

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

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

DATED: 15.3.99

ORDER/JUDGEMENT

MA./RA./CP. NO. —

IN

O.A. NO

1513/97.
ADMITTED AND IN TERM DIRECTIONS
ISSUED.

ALLOWED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

ORDERED/REJECTED

NO ORDER AS TO COSTS

SRR

10 copies

10 copies

15/3/99

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
शेषण / DESPATCH

19 MAR 1999

HYDERABAD BENCH

single o/s. Re

In the Central Admin. Tribunal
App. Hyd. Bench

M.A. No. 197

in

D.A. No. 197

Between:-

1. Sri Biv. Bhaskara Raju

2. Sri Md. Morahim,

- Applicants

AND

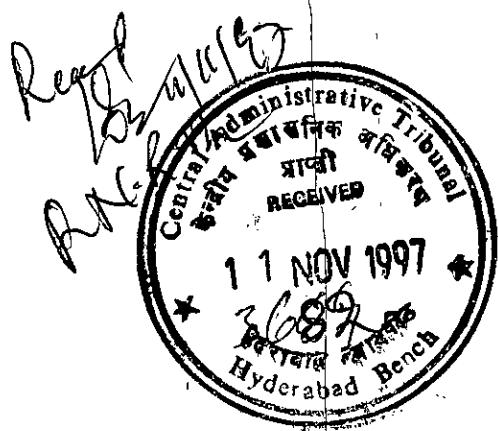
3. The Director General,
Dpt. of Telecom, Ashok Road,

New Delhi & 4 others

- Respondents

APPLICATION TO FILE JOINT

APPLICATION



Filed on: 11-11-97

counsel: Krishna Devan
Advocate

Copy sent to
Advocate
11

IN THE COURT OF CENTRAL ADMINISTRATIVE TRIBUNAL: A.P. AT HYDERABAD

Misc.Application No. 1027 of 1997
In
O.A. No. 3681 of 1997

Between :-

1. Sri B. V. Bhaskara Raju
2. Sri M.D. Ibrahim ..Applicants

AND

1 The Director General, Department of Telecom,
Ashok Road, New Delhi.

2 The Director General, Department of Posts,
Sansard Marg, Dak Bhavan, New Delhi.

3 The General Manager, Telecom,
East Godavari District, Rajahmundry - 533104

4 The Sub Divisional Engineer (Groups),
Telecom, Ramachandrapuram.

5 The Sub-Divisional Inspector (Postal),
R.C.puram Sub-Division, R.C.Puram.,
E.G.District. ..Respondents

APPLICATION UNDER SECTION 4 (5) (a) C.A.T. PROCEDURAL RULES, 1987

BRIEF FACTS LEADING TO THE APPLICATION :

Both the applicants initially appointed and working as ED Telegraph Messenger in the then Combined Post and Telegraph Office for the last 10 years. In the year 1992 in the place of combined P & T offices, new Telecom Centers were opened and the applicants were also transferred and in the Telegraph Wing both the applicants have been working for the last 5 years continuously for over 240 days in a year. Instead of regularising their services in Group-D posts in Telecom Wing, the respondents herein now-and-then taking steps for repatriating them to the Postal Wing. Both the applicants are working as Telegraph Messengers in the Telecom Center, Ramachandrapuram for the last 5 years. Aggrieved by the order dated 12-8-1997 passed by the 3rd respondent proposing to relieve the applicants on repatriation to parent unit, the OA is being filed seeking necessary direction as both the applicants are covered by one and the same Impugned Order, the cause of action, the grievance sought to be redressed and the respondents to both the applicants are common, it is necessary that both the applicants may be permitted join together and file single OA and hence this application.

PRAYER : For the above stated reasons it is prayed that the Hon'ble Court may be pleased to permit both the applicants to join together and file a single OA and pass such other or further orders as deem it fit and proper in the circumstances of the case.

VERIFICATION

We, the above named applicants do hereby verify that the facts stated above are true to our knowledge, belief and information and hence verified this day of November, 1997

B. vijayabhalakaraju
/ M.D. Ibrahim

Signature of the Counsel
for the Applicants

APPLICANTS

MA 1027(97) in OASR 3681/97

Scandia Inc 11-11-97

प्राची/ORIGINAL

Heard s/o; Prakash Devan
for the applicants and s/o
N.A. Devan for the respondent

1407 लंपार TELECOM बैच केस/BENCH CASE

CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH : HYDERABAD.

2. This MA is filed seeking permission to file single OA. Both the applicants are working in the same cadre in the postal department. Hence for the reasons stated in the MA they are permitted to join in single petition.

2. Register the A. of this
otherwise in order.

H.B.S. 578
M (3)
Jai

~~Ch~~
HRA N
M(A)

SINGLE O.I. PETITION

Mr. Krishnas. Devan
COUNSEL FOR THE APPLICANT.

AND

Mr.

Sr. ADDL. STANDING COUNSEL FOR
C.G. Rlys.

Form No.9.
(See Rule 29)

BY.R.P.A.D.

CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH AT HYDERABAD.
1st Floor, HAC Bhavan, Opp: Public Garden, Hyderabad, 500004 A.P.

ORIGINAL APPLICATION NO. 1519. OF 199 7.

Applicant(s)

V/S

Respondent(s)

S. V. Bhaskara Raju & another.
By Advocate Shri:

Krishna Devaraj,

(By/Central Govt. Standing Counsel)

To.

Mr. K. R. Devaraj, Mr. CCS.

1. The Director General, Department of Telecom, Ashok Road, New Delhi.

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

3. The General Manager, Telecom, East Godavari District, Rajahmundry.

4. The Sub Divisional Engineer (Groups), Telecom, Ramachandrapuram, E.G. District.

5. The Sub Divisional Inspector (Postal), Ramachandrapuram Sub-Division, Ramachandrapuram, E.G. District.

Whereas an application filed by the above named applicant under Section 19 of the Administrative Tribunal Act, 1985 as in the copy annexed hereunto has been registered and upon preliminary hearing the Tribunal has admitted the application.

Notice is hereby given to you that if you wish to contest the application, you may file your reply along with the document in support thereof and after serving copy of the same on the applicant or his Legal practitioner within 30 days of receipt of the notice before this Tribunal, either in person or through a Legal practitioner/ Presenting Officer appointed by you in this behalf. In default, the said application may be heard and decided in your absence on or after that date without any further Notice.

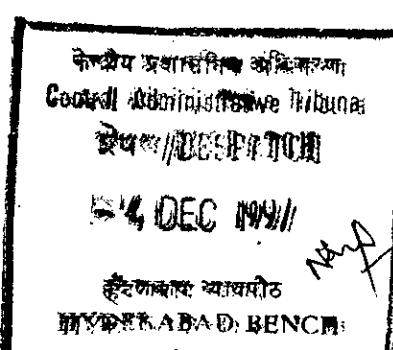
Issued under my hand and the seal of the Tribunal
This the . . . **Eleventh** day of . . November . . . 199 7.

//BY ORDER OF THE TRIBUNAL//

Date: 26-11-97.


FOR REGISTRAR.

04
27/11/97



VAKALAT
In The Court of
Central/State
Administrative Tribunal
Hyderabad Bench

Case No. 1513 of 1997

1. Sri B. V. Bhaskara Rao
2. Sri Md. Ibrahim

Applicant
Petitioner

VERSUS

The D.G., Dept. of Telecom, New Delhi

4 others

Respondent(s)

Yours, Sri B. V. Bhaskara Rao & Sri Md. Ibrahim
do hereby appoint and retain

M/s. KRISHNA DEVAN
Smt. RAJANI DEVAN
Advocates

Advocate/s of the High Court to appear for me/us in the above Application/Petition and to conduct and prosecute (or defend) the same and all proceedings that may be taken in respect of any application connected with the same or any decree or order passed therein, including applications for return of documents or the receipt of any moneys that may be payable to me/us in the said Application/Petition and also to appear in all applications for review of Judgement.

X B. V. Bhaskara Rao

X Md. Ibrahim

I certify that the contents of this Vakalat were explained in the Language known to the executant or executants in my presence who appeared perfectly to understand the same and made his/her/their Signatures or marks in my presence.

Executed before me this 9th day of November 1997

ADVOCATE, HYDERABAD

(Rajani G)

Accepted

SRI KRISHNA DEVAN
Smt. RAJANI DEVAN
ADVOCATES

2-2-1105/11, Tilak Nagar
Hyderabad-500 044.
Phone: 552904



IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH AT HYDERABAD.

O.A.NO. 1365/97.

Between:

T. Satyanarayana.

and

Date of Order: 23-10-97.

Applicant.

1. The Director General, Dept. of Telecom, Ashok Road, New Delhi.
2. The Director General, Dept. of Posts, Sansad Marg, New Delhi.
3. The General Manager, Telecom, E.G. Dist. Rajahmundry-104.
4. The Sub Divisional Officer, Telecom, Samalkot, E.G. Dist. A.P.
5. The Superintendent of Post Offices, Kakinada Division, Kakinada.

.. Respondents.



For the Applicant: Mr. Krishna Devan, Advocate.

For the Respondents: Mr. V. Vinod Kumar, Addl. CGSC.

CONAM:

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

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

The Tribunal made the following Order:-

At the request of the counsel for the applicant the case is advanced for today.

Admit. Notice.

Counter in six weeks. As an interim measure, the applicant shall not be repatriated to the postal wing until further orders and the posts which are now offered to him on repatriation by the Postal Wing shall not be filled up.

In the counter, the following points to be clarified:

i) Will the applicants on their repatriation get the benefit of continuation of service by way of counting the period of deputation as service in the Parent Department (Postal Department)?

ii) What is the policy of Telecom Dept. in this matter? Are there any instructions issued by the Telecom Commission or the Directorate in this regard? If so, a copy of the same should be annexed to the counter.

नियालय अधिकारी

COURT OFFICER

केंद्रीय अधिकारी अधिकारी
Central Administrative Tribunal

हैदराबाद बैच

HYDERABAD BENCH

Sd/- x x
Deputy Registrar

प्रमाणित प्राप्त

CERTIFIED TO BE TRUE COPY

प्रमाणित प्राप्त

Central Administrative Tribunal
Hyderabad Bench,
Hyderabad.

O.A.No.

1573 of 1997



MEMO OF APPEARANCE

B.NARASIMHA SHARMA
ADVOCATE

Senior Standing Counsel for
Central Government

Counsel for 54

Address for Service:

Phone: 3744965

512, Nilgiri,
Aditya Enclave,
Ameerpet,
Hyderabad - 500 038.

Central Administrative Tribunal, Hyderabad Bench
HYDERABAD

O.A.NO.

15/3

OF 1997.

BETWEEN

B. V. Baskara Raju & anothr

Applicant(s)

Vs.

Director General, Dept of Telecoms

Delhi & oth.

Respondent(s)

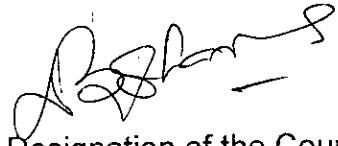
MEMO OF APPEARANCE



I B.Narasimha Sharma, Advocate having been authorised by proceedings of Government of India in F.No. 28(5)/98-Judl. Dt.11-12-1998 notified under Sec. 14 of the Administrative Tribunals Act, 1985, hereby appear for ~~Applicant No./Respondent No.~~ and undertake to plead and act for them in all matters in the aforesaid case.

Place: Hyderabad

Date : 22.1.99


Signature & Designation of the Counsel

B.NARASIMHA SHARMA
Senior Standing Counsel for
Central Government.

Address of the Counsel for Service:

512, Nilgiri,
Aditya Enclave,
Ameerpet,
Hyderabad - 38.

(43)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH AT HYDERABAD

O.A.NO. 1513/97.

Date of Order: 11-11-97.

Between:

1. B.V. Bhaskara Raju,
2. Md. Ibrahim.

and

Applicants.

1. The Director General, Dept. of Telecom,
Lokshok Road, New Delhi.
2. The Director General, Dept. of Posts,
Sansad Marg, Lak Bhawan, New Delhi.
3. The General Manager, Telecom,
E.G.Dist.Rajahmundry-104.
4. The Sub Divisional Engineer (Groups)
Telecom, Ramachandrapuram, E.G.Dist.
5. The Sub Divisional Inspector, (Postal)
Ramachandrapuram Sub Division,
Ramachandrapuram, E.G.Dist.

.. Respondents.

For the Applicants: Mr. Krishna Devan, Advocate

For the Respondents: Mr. N.R. Devraj, Sr.CGSC.

COURT:

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

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

The Tribunal made the following Order:-

Heard Sri Krishna Devan for the Applicants and
Sri Devraj for the respondents.

2. Admit. Notice. Reply in six weeks. As an interim measure the applicant shall not be repatriated to the postal wing until further orders and the posts which are now offered to them on repatriation by the postal wing shall not be filled up.
3. In the counter, the following points to be clarified.
 - i) Will the applicants on their repatriation get the benefit of continuation of service by way of counting the period of deputation as service in the parent Department (Postal Department)?
 - ii) What is the policy of Telecom Dept. in this matter? Are there any instructions issued by the Telecom Commission or the Directorate in this regard? If so a copy of the same should be annexed to the counter.

प्रमाणित क्रति
CERTIFIED TO BE TRUE COPY

Sd/-
Deputy Registrar.

मानव संसाधन विभाग
Court of O.D. Registrar
केन्द्रीय संसाधन विभाग
Central Admin. Tribunal
Hyderabad - 500 002