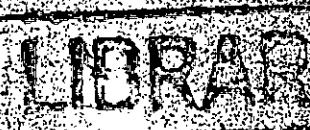


IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

CALCUTTA BENCH

O. A. No/350/ 127 of 2020



Smt. Srabani Senapati wife of late

Submial Senapati, aged about 37 years,

working as GDSBPM, Jalabishwanathpur

Branch Office, since officiating at

Nabghara Branch Office and presently

residing at Vill & P.O. Banaharispur P.S.

Panchla, Dist. Howrah, Pin - 711322.

... Applicant

-Versus-

1. Union of India, service through the
Secretary, Ministry of Communication &
Information Technology, New New Delhi -
110001.

2. The Chief Post Master General, West
Bengal Circle, Yogayog Bhavan,
Chittaranjan Avenue, Kolkata - 700012.

3. The Superintendent of Post

Offices, Howrah Division, Howrah

711101.

4. Inspector of Posts, Howrah 2nd Sub

Division, Fortgloster, Howrah - 711310.

... Respondents

CENTRAL ADMINISTRATIVE TRIBUNAL
KOLKATA BENCH, KOLKATA

No. O.A. 350/127/2020

Date of order: 13.02.2020

**Present : Hon'ble Mrs. Bidisha Banerjee, Judicial Member
Hon'ble Dr. Nandita Chatterjee, Administrative Member**

**SRABANI SENAPATI
VS.
UNION OF INDIA & OTHERS**

For the Applicant : Mr. P.C. Das, Counsel
Mr. J.R. Das, Counsel

For the Respondents : Mr. P.N. Sharma, Counsel

ORDER

Per Bidisha Banerjee, Judicial Member

Learned Counsels were heard.

2. This application has been preferred by a Gramin Dak Sevak Branch Post Master (GDSBPM) to seek the following reliefs:-

"i) An order directing the respondents to cancel, rescind, withdraw or set aside the purported order dated 15.01.2020 in the interest of justice;

ii) An order directing the respondents to cancel, rescind, withdraw or set aside the purported order/letter dated 03.09.2019 by the Sr. Supdt. Of P.Os Howrah Division, Howrah-711101 since been issued without due application of mind;

iii) An order directing the respondents to grant regular transfer to the applicant herein to Nabghara Branch Office from existing Jalabiswanathpur Branch Office with immediate effect to save the life of the applicant as also of her baby child as already reported by the applicant.;

iv) An order directing the respondents to consider the representation of the applicant being dated 22.03.2019 to allow her transfer to Nabghara Branch Office on immediate basis vis-à-vis allow her to continue at the said Nabghara Branch Office on officiating basis pending decision of the O.A. when admittedly there existing vacant position since admitted in the Inspection Report and follow the Office Memorandum dated 22.01.2020;



- v) An order directing the respondents to produce records of the case with copy to the Ld. Advocate appearing for the applicant for *conscientious justice*;
- vi) Any other order or orders further order/orders as the Hon'ble Tribunal may seem fit and proper."

3. The grievance of the applicant in a nutshell is as under:-

The applicant is a GDSBPM Jalabiswanathpur Branch Office appointed under compassionate ground following death in harness of her husband late Subimal Senapati, GDSBPM, who served vide order of Inspector Posts, Howrah, 2nd Sub Division, dated 05.02.2016. She has pleaded that following death of her husband and also of her father-in-law and mother-in-law, she was being subjected to gross humiliation and torture by her other in-laws at the said in-laws' house and was compelled to leave her in-laws' house along with her baby daughter, three years old. Presently the said daughter, Km. Sampurna Senapati is a student of Class II of the Dolphin Sishu Niketan K.G. School. Applicant has made a prayer for her transfer to Nabghara Branch Office from existing Jalabiswanathpur Branch Office so that she can attend her duties from her paternal house. Applicant has also given necessary undertaking for such transfer. She has been recommended of such transfer on repeated occasions but regretted on erroneous consideration and hence she approached this Tribunal through O.A. No. 1664 of 2019, which was decided on 02.12.2019 directing the applicant to make a suitable comprehensive representation praying for her transfer within four weeks and to continue to officiate at Nabghara till disposal of the representation. The said representation, however, has been rejected through a speaking order dated 15.01.2020. Hence the present O.A.

4. The order impugned in the present O.A. is extracted hereunder for clarity:-



Government of India : भारत सरकार
 Department of Posts: डाक विभाग
 Office of the Senior Superintendent of Post Offices, Howrah Postal Division, Howrah-711101.
 वरिष्ठ डाक अधीक्षक का कार्यालय, हाटगाँव डाक विभाग, मोदडा-711101
 Phone No: 033-2667-1289/ Fax-(033)2667-0308
 E-mail- dohowrah.wb @indiapost.gov.in/ dophowrah@ginail.com

L. E. Mails/Regd

Memo No : BO Estt./GDS Limited Transfer (CAT)/Howrah Dn dated at Howrah on the 15.01.2020

Special Order

This is in compliance with the order of the CAT, Kolkata Bench dated 02.12.2019 in connection with OA No. 850/1464/2019 in the matter of Smt. Srabani Senapati Vs. O.O & others relating to transfer from the post of BPM, Jala Biswanath Pur. B.O to BPM, Nabghara B.O under Panchala S.O. This prayer for transfer to Nabghara Branch Post Office has been rejected by the Hon'ble CAT issuing certain directions to the Department as well as Smt. Srabani Senapati.

Smt. Senapati submitted an application for transfer in plain paper along with order of the Hon'ble CAT to the O/o the SSPOs, Howrah Division which was received by this office on 20.12.2019. In response to the prayer of Srabani Senapati, she was intimated via this office letter of even no. dated 23.12.2019 that "As BPM posts implied for transfer have been notified for filling up by recruitment from open market under GDS vacancy cycle 1 already except the BPM post of Gobardhanpur B.O in account with Panchala S.O, you may prefer application for transfer to the post of Smt. Gobardhanpur B.O in prescribed proforma accompanied with all supporting documents to the O/o the SSPOs. Smt. D. J. D. is up to facilitate the competent authority to examine and decide your application for transfer in the light of CAT, Kolkata Bench's order dated 02.12.19 and in the light of Postal Dept's instruction contained in its OM No. P-312014-GDS dated 04.01.2019 within the time frame allowed by the Kolkata Bench".

Thereafter, a "counsel" was also issued dated 02.01.2020 in continuation of this office letter dated 23.12.2019 to Smt. Srabani Senapati requesting her to prefer application for transfer within 3 days in prescribed proforma.

Smt. Srabani Senapati, responding to this office letter dated 23.12.2019 sent her representation dated 03.01.2020 for transfer to Nabghara B.O instead of her earlier application dated 16.12.2019 in which she prayed for one choice out of 13 B.Os as mentioned in her application.

The officiating engagement of Smt. Srabani Senapati against the post of Nabghara B.O stood terminated on 31.09.2019 (after noon). So, Smt. Srabani Senapati could not be allowed to continue with her officiating engagement against the post of Nabghara B.O on or after 02.12.2019, the date the Hon'ble CAT, Kolkata Bench pronounced that she may be allowed to continue against the post where she had been working.

Secondly, the CAT rejected the applicant's prayer for transfer to Nabghara B.O and asked the Department to consider her prayer for transfer to any vacant BPM post nearby Nabghara B.O vide order dated 02.12.2019. In disregard to the Hon'ble CAT's order dated 02.12.2019, the applicant prayed for transfer to the post of BPM, Nabghara B.O vide her prayer dated 04.01.2020.

Since the respondents (Department of Posts) shall abide by the Hon'ble CAT's order dated 02.12.2019, we shall consider the prayer of the applicant to the extent the prayer remain limited to the direction of the Hon'ble CAT, Kolkata Bench dated 02.12.2019, and we cannot award enginazie to any prayer of the applicant had it out stepped the periphery laid out by the Hon'ble Tribunal through its order dated 02.12.2019.

With the above observation, the prayer of the applicant dated 16.12.2019 is disposed off within the timeframe set by the Hon'ble CAT, Kolkata Bench.

.....
 (P. Halder/पी. हल्दर)

Cr. Supdt. of P. O. वरिष्ठ डाक अधीक्षक

Howrah Dn/Howrah-711101

कालडा, उद्दीपन, हायडा-711101

5. The right of a GDS to seek transfer is governed by Office Memorandum

dated 22.01.2020 issued by the Department of Posts.

6. In the earlier O.A. this Tribunal had passed the following order:-

"4. In view of the fact that the applicant has been permitted to pray for her transfer to nearby place against the vacant post of BPM nearby Nabghara B.O. we feel it proper to dispose of the O.A. by giving liberty to the applicant to prefer a suitable representation to the authorities making such prayer for her transfer within a period of 4 weeks from the date of receipt of a copy of this order. In the event such prayer is preferred, respondent authorities shall consider and dispose of the same within a period of 4 weeks granting appropriate posting in the light of the letter referred herein above.

5. Ld. counsel for the applicant asserts that the applicant is officiating at Nabghara as GDS BPM, which if being allowed, to be continued till the disposal of the representation.

83

6. *The present O.A. accordingly stands disposed of. No costs."*

7. The reason why despite an assurance that she can pray for her transfer to a nearby Post Office, her prayer has been rejected is incomprehensible. The limited transfer facility, as enumerated supra, also seems to be violated.

8. In view of such, we quash the speaking order.

9. At hearing, Learned Counsel for the applicant would place the select list of GDS of several Post Offices to contend that the applicant can be accommodated in terms of her prayer.

10. Be that as it may, we note that in terms of DOP OM dated 22.01.2020 (supra) she has a right to seek transfer to a place of her choice, hence we direct the Senior Superintendent of Post Offices, Howrah Division to issue appropriate order in consideration of her prayer of transfer to a P.O. nearby Nabaghara in the light of the OM dated 22.01.2020, within 2 months.

11. Till such time, the applicant if continuing at Nabaghara, shall continue.

12. The O.A. stands disposed of. No costs.

(Dr. Nandita Chatterjee)
Administrative Member

sb

(Bidisha Banerjee)
Judicial Member