

**CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH**

OA/021/00145 /2021 & 147/2021

HYDERABAD, this the 22nd day of February, 2021

Hon'ble Mr. Ashish Kalia, Judl. Member
Hon'ble Mr. B.V. Sudhakar, Admn. Member



OA 145/2021

- 1.S. Yogeswara Rao, Gr-C,
S/o. Punnaiah, Aged 48 years,
Occ: Branch Post Master,
Angalur BO A/w. Ipur SO – 522 658,
R/o. Angalur & Circle Secretary,
National Union of Grameen Dak Sevaks,
A.P. Circle, Andhra Pradesh.
2. Bandi Brahmaiah, Gr-C,
S/o Venkateswarlu, aged 30 years,
Occ : Branch Post Master, Bethapudi BO,
a/w. Satvvuru SO 522 658, R/o. Bethapudi BO.
3. Junju Prasanna Kumar, Gr-C,
S/o. Jeevaratnam, aged 31 years,
Occ : Branch Post Master, Gangavaram BO,
A/w Gurazala SO 522 658, R/o. Gangavaram BO.

...Applicants

(By Advocate: Mr. B. Gurudas)

Vs.

- 1.Union of India : Rep by
The Secretary to the Govt. of India,
Department of Post, Dak Bhawan,
Sansad Marg, NEW DELHI – 110 001.
- 2.The Chief Postmaster General,
Andhra Pradesh Circle, Vijayawada – 520013, AP.
3. The Postmaster General,
Vijayawada Region, Vijayawada – 520013, A.P.
4. The Superintendent of Post Offices,
Narasaraopet Division, Narasaraopet 524001, A.P.

....Respondents

(By Advocate : Mrs. K. Rajitha, Sr. CGSC)

OA 147/2021

1.Ch.Koteswara Rao & Others Gr-C,
S/o Saidaiah, Aged 46 years,
Occ: Branch Post Master,
Seetharampuram BO A/w. Gandhi Chowk SO
& Circle Secretary,
National Union of Grameen Dak Sevaks,
Telangana Circle, Telangana.

2. K.Ravi Kumar, Gr-C,
S/o Sri Seetharamaiah, aged 45 years,
Occ : GDS BPM Pinampalli BO,
a/w Nelakondapalli SO, Khammam Dn,
R/o Pinampalli Village, TS.

3. B.Sai Venkata Prasanna, Gr-C,
W/o Chandrasekhar, aged 25 years,
Occ : ABPM Ramakrishnapuram BO,
A/w Chinthakani SO,
R/o Chinthakani Village, TS.

...Applicants

(By Advocate : Mr. B. Gurudas)

Vs.

1.Union of India : Rep by
The Secretary to the Govt of India,
Department of Post, Dak Bhawan,
Sansad Marg, NEW DELHI – 110 001.

2.The Chief Postmaster General,
Telangana Circle, HYDERABAD 500 001.(TS)

3. The Postmaster General,
Hyderabad Region, HYDERABAD 500 001. (TS)

4. The Superintendent of Post Offices,
Khammam Division, KHAMMAM 507 001. (TS)

....Respondents

(By Advocate : Mrs. B. Gayatri Varma, Sr. PC for CG)

ORAL ORDER (COMMON)
(As per Hon'ble Mr.B.V.Sudhakar, Administrative Member)

Through Video Conferencing:

2. The OAs are filed for issuing notification to fill up the Grameen Dak Sewak Posts (GDS) without considering the transfer requests of the serving GDS, as per the policy of the respondents organisation.



Two OAs have been filed on the same issue. In regard to OA No. 145/2021 detailed standing instructions have been filed twice and in OA No.147/2021, though no reply has been filed, the fact that the respondents and the issue being one and the same, a common order is passed, considering the time sensitivity of the issue.

3. Brief facts of the case are that the respondents have issued notification dated 27.1.2021 for filling up posts of Grameen Dak Sewaks (GDS) posts without calling for and considering the applications for transfer of GDS to their place of choice violating DOPT and Postal Directorate orders on the subject. Aggrieved over the issue, GDS Unions in representative capacity and two of its Members each, have filed these OAs.

4. The contentions of the applicants are that the respondents issuing notification to fill up vacant posts of GDS without calling for requests of serving GDS for transfer to the vacant posts is violative of the instructions of DOPT/ Postal Directorate and hence, it is arbitrary and irregular. Besides, different Divisions in the Postal Circle have been adopting different standards in considering requests for transfer by Grameen Dak Sewaks, which is discriminatory. Requests made were rejected and

directed to apply in April. Some requests are pending without being considered. The action of the respondents is violative of Articles 14 & 21 of the Constitution. GDS are permitted only one chance for transfer to their place of choice in their entire service.



5. Respondents confirm that the common on-line notification dated 27.1.2021 was issued to fill up vacant GDS posts. As per guidelines, applications for transfer are considered in April –June of every year and orders issued in July. After obtaining details from the Divisions and on excluding 341 posts, for which transfer requests and compassionate appointments were pending, notification was issued to fill up 2296 GDS posts. There is no rule to call for requests from GDS before issuing a notification. Applications of 2nd and 3rd respondents in OA 145/2021 have not been received. Post of GDS BPM Gangavaram BO for which transfer was sought by 2nd applicant is not vacant and in the said post, the 3rd applicant is working. Large number of posts have been notified for filling up and if the notification is stayed, it will cause irreparable loss to the recruitment process. Without filing applications, for transfer the OAs are filed.

6. Heard both the counsel and perused the pleadings on record.

7. I. The dispute is about filling up GDS vacancies without considering the transfer requests of the serving GDS employees as per the orders of the Postal Directorate. We have gone through the Postal Directorate letter dated 22.1.2020 wherein transfer guidelines for transfer of GDS have been framed. At para 3, under the sub-head “**Process of Transfer**” it is mentioned that the application for transfer should be called

for during April –June of every year. The respondents have stated that there is no provision to call for requests, which is, thus, incorrect and hence, without calling for requests, issuing notification is against their own guidelines.



II. Besides, the applicants have submitted that some Divisions in the Postal Circle are following the guidelines and some others are not. Therefore, the GDS employees working in the Divisions where the guidelines are not being followed, are discriminated vis-à-vis those in Divisions where guidelines are followed. Respondents have not responded to this averment, though they have filed detailed instructions twice responding to most of the averments of the applicants. GDS cadre is the lowest cadre in the respondents organisation and most of them are from the rural areas with qualifications of 8/10th standard. Their level of awareness is appreciably low and it is for the respondents to walk that extra mile to make them aware of the benefits they are eligible for. Ld. Counsel for the applicants has submitted that the requests of the GDS employees are not given as much importance as is given to regular departmental employees. It is possible, because of their large numbers and working in remote places resulting in lack of timely communication coupled with poor understanding of the rules.

III. One another contention raised is that as per DOPT instructions, vacancies are to be calculated as per the calendar year up to December of the year and not as per financial year, as is being done by the respondents. It was not explained as to whether the Postal Directorate has taken any special exemption from the DOPT to follow a different pattern.

IV. Though the respondents have explained about the background of the requests of the two applicants in OA No. 145/2021, but the general question is violation of the policy laid by the respondents themselves. Albeit, Ld. Counsel for the applicants pressed for suspending the notification, which was opposed vehemently by the Ld. respondents counsel, we are of the view that staying the notification dated 27.1.2021 is not in public interest since 2296 GDS posts are to be filled up and non filling up the posts will have severe administrative repercussions. However, at the same time, respondents cannot afford to violate the rules framed. Hon'ble Supreme Court has held that violation of rules should not be encouraged in the following judgments.



*The Hon'ble Supreme Court observation in **T.Kannan and ors vs S.K. Nayyar** (1991) 1 SCC 544 held that "Action in respect of matters covered by rules should be regulated by rules". Again in **Seigal's case (1992) (1) supp 1 SCC 304** the Hon'ble Supreme Court has stated that "Wanton or deliberate deviation in implementation of rules should be curbed and snubbed." In another judgment reported in (2007) 7 SCJ 353 the Hon'ble Apex court held "the court cannot dehors rules"*

V. Therefore, in order to strike a balance, we direct the respondents to call for requests for transfer from the GDS through a Circular, from all the Divisions in the Circle by giving wide publicity to it, using traditional Organizational channels of communication, placing it on India Post website, marking the copy to the Staff Associations and posting it on approved official social media channels, etc. The time period to do so is left to the discretion of the respondents but not beyond 2 months as the notification has to be taken to its logical end, in public interest.

VI. Before parting, it is suggested that the 1st respondent takes steps to take DOPT into confidence in regard to the calculation of vacancies on the basis of calendar year or financial year, for taking up recruitment through future notifications, lest they would get into a legal quagmire.



With the above direction, the OAs are disposed of, with no order as to costs.

(B.V.SUDHAKAR)
ADMINISTRATIVE MEMBER

(ASHISH KALIA)
JUDICIAL MEMBER

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