

**CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH**

No. OA 477 of 2020

Present: Hon'ble Mr. Swarup Kumar Mishra, Member (J)
Hon'ble Mr. T.Jacob, Member (A)

Maheswata Behera, ABPM (Daksevak/ Mail Packer), aged about 39 years, W/o Sri Dasharathi Behera, At-Nabinabag, PO/PS-Dist-Khurda-752055.

.....Applicant

VERSUS

1. Union of India, represented through its Secretary-cum-Director General of Posts, Dak Bhawan, Sansad Marg, New Delhi-110116.
 2. Chief Post Master General, Odisha Circle, Bhubaneswar, Dist-Khurda-751001.
 3. Sr. Superintendent of Post Offices, Bhubaneswar Division, At/PO-Bhubaneswar-751009.
 4. Asst. Superintendent of Post Offices, Khurda Sub Division, At/PO/Dist-Khurda-752055.

.....Respondents

For the applicant : Mr.P.K.Behera, counsel

For the respondents: Mr.C.M.Singh, counsel

Heard & reserved on : 15.2.2021 Order on :27.04.2021

O R D E R

Per Mr.Swarup Kumar Mishra, J.M.

The applicant has filed the present OA under Section 19 of the Administrative Tribunals' Act, 1985 seeking the following reliefs :

"In view of the facts stated above, it is humbly prayed that the Hon'ble Tribunal may be graciously pleased to quash Annexure A/11 and A/15 direct the Respondents to allow the applicant to continue at Pallahat SO as ABPM/Dak Sevak in which she has been working since 18.8.2010."

2. The facts of the case in brief are that the applicant is working as GDS ABPM of Pallahat SO in a/c with Khurda HO of Bhubaneswar Postal Division and was appointed on 12.5.2000 as GDS MD of Dingara BO in a/c with Begunia SO in the same division and she has already rendered more than 20 years of service in the department. The applicant was transferred to Pallahat SO as GDS Packer in 2010, she was directed to manage the work of GDS MC of Mukunda Prasad BO in 2013 and in 2016 the applicant was again repatriated

to Pallahat SO and entrusted the duty of GDS Packer in addition to the duty of GDS MC of Pallahat SO. The applicant represented several times for her permanent absorption at Pallahat SO but respondent No.4 vide letter dated 16.9.2020 rejected her representation due to mismatch of TRCA level. The applicant represented before respondent No.2 on several dates, the last being 7.9.2020 but the same was rejected vide order dated 16.9.2020 (Annexure A/11). Being aggrieved by the order dated 16.9.2020 the applicant approached this Tribunal in OA 376/2020 which was disposed of vide order dated 25.9.2020 with a direction to the respondent No.2 to consider the representation dated 21.9.2020 (Annexure A/14) for limited transfer to Pallahat at lower TRCA and dispose of the same by passing a speaking and reasoned order in accordance with the extant rules. Respondent No.2 passed a reasoned and speaking order dated 2.11.2020 rejecting the request of the applicant for transfer from Dingar BO to Pallahat SO as she did not satisfy the conditions for Limited Transfer Facility as laid down in OM dated 22.1.2020. Being aggrieved with the order of respondent No.2, the applicant has filed the present OA.

3. The respondents have filed their Counter stating that the applicant who was posted as GDS MD, Dingar BO on regular basis was asked to manage the vacant post of GDS Packer, Pallahat SO, Pallahat while separate arrangement was made to manage the work of her original post of GDS MD, Dingar BO, Dingar. The applicant was never transferred as GDS Packer, Pallahat SO. It is further submitted that there is no provision to accede to the transfer request of a GDS post in Level-I TRCA to a post having Level-II TRCA (Higher than Level-I) even if she is willing on her own volition to accept the higher TRCA of Level-II on transfer. Therefore the request of transfer of the applicant, even if willing to accept higher TRCA is outside the scope and condition of Limited Transfer Facility laid in Department of Posts, OM dated 22.1.2020 and as such the request of the applicant was rightly rejected. It is also submitted that the applicant was directed to perform the duty of GDS MC of Mukundaprasad BO to provide the postal service to the public. Short term engagement of applicant at Pallahat SO and Mukundaprasad BO are part of temporary office

arrangement. The respondents have therefore prayed for dismissal of the present OA being devoid of any merit.

4. The applicant has filed Rejoinder to the Counter filed by the respondents and the respondents have filed reply to Rejoinder.

5. We have heard both the learned counsels and have gone through the pleadings on record.

6. Interim order dated 09.11.2020 was passed in this OA by this Tribunal mentioning that:

"Learned counsels for applicant and respondents are present and heard through video conferencing.

Applicant's counsel submitted that respondent No.2 has passed the order in Annexure A/15 in pursuance to the direction of this Tribunal rejecting the application of the applicant under Limited Transfer Facility. Learned counsel for the respondents submitted that reason for rejection is mismatch to TRCA level as stated in the speaking order at A/15. Learned counsel for the applicant prays for interim order permitting the applicant to continue in the same place where she is working since 2010. Let the learned counsel for the respondents obtain instructions on interim prayer within one weeks.

Respondents are directed not to disturb the applicant till next date from the present place of posting as ABPM, Pallahat if she has not been relieved from the said post as on today.

List on 20.11.2020 for consideration of interim relief. Copy of this order be handed over to both the learned counsels physically as well as electronically"

7. The respondents have filed affidavit on 21.12.2020 inter alia mentioning that the said order dated 09.11.2020 of this Tribunal was communicated to the respondents on same day itself, but before three days of receipt of said order, the newly selected candidate Shri Pradosh Pravat appointed on compassionate ground to the cadre of GDS was appointed to the post of Daksevak Packer Pallhat SO and joined there on 06.11.2020. The applicant refused to sign relieving charge report and left the office during the joining of the said newly appointed GDS Shri Pradosh Pravat.

8. The applicant in her affidavit dated 10.02.2021 submitted that she had discharged her duty till 06.11.2020 at Pallahat, SO but due to illness she

remained on leave from 07.11.2020 to 11.11.2020. She further submitted that she had discharged her duties up to 04.12.2020 and vide interim order dated 09.11.2020 was subsequently extended to 22.12.2020 and 15.02.2021. The respondents vide order dated 12.11.2020 (Annexure A/19) had allowed her to work at Pallahat SO and she was not relieved but thereafter she was issued show cause vide order dated 23.11.2020 for contemplation of disciplinary action since she had refused to sign the charge report.

9. The materials on record reveal that the original post of applicant was GDS MD Dingar Branch Post Office. The applicant was never transferred as GDS Packer Pallahat SO. But she was asked to manage the vacant post of GDS Packer Pallahat SO. The said short term engagement of the applicant at Pallahat SO and Mukundaprasad BO were part of temporary office arrangement in the interest of service. The applicant request for transfer from post having Level 1 TRCA to post having higher level of TRCA i.e. TRCA level 2 cannot be accepted, as the same is beyond the scope and condition of limited transfer facility as per department of post OM dated 22.01.2020 (Annexure R/1). Therefore, this Tribunal find that there was no irregularity or illegality done by the respondents in rejecting the request of the applicant for transfer to Pallahat SO.

10. Accordingly the OA is dismissed being devoid of merit but in the circumstances without any order to cost.

11. The MA's too are also accordingly disposed of.

(T. JACOB)
MEMBER (A)
I.Nath

(SWARUP KUMAR MISHRA)
MEMBER (J)