



FORM No. - 4

See Rule (12)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH

ORDER SHEET

Application No. OA 880 of 2004

Applicant(s) T. Deokaran Das Respondent(s) Union of India

Advocate for Applicant(s) M/s D. P. Dhal Advocate for Respondent(s) P. K. Behera

| NOTES OF THE REGISTRY | ORDERS OF THE TRIBUNAL |
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| <p><i>28.10.2004 T.D. For Registration On memo</i></p> <p><i>Sh 27.10.04 Desh 27.10.04</i></p> <p><i>Sh 27.10.04 Desh 27.10.04</i></p> <p><i>SO (J)</i></p> | <p>REGISTER</p> <p><i>Desh Dy. Registrar 27.10.04</i></p> <p>1. ORDER DATED: 28-10-2004.</p> <p>Applicant is stated to be continuing as GDSBPM of Sankheswar Branch Post Office (Tirtol/Jagatsinghpur) of Cuttack South Postal Division. It</p> |

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For Admonition & Inform
order - copy served.

Bench

29/10/04

Dr. 28-10-04

Copies of order
Copies of order sent
to all respects and
Copies of said order
prepared for course
for both sides.

29/10/04
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appears, the post of GDSBPM of Parahat Branch Post Office (which is nearer to his native) is going to fall vacant w.e.f. 14.11.2004; following to the retirement of the present incumbent at Parahat. It is stated that Applicant's wife is a sick person; which necessitates Applicant's presence nearer to his native and, in the said premises, he represented to the Supdt. of Post Offices of Cuttack South Division to give consideration to his prayer to be posted as GDSBPM of Parahat Branch Post Office. The said representation of the Applicant having been rejected, under Annexure-A/5 dated 13.10.2004, the Applicant has filed this present Original Application under section 19 of the Administrative Tribunals Act, 1985. A copy of this Original Application has already been served on Mr. Uma Ballav Mohapatra, Learned Senior Standing Counsel for the Union of India, who is also present in court.

At the admission stage Mr. Dhalsamant, learned Counsel appearing for the Applicant has placed into

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service a copy of the departmental circular/letter No. 19-Pen./2004-GDS dated 1.9.2004; by which GDS(Conduct and Employment) Rules, 2001 has been amended to say as under:-

"A sevak shall not be eligible for transfer in any case from one post/unit to another post/unit except in public interest"

The aforesaid provisions of the Conduct and Employment Rules, 2001 pertaining to Gramin Dak Sevaks goes to show that a Sevak can only be transferred from one post/Unit to another post/Unit in "public interest".

By placing into service the aforesaid amended Rule provisions, Mr. D. P. Bhalsamant, learned Counsel appearing for the Applicant wanted to impress that for the reason of his personal difficulties at his home, public interest is likely to be jeopardised and, therefore, in the public interest his prayer for transfer from Sankheswar Branch Post Office to Parahat Branch Post Office (under Balikuda Sub Post Office) is/was available to be considered favourably. It also appears, before the amendment of GDS(Conduct and Employment) Rules, 2001 on 1.9.2004, there was a total ban on transfer of GDS personnel from one post/unit to another and after the amendment some discretion has been vested

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with the Department on transfer of GDS personnel from one post/unit to another and, as such, the rejection of the prayer of the Applicant under Annexure-A/5 dated 13.10.2004 on the ground that the Applicant is not available to face a transfer from one unit/post to another is not sustainable. It appears, while passing the impugned order under Annexure-A/5 dated 13.10.2004, the Superintendent of Post Offices of Cuttack South Division was, apparently, not alive about the amended provisions; which came into force w.e.f. 1.9.2004.

In the aforesaid premises, the grievances of the Applicant to transfer him from Sankheswar Branch Post Office to Parahat Branch Post Office of Balikuda Sub Post Office are available to be considered by the Respondents and, therefore, the matter is remitted back to the Respondents with a direction to reconsider the same by keeping in mind the amended provisions of GDS(Conduct and Employment) Rules, 2004; which came into force w.e.f. 1.9.04. The Supdt. of Post Offices, Cuttack South Division should keep in mind, that previously there was, apparently, total ban on the transfer of GDS personnel from one post to another and now, after the amendment, the discretion has already been vested with the Department to transfer one GDS from one post/unit to another. Respondents should also keep

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in mind that if GDS personnel is ^{not} disturbed for the reason of his family problem that may lead to hampering the public interest and, therefore, in all fitness of things (unless very compelling reasons are there to resist the prayer for transfer) the grievances of the Applicant should be looked into by treating the same to be a case of Public interest.

With the aforesaid observations and directions, this O.A. is disposed of by quashing the order under Annexure-A/5 dated 13.10.2004 and by giving liberty to the Respondents to reconsider the grievances of the Applicant for his transfer from Sankheswar Branch Post Office to Parahat Branch Post office.

Send copies of this order to the Respondents, alongwith copies of the Original Application, and free copies of this order be given to learned counsel for both sides.

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*See
21/10/04*
MEMBER (JUDICIAD)

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