

ORDER DATED 23-09-2005.

Heard Mr. P.C.Chinchani, learned counsel appearing for the Applicant and Mr. U.B.Mohapatra, Learned Senior Standing Counsel appearing for the Respondents and perused the materials placed on record.

Applicant, a GDSBPM of Kulusangi Extra Departmental Branch Post Office of Rayagada District of Orissa, sought to be transferred to some other EDBOs. His said request, having been refused under Annexure-A/10 on the ground that there is no provision for transferring a GDSBPM from one Branch Post Office to other, the Applicant has filed this Original Application under section 19 of the Administrative Tribunals Act, 1985. In course of hearing today, Mr. Chhinchani, learned counsel appearing for the Applicant, by producing the amended instructions issued by the Government of India, in the Department of Posts (in letter No.19-10/2004-GDS dated 01-09-1004) (wherein it has been

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provided that a Gramin Dak Sevak shall not be eligible for being transferred from one post/unit to another post/unit, except in public interest) has submitted that now there is no bar on the part of the Respondents Department to consider the grievance of the Applicant for his transfer to another Branch Post Office in public interest. On perused of the said amended provisions, it goes to show that the ground on which the grievance of the Applicant was turned down is no more available to be taken w.e.f. 01-09-2004. The above view is also fortified by the decisions of the Hon'ble Kerala High Court rendered in the case of **SENIOR SUPERINTENDENT OF POST OFFICES, KOTTAYAM AND OTHERS vrs. RAJI MOL AND ANOTHER ETC.** (reported in 2004 (3) Administrative Total Judgments 127) wherein it was held by the Hon'ble Kerala High Court that "*(1) a provision providing that the employee is not liable to be transferred does not debar an employee from seeking transfer and (2) if an employee seeks transfer to a post equivalent to the one held by him, the rules as at present do not place any bar and*

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his claim has to be considered by the authority. In case an employee seeks appointment by transfer to a higher post than the one on which he is working, the Department can consider his claim subject to his fulfilling the conditions of eligibility along with that of the other eligible persons who may offer their candidature for appointment."

Since it is the case of the Applicant that in order to avoid law and order situation at the place of his posting, the Department was considering to transfer him to some other Branch Post Office, even with low rate of emoluments, his case should receive due consideration for being transferred now.

In the aforesaid premises, the matter is remitted back to the Authorities; who should now consider the grievance of the Applicant to be posted in some other Branch Post Office; because of the amended provisions of GDS Rules, 2004.

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With the above observations and directions,
this Original Application stands disposed of. There
shall be no order as to costs.

Yours
23/09/05
(M.R.MOHANTY)

MEMBER (JUDICIAL)

Order of 23.7.05

copy of Order
may be given to both
the Counselors.

RS
7.X.05

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S.O.C.J)*