

**CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK**

ORIGINAL APPLICATION NO.168 OF 2005
Cuttack, this the 5th Day of December, 2007

Prafulla Kumar Guru Applicant(s)

Vs.

Union of India & Others Respondents

FOR INSTRUCTIONS

1. Whether it be referred to reporters or not? *— not*

2. Whether it be circulated to all the Benches of the Central Administrative Tribunal or not? *— not*


(GAUTAM RAY)
MEMEBR (A)


(G. SHANTHAPPA)
MEMBER(J)

7

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ORIGINAL APPLICATION NO.168 OF 05
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CORAM:

**HON'BLE SHRI G. SHANTHAPPA, MEMBER(J)
AND
HON'BLE SHRI GAUTAM RAY, MEMBER (A)**

.....

IN THE CASE OF:

Sri Prafulla Kumar Guru, aged about 42 years, S/o Sri Sadhu Guru, At-Jharada, P.O.-Sadangi, P.S.-Gondia, Dist. Dhenkanal, at present working as GSDMD-CUM-MC, Sadangi, S.O., Dist.-Dhenkanal. ... Applicant

Advocates for the applicant ... M/s.S.P.Jena, S.Jena, S.Das & R.N. Das.

Versus

1. Union of India, represented through its Secretary cum Director General of Posts, Dak Bhawan, New Delhi.
2. The Chief Post Master General, Orissa Circle, Bhubaneswar, Dist.-Khurda.
3. Post Master General, Sambalpur Region, Sambalpur, AT/PO/Dist.-Sambalpur.
4. Superintendent of Post Offices, Dhenkanal Division, Dhenkanal-759001.
5. Asst. Superintendent of Post Offices In-charge, Dhenkanal Sub-Division, Dist. Dhenkanal-759 001. ... Respondents

Advocate for the Respondents Mr. S.B. Jena.

ORDER

HON'BLE SHRI G. SHANTAPPA, MEMBER (JUDL):

The above O.A. has been filed by the applicant under Section 19 of the A.T. Act, 1985 seeking the following reliefs:

“(i) To quash the order dated 27.12.2004 :

(ii) And this Hon'ble Court may also be pleased to pass any such other order/orders as deemed fit and proper in the facts and circumstances the case.”

The brief facts of the case, according to the applicant, are that the applicant is working as EDDA/GDS MD. He has been ordered to work as EDSPM in addition to his duty of EDDA-cum-ED packer. Hence the applicant was discharging the job of three personnel. The duty of GDSMD is to deliver the letters of Branch Post Office and in Sadangi Branch Post Office 10 villages are covered. The Respondent No.5 without considering the facts in accordance with the rules and instructions has re-designated the applicant as GDSMD-cum-MC and has been allotted the work of exchanging the B.O. bags of Sadangi B.O. with accounts office Gondiapatana which is about 15 kms. away from Sadangi B.O. and from Sagangi B.O. to Gondiapatana there is no communication. The action of the Respondent No.5 is not only illegal, arbitrary but also against the principles of natural justice. The order passed by the Respondent No.5 is impugned in the present O.A. The action of the Respondent No.5 is mala fide intention. The applicant submitted his representation as per Annexure-A/2 to the Director of Postal Services, Sambalpur Region, Sambalpur on 24.01.05. The



said representation has not been considered. Hence the applicant has approached this Tribunal for relief as prayed in the O.A.

Per contra the Respondents have filed a detailed reply statement admitting the service particulars of the applicant. Their contention in the reply statement is that the applicant is working in the capacity of GDS Packer/MD. The mails from Railway Mails service and from Dhenkanal H.O. and vice versa were exchanged by GDSMC Dhenkanal-Sadangi B.O. In the down gradation proposal it was proposed to place Sadangi B.O. under accounts jurisdiction of Gondiapatna S.O. to redesignate GDSSPM as GDSBPM and DGSPkr/MD as GDSMD/MC, so that after down gradation from GDSSO to GDSBO the present incumbent of GDSSPM would be designated as GDSBPM and incumbent of DGSPkr/MD would be designated as GDSMD/MC. After discontinuance of mails from RMS and Dhenkanal H.O., the GDSMD/MC would exchange B.O. bag from Gondiapatna Sub Post Office which is situated at a distance of 7 KMs from Sadangi. The Regional Office approved the proposal vide memo dated 13.09.2004 and corrigendum issued on 22.9.2004. The Respondent No.4 implemented in pursuance to the orders of Regional Office vide memo dated 23.09.2004. As per the said letter dated 23.09.2004 it was clearly mentioned that B.O. bag of Sadangi will be exchanged by the GDSMD/MC while implementing the orders the then ASP I/C who is not competent to modify order of Respondent No.3 or 4, issued self styled order dated 5.10.2004 for exchange of BO bag of Sadangi BO through GDSMC Mandar showing reason that the GDSMD/MC Sadangi. The incumbent of GDSMD/MC who is the applicant denied to exchange BO bag at Gondiapatna which is



irregular. The ASP I/C was suitably noticed for his irregularity. In supercession of the memo dated 5.10.2004, the ASP I/C implemented the order by issuing a memo dated 27.12.2004 which is impugned in the present O.A. The respondents have finally requested in their reply for rejection of the O.A.

Applicant has filed the rejoinder clarifying the reply statement along with a map and mail book of Sadangi B.O. which shows the work load of the applicant.

We have heard M/s. P.Jena, S.Jena, S.Das and R.N.Das, learned Counsels for the applicant and Mr.S.B.Jena, learned ASC for the Respondents.

After perusal of the pleadings and hearing from either side, the short question that arises for our reconsideration is;

“Whether Annexure-A/1 dated 27.12.04 has been passed by the competent authority i.e. the Assistant Superintendent of Post Offices In-charge, Dhenkanal Sub Division, Dhenkanal ?

It is an admitted fact from either side that the applicant is working as GDSMD Sadangi in addition to his duties, work of EDDA-cum-ED Packer has been assigned to him.

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The Respondents in their reply statement have admitted that Respondent No.5 has no competence to issue the impugned order. It is relevant to extract the reply statement of the Respondents.

“The Respondent No.4 implemented in pursuant to the orders of Regional Office vide memo No.A-109 dated 23.09.04 a copy of which is submitted as Annexure-R/4. In the Annexure-R/4 it was clearly mentioned that B.O. bag of Sadangi will be exchanged by the GDSMD/MC while implementing the orders the then ASP I/C who is not competent to modify order of Respondent No.3 or 4, issued self styled order vide No.G/Misc/07 dated 5.10.04 for exchange of BO bag of Sadangi BO through GDSMC Mandar showing reason that the GDSMD/MC Sadangi. The incumbent of GDSMD/MC who is the applicant of this O.A. denied to exchange BO bag at Gondiapatna which is irregular. The ASP I/C was suitably noticed for his irregularity. However in super cession of memo No.G/Misc/04 dated 5.10.04, the ASP I/C implemented annexure-R/4 by issuing memo No.A/Sadangi/04 dated 27.12.04 which is annexed as Annexure-A/1 to the O.A. Now the applicant is working as GDSMD/MC Sadangi B.O.”

On the submission made by the Respondents in the reply statement which is stated above, the ASP I/C is not the competent authority to issue the impugned order. Based on the submission made by the learned counsel for the Respondents and the stand taken in the reply statement. We are of the considered view that the Respondent No.5 i.e. Assistant Superintendent of Post Offices In-charge has no authority to issue the impugned order dated 27.12.2004. Accordingly, the issue raised above is answered in affirmative. The applicant has proved that the Respondent No.5 is not competent authority to pass the impugned order.



Accordingly, the O.A. is allowed. The impugned order at Annexure-A/1 dated 27.12.2004 is quashed. No costs.


(GAUTAM RAY)

MEMBER (ADMN.)


(G.SHANTAPPA)

MEMBER (JUDL.)

