

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

ORIGINAL APPLICATION NO.270 OF 2008
Cuttack this the 1st day of April, 2011

CORAM:

HON'BLE SHRI C.R.MOHAPATRA, ADMINISTRATIVE MEMBER
AND
HON'BLE SHRI A.K.PATNAIK, JUDICIAL MEMBER

...
Bhaskar Khatei, S/o. late Ananta Khatei, at present working as GDSBPM, At/PO-Dhunkapada Branch Post Office, Via-Buguda, Sub. Office under Aska Postal Division, Dist-Ganjam

...Applicant

By the Advocates: Mr.T.Rath
-VERUS-

1. Union of India represented through Chief Post Master General, Orissa, Bhubaneswar, Disti-Khurda
2. Postmaster General, Berhampur Region, Berhampur, At/PO-Berhampur, Dist-Ganjam
3. Superintendent pf Post Offices, Aska Division, At/PO-Aska, Dist-Ganjam
4. SDIP (Postal), Aska East Sub-Division, Aska, At/PO-Aska, Dist-Ganjam

...Respondents

By the Advocates:Mr.S.Mishra, ASC

ORDER

HON'BLE SHRI A.K.PATNAIK, JUDICIAL MEMBER:

1. In this Original Application under Section 19 of the A.T.Act, 1985, the applicant has sought for the following relief:

- i) Direct the respondents not to compel the applicant to perform duty beyond the ceiling hour as prescribed under Annexure-A/9 and A/10
- ii) Quash Endorsement Para 2 of the order under Annexure-A/2
- iii) Pass any order or orders giving complete relief to the applicant.

2. At present, the applicant is working as Gramin Dak Sevak Branch Post master (in short GDSBPM), Dhunkapada Branch Office. His grievance is that it was due to put off duty of GDSBPM of Sodak Branch Office, Overseer Mails (in short OS), Aska, was ordered to manage the affairs. The said O.S. having been granted leave from 4.2.2006 to 15.3.2006, one Purna Chandra Das working as Gramin Dak Sevak Mail Deliverer (in short GDSMD) of Dhunkapada B.O. was directed to temporarily

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manage the work of GDSBPM, Sodaka Branch office vide Annexure-A/2 dated 8.2.2006 and consequently, the applicant was directed to manage the work of Sri Das who was working as the GDSMD, Dhunkapada Branch Office in addition to his own duties as GDSBPM of Dhunkapada Branch Office. The applicant brought this fact to the notice of Respondent Nos. 3 and 4 by submitting representation dated 11.2.2006 under (Annexure-A/3) requesting therein to make alternative arrangement for the Dhunkapada B.O. as he has been overburdened with work. Having received no response, again the applicant preferred representation dated 29.6.2006 to the Director of Postal Services, followed by a reminder on 21.4.2007. As he has not received any response to his representations, the applicant has moved this Tribunal in the present O.A. seeking for the aforementioned relief.

3. Respondent-Department have filed their counter opposing the prayer of the applicant. It has been stated by the Respondents that the original incumbent of the GDSBPM, Sodaka B.O. having retired on superannuation on 14.4.2004, one Dandapani Padhy, GDSMD/MC of Sodaka B.O. was ordered to perform the work of GDSBPM, besides the delivery work of Sodaka B.O. The said Padhy remained unauthorizedly absent from 2.8.2005 to 13.12.2005 for which in order to run the said Post Office, the Overseer Mails, one Subash Chandra Swain was ordered to remain in charge of Sodaka BO as the GDSBPM. On return of Sri Dandapani Padhy to duty, it was not felt expedient to entrust the works of the GDSBPM of the BO to him pending completion of verification of his past work and consequently, Shri Padhy was entrusted with the duty of delivery of articles under the supervision of the BPM in charge. In the meantime, Shri Swain, Overseer Mails, having been granted leave from 4.2.2006 to 15.3.3006, to get him relieved on leave, Shri Purna Chandra Das, GDSMD, Dhunkapada BO, a Gramin Dak Sevak of the neighboring Branch Post Office was ordered to perform the work of GDSBPM, Sodaka B.O. It has been further submitted that there is no financial justification for retention of post of GDSMD, Dhunkapada BO as Dhunkapada BO is nearest to Sodaka BO. The Respondents have further submitted that as no other alternative arrangement was feasible, Sri Purna Chandra Das, GDSMD, Dhunkapada BO was brought to Sodaka BO to perform the duties of the GDSBPM in the interest of service. In so far as allegation of the applicant regarding duty hours beyond the stipulated time is concerned, the



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Respondents have submitted that the total working hours of the applicant is 5 hours per day which is not beyond the stipulated time.

4. With the above submissions the Respondents have prayed for dismissal of this O.A. being devoid of merit.

5. We have heard Shri T.Rath, learned counsel for the applicant and Shri S.Mishra, learned Addl. Standing Counsel for the Respondents and perused the materials on record. We have also gone through the rejoinder filed by the applicant.

6. Before considering the matter on merit, it seems to be proper to put in black and white the prayer of the applicant in the present O.A. It is two fold, i.e., (i) to direct the respondents not to compel the applicant to perform duty beyond the ceiling hour as prescribed under Annexure-A/9 and A/10 and (ii) to quash Endorsement made in Para 2 of the order under Annexure-A/2.

7. As regard the first prayer of the applicant to direct the respondents not to compel him to work beyond the ceiling hour as prescribed under Annexure-A/9 and A/10 is concerned, it is found that the Respondent-Department by filing Annexure-R/1 and R/2 to their counter affidavit have justified that the work of the applicant is well within 5 hours and not beyond that. Applicant has not disputed the same in the rejoinder filed by him. In this view of the matter, prayer of the applicant in this regard is not acceded to.

8. In so far as prayer No.(ii) above is concerned, it is to be noted that soon after joining of Shri Padhi, it was incumbent on the part of the Respondent-Department to relieve Shri Swain, OS Mails. However, it is the case of the Respondents that it was not felt expedient to entrust the work of GDSBPM of Sodaka BO upon Shri Dandapani Padhy, GDSMD/MC pending completion of verification of his past work. No corroborative material have been submitted by the Respondents in support of the above stand. Be that as it may, it is but natural that whatever verification the Respondents were carrying out in respect of Shri Padhi must have been completed in between these five years. The Respondents have not brought to our notice any such service verification report in respect of Shri Padhi and/or any action taken thereby.

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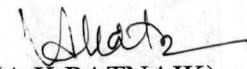
Viewed from this angle, the Respondents have adopted a subterfuge method in so far as sending back of Shri P.C.Das to the original post of GDSMD, Dhunkapada BO is concerned. We are conscious that it is not expected of the Tribunal to monitor the day to day affairs of the administration in the Respondent-Department. However, the Tribunal is only concerned with the circumlocution made by the Respondents in the counter affidavits that it was not feasible to return Shri Das to Dhunkapada BO which seems to be an after thought as well as their action as mute spectators in so far as allowing Shri Padhy to continue without studying the feasibility of his continuance in Sodaka B.O. is concerned.

9. In this respect, we would call upon Respondent No.1, viz., Chief Post Master General, Orissa Circle, Bhubaneswar to probe into the veracity of the matter as observed above and take suitable action against the misdemeanor as deemed fit and proper.

With the observation and direction as made above, this O.A. is disposed of.

No costs.


(C.R.MOHAPATRA)
ADMINISTRATIVE MEMBER


(A.K.PATNAIK)
JUDICIAL MEMBER

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