CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

O.A.Nos.653/2015 & 136/2016
Cuttack this the 11th day of December, 2017
CORAM:
THE HON'BLE SHRI S.K.PATTNAIK, MEMBER(J)
THE HON'BLE DR.MRUTYUNJAY SARANGI, MEMBER(A)

IN O.A.No.653/2015
Prajnamaye Behera, aged about 23 years, D/o.Prahallad Behera, At-Kalyani Nagar, PO-Kalyani, Via-Kothor, Dist-Bhadrak

...Applicant

By the Advocate(s)-M/s.M.K.Khunitia
G.R.Sethi
J.K.Digal
B.K.Pattnaik

-VERSUS-

Union of India represented through:

1. The Director General, Posts, Dak Bhawan, Sansad Marg, New Delhi.
2. Chief Post Master General, Odisha Circle, Bhubaneswar, Dist-Khurda
3. Superintendent of Post Offices, Bhadrak Division, Bhadrak, At/PO/Dist-Bhadrak

...Respondents

By the Advocat(s)-M/s..B.Swain
S.Patra-I
S.Rath
D.D.Sahu

IN O.A.NO.136/2016
Srabanee Samal, aged about 23 years, D/o. late Bankanidhi Samal, At-Andola, PO-Barttana, PS-Khaira, Dit-Bhadrak

...Applicant

By the Advocate(s)-M/s.S.Patra-I
D.D.Sahu
S.Rath

-VERSUS-

Union of India represented through:

1. The Director General, Department of Posts, Dak Bhawan, New Delhi-110 001.
2. Chief Post Master General, Odisha Circle, Bhubaneswar, Dist-Khurda
3. Director of Postal Services, Headquqrters, O/o.Chief Post Master General, Odisha Circle, Bhubaneswar, Dist-Khurda-751 001

4. Superintendent of Post Offices, Bhadrak Division, Bhadrak,PO/Dist-Bhadrak-756 100

...Respondents

By the Advocat(s)-Mr.C.M.Singh

ORDER

DR.MRUTYUNJAY SARANGI, MEMBER(A):

Since both the matters are inter-linked, this common order is being passed.

2. Applicant in O.A.No.653 of 2015 was selected as GDSBPM in Bansada Kuamara (in short B.Kuamara) Branch Office in account with Naikanidhi S.O. and was appointed vide order dated 12.12.2013 in that post. She submitted the required documents regarding the consent letter of the house owner for opening of the Branch Post Office at B.Kuamara in account withNaiknidhi S.O. and joined as GDSBPM on 20.1.2014. She had taken the house of one Manindra Kumar Panda for operating the Branch Office and was staying there. The said Manindra Panda was working as GDSMD in the same Branch Office. However, the said individual misbehaved with her and caused sexual harassment from time to time. The applicant lodged a complaint before the Assistant Superintendent of Post Offices, Central Sub Division, Bhadrak for taking appropriate action for her safety. She remained on leave without pay for one month from 24.3.2014 to 24.4.2014 on account of mental disturbance caused by the harassment, she handed over the charge to Shri Manindra Kumar Panda, GDSMD of B.Kuamara B.O. While on leave, she filed a representation before the

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Respondent No.3, i.e., Superintendent of Post Offices, Bhadrak Division to absorb her as GDSBPM, Geltua Branch Office in account withMadhabnagar S.O., which was permitted vide order dated 8.5.2014. The applicant joined at Geltua B,.O. on 28.5.2014. Subsequently, the post of GDSBPM, Geltua B.O. was advertised to be filled up by making fresh recruitment. The applicant submitted a representation to Respondent No.3 to allow her to continue at Geltua B.O. as her life was in danger if she wass posted at B.Kumara B.O. where Shri Manindra Kumar Panda was continuing as GDSMD. However, the Respondent No.3 vide order dated 27.5.2015(A/8) rejected her representation and directed her to take up residence in the village of B.Kuamara and to provide suitable accommodation free of cost for the functioning of the Branch Office within two months of the receipt of the letter failing which disciplinary action will be taken against her. The applicant had submitted a representation to the Collector, Bhadrak District for continuance in the post of GDSBPM, Geltua B.O. The Superintendent of Post Office vide his letter dated 7.7.2015 referred the matter to the Internal Complaints Committee for prevention of sexual harassment. The applicant had filed the present O.A.No.653 of 2015 while the Committee's proceedings were still on, praying for the following reliefs:

i) To direct the respondents to allow the applicant to continue as GDSBPM, Geltua B.O. in account with Madhabnagar S.O.

ii) To quash the order dtd. 27.5.15 under Annexure-A/8.

iii) And pass such other order/direction as deemed fit and proper in the interest of justice in the facts and circumstances of the case.

3. By way of interim relief she had made a prayer to direct the Respondents not to fill up the post of GDSBPM, Geltua BO by conducting fresh recruitment and to allow her to continue at Geltua BO till disposal of the O.A. Records show that on 5.10.2015, this Tribunal had granted an interim relief to the applicant by staying the operation of the order dated 27.5.2015 and directing that the applicant shall not be relieved from Geltua B.O. until further orders.

4. O.A. No.136 of 2016 has been filed by one Srabanee Samal, who has been selected for the post of GDSBPM, Geultua B.O., praying for a direction to the respondents to allow her to join as Branch Post Master in Geltua B.O. pursuant to her selection for the post. It is obvious that the O.A. No.136 of 2016 is linked to O.A.No.653/2015 since the applicant in O.A.No.653 of 2015 is continuing as GDSBPM at Geltua Branch Office by virtue of the stay and the interim relief granted by this Tribunal.

5. The ground on which the applicant in O.A.No.653 of 2015 has sought relief is due to alleged sexual harassment by Shri Manindra Kumar Panda and a threat to her life.

6. The Respondents filed counter reply on 10.2.2016 in O.A.No.653 of 2015 in which they have submitted that the applicant is not entitled to any of the reliefs sought by her since the arrangement for the opening of the B.O. at B.Kuamara village was made by her. She was informed that her attachment to B.Kumara B.O. was on temporary basis. She had served there only for three months. She is not eligible to avail transfer facilities as she has not completed three years of service. She does not fulfill any of the conditions of limited transfer facility as provided for by the Department. It is the respondents' contention that the copy of the representation dated 21.4.2014 of the applicant has not been received by Respondent No.3 and the alleged sexual harassment was never disclosed by the applicant before the issue of notification on 27.4.2015 for filling up the vacancy in the post of GDSBPM, Geltua B.O. The ground of misunderstanding with the fellow GDS and risk to her life are not covered under the condition for effecting transfer facilities as per the policy adopted by the Government (R/2). Therefore, her representation was rejected and she was asked to join at B.Kuamara B.O. The respondents have submitted that the applicant put up a representation on 24.4.2015 in which she mentioned that she had been sexually harassed by the GDSMD,

B.Kuamara BO. and the respondents believe that she has mentioned sexual harassment by a fellow worker only for the purpose of continuing at Geltua B.O. However, she cannot be posted at Geltua B.O. on transfer since she has not completed three years of service and is not eligible to avail the limited transfer of GDS as per the Departmental guidelines(R/2). The reasons mentioned by her are not covered under the conditions prescribed for transfer and the alleged sexual harassment which is mentioned in her representation dated 24.4.2015 was never disclosed by her before the notification for filling up the vacancy at Geulta B.O. was issued on 7.4.2015. Therefore, if she was subjected to sexual harassment and felt any risk to her life, she should have reported the matter to the Police with information to her controlling authority. She has not done so and has submitted the representation to present a case as if the Department is forcing her to function the Branch Office in the house of Sri Manindra Kumar Panda. As per rules, it is obligatory on her part to provide accommodation for functioning of the Branch Office where she is posted as GDSBPM and it is for her to make arrangement for the functioning of the Post Office. The Respondents have also submitted that selection for the post of GDSBPM, Geltua has already been completed and if the applicant is allowed to continue at Geltua Branch Office, the candidate who has been selected for the post of GDSBPM,Geltua will be deprived of

employment without any fault of hers. The selected candidate Ms. Srabanee Samal has already been informed of her selection to the post of GDSBPM, Geltua B.O. The complaint of the applicant was referred to the Internal Complaint Committee for prevention of sexual harassment of women at work place of Bhadrak Postal Division vide letter of Respondent No.3 dated 7.7.2015. The Internal Complaint Committee submitted its report after due inquiry on 23.11.2015(R/8) and opined that the applicant had availed undue advantage from the accused GDSMD by staying in his residence and she should find out the required accommodation for the Branch Office at B.Kuamara on her own responsibility within one month's time from receipt of the order, if any, from Respondent No.3 failing which Respondent No.3 will be free to take action as deemed proper under the GDS Recruitment Rules. Although the charges against Sri Manindra Kumar Panda, the accused GDSMD were not proved, the Committee also recommended that the Respondent No.3 should shift him to any distant B.O. in the Division. As per the recommendations of the Committee Sri Panda, GDSMD, B.Kuamara B.O. has been transferred and posted as GDSMD/MC, Bideipurpal Branch Office in account with Basudebpur Gr.I Post Office vide order dated 4.1.2016. As Shri Panda has been transferred to a distant Branch Office, there is no threat to the applicant to work at her original place of posting. It is also the Respondents' contention that Geltua

Branch Office has been inspected by the departmental officers and from the inspection report, it appears that the applicant's performance at the Branch Office was not satisfactory on several counts. The case of the applicant has already been considered by the CPMG, Orissa Circle who has directed the Respondent No.3 vide his letter dated 3.9.2015 to follow the Directorate guidelines on Limited Transfer Facilities scrupulously and decide continuance of the applicant at Geltua Branch Office strictly as per departmental rules.

7. The Respondents had filed M.A.No.978/2015 in O.A.No.653/2015 on 15.12.2015 praying for further time to file counter. Similarly, M.A.No.903/15 was filed on 8.11.2015 asking for further time. The intervener-petitioner Ms.Srabanee Samal filed M.A.No.358/16 on 20.6.2016 praying for including her as an intervener – party. Records show that on 14.9.2016, the intervention petition was allowed and on the same day, M.A.No.493/2016 for vacation of interim stay was also considered. However an interim direction was issued only to the extent that Ms.Srabanee Samal can be accommodated in any of the four vacancies other than Geltua Branch Office, if possible. On 9.9.2016, applicant had filed an objection to the interim stay petition on the ground that Ms.Srabanee Samal can be accommodated in any other vacancies and the applicant may be allowed to continue to work at Geltua Branch Office in view

of the threat to her life and the sexual harassment caused by Sri manindra Kumar Panda.

8. Both the matters were heard analogous on 27.11.2017 and reserved for orders. The issue to be decided is whether the applicant in O.A.No.653 of 2015 has a legal right to be posted to Geltua Branch Office as GDSBPM. We have perused the report of the Internal Complaint Committee, Bhadrak. The relevant extract from the said report is as follows:

> "Shri Manindra Panda is serving the BO since 1992. His past service records, local public opinion and controlling authorities do not corroborate such activities on the part of Shri panda. On the other hand, the lady BPM, just within a short period of working with the GDSMD Shri Panda, found it uneasy/insecured to continue there and approached authorities at different level for her shifting to other BO which clears that there might be lying some truth in the alleged points which could not be proved during enquiry owing to non-availability of sufficient evidence or witness.
>
> The Committee is of observation that Ms.Prajnamayee Behera, while selected for the post of BPM, B.Kuamara BO committed a mistake getting into agreement withShri Manindra Panda to provide the accommodation for the BO where she also availed some undue obligations from Shri Panda and his family which might have led to give an upper hand to Shri panda to behave in a different manner with her. It might have been so that Ms.Behera has not objected to it at proper stage and in a just manner which would have been given a conception that she has consent to it. All these things led to misunderstanding, rivalry and allegation.
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> The Committee after hearing both the parties, analyzing all the aspects of the allegation and related issues holds the opinion that Ms.Prajnamayee Behera to find out and take up the required accommodation for the BO in the post village of B.Kuamara BO on her own responsibility

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within one month's time from receipt of fresh order, if any, from the employer i.e., Supdt. Of Posts Bhadrak Division failing which the employer is free to take up action as deemed proper under rules covering GDS recruitment process.

Further, the employer ie., Supdt. Of Posts, Bhadrak Divn. In case issues such order as above, should effectively arrange shifting of Shri Manidra Panda, GDSMD, B.Kuamara BO to any distant BO in the Division. Shri Manindra Panda, GDSMD,B.Kuamara BO is also warned by this Committee that any direct or indirect attempt on his part to harm/harass Ms.Prajnamayee Behera hereinafter will be dealt with as per GDS Conduct and Service rules in vogue".

9. The respondents have submitted in their reply that Shri Manindra Kumar Panda has been transferred to Bideipurpal Branch Office after the receipt of the report of the Internal Complaint Committee. In case the applicant is posted back to B.Kuamara BO she can certainly find a new accommodation other than the house of ShriManindra Kumar Panda. She can also take recourse to Police complaint in case of any future sexual harassment by Shri Panda apart from informing the higher authorities for departmental action against him. The selection for Geltua B.O. has already been over for more than one year and Ms.Srabanee Samal the intervener in the present O.A. is waiting to take up ... assignment having been selected on merit. However, sexual harassment is a serious complaint and has the potential of creating mental agony and torture to any Government employee particularly when it is perpetrated by another colleague. The Respondent No.3 should therefore

keep a watch on the activities of Shri Panda and give him suitable warning to desist from contacting the applicant Ms.Prajnamayee Behera so that the scope for any sexual harassment can be eliminated. Respondent No.3 is at liberty to post the applicant Ms.Prajnamaye Behera (applicant in O.A.No.536 of 2015) to B.Kuamara B.O. and Ms. Srabanee Samal-intevener in O.A. No.536 of 2015 and applicant in O.A.No.136 of 2016 as GDSBPM, Geltua Branch Office. However, the order in this O.A. will not be a constraint on the Respondent No.3 should he decide to post Ms.Srabanee Samal with her consent to any of the four Branch Post Offices suggested by Ms. Prajnamaye Behera and to accommodate Ms.Behera at Geltua Branch Post office, since she has completed three years of service and is eligible to be considered for limited transfer facilities for GDS as per the departmental guidelines.

10. With the aforesaid observation both the O.A.Nos.536 of 2015 and 136 of 2016 are disposed of. Accordingly, all the Misc. Applications stand disposed of. No costs.

(DR.MRUTYUNJAY SARANGI)
MEMBER(A)

11/1/17
(S.K.PATTNAIK)
MEMBER(J)

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