

**CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK**

O.A.Nos.786/12, 787/12, 1010/12, 318/13, 319/13, 16/14,
24/14.34/14.156/14.276/14, 277/14.326/14.414/14.4/15,
98/15.287/15.45/16.363/16.545/16.112/17 & 266/17

Cuttack this the 5th day of February, 2018

CORAM:

THE HON'BLE SHRI S.K.PATTNAIK, MEMBER(J)
THE HON'BLE DR.MRUTYUNJAY SARANGI, MEMBER(A)

IN O.A.No.786 of 2012

Umakanta Mallick, aged about 37 years, S/o. late Karunakar Mallick, At-Asanpur, PO-Chhatrapada, PS-Mangalpur, Dist-Jajpur, presently working as GDS BPM, Chhatrapada B.O., Via-Pritipur, Dist-Jajpur

...Applicant

By the Advocate(s)-M/s.D.P.Dhalasamant
N.M.Rout

-VERSUS-

Union of India represented through :

1. The Director General of Posts, Govt. of India, Ministry of Communication, Department of Posts, Dak Bhawan, Sansad marg, New Delhi-110 001.
2. Chief Post Master General, Orissa Circle, Bhubaneswar, Dist-Khurda-751 001
3. Director of Postal Services (HQ), O/o. Chief Post Master General, Orissa Circle, Bhubaneswar, Dist-Khurda-751 001
4. Superintendent of Post Offices, Cuttack North Division, At/PO/Dist-Cuttack-753 001.
5. Asst. Superintendent of Post Offices, Jajpur Sub-Division, At/PO/Dist-Jajpur-755 001.

...Respondents

By the Advocate(s)-Mr.J.K.Nayak

IN O.A.No.787/2012

Radhasyam Sahoo, aged about 38 years, S/o. Sarat Chandra Sahoo, At/PO-Kanikapada PS-Mangalpur, Dist-Jajpur, presently working as GDS BPM,Kanikapada BO., Via-Mangalpur, Dist-Jajpur

...Applicant

By the Advocate(s)-M/s.D.P.Dhalasamant
N.M.Rout

-VERSUS-

Union of India represented through :

1. The Director General of Posts, Govt. of India, Ministry of Communication, Department of Posts, Dak Bhawan, Sansad marg, New Delhi-110 001.
2. Chief Post Master General, Orissa Circle, Bhubaneswar, Dist-Khurda-751 001
3. Director of Postal Services (HQ), O/o. Chief Post Master General, Orissa Circle, Bhubaneswar, Dist-Khurda-751 001
4. Superintendent of Post Offices, Cuttack North Division, At/PO/Dist-Cuttack-753 001.
5. Asst. Superintendent of Post Offices, Jajpur Sub-Division, At/PO/Dist-Jajpur-755 001.

...Respondents

By the Advocate(s)-Mr.S.Behera

IN O.A.No.1010 of 2012

Prafulla Kumar Mohanty, aged about 53 years, S/o. late Gopal Charan Mohanty, At/PO-Aunri, PS-Pritipur, Dist-Jajpur, presently working as GDSBPM, Aunri BO, Via-Pritipur, Dist-Jajpur

...Applicant

By the Advocate(s)-M/s.D.P.Dhalasamant

N.M.Rout

-VERSUS-

Union of India represented through :

1. The Director General of Posts, Govt. of India, Ministry of Communication, Department of Posts, Dak Bhawan, Sansad marg, New Delhi-110 001.
2. Chief Post Master General, Orissa Circle, Bhubaneswar, Dist-Khurda-751 001.
3. Director of Postal Services (HQ), O/o. Chief Post Master General, Orissa Circle, Bhubaneswar, Dist-Khurda-751 001
4. Superintendent of Post Offices, Cuttack North Division, At/PO/Dist-Cuttack-753 001.
5. Asst. Superintendent of Post Offices, Jajpur Sub-Division, At/PO/Dist-Jajpur-755 001.

...Respondents

By the Advocate(s)-Mr.S.Behera

IN O.A.No.318 of 2013

Sri Rabindra Kumar Bhuyan, aged about 42 years, S/o. late Jambeswar Bhuyan, Vill/PO-Garhrodang, PS-Brahmagiri, Dist-Puri presently working as GDSBPM, Garhrodang

...Applicant

By the Advocate(s)-M/s.D.P.Dhalasamant

N.M.Rout

-VERSUS-

Union of India represented through :

1. The Director General of Posts, Govt. of India, Ministry of Communication, Department of Posts, Dak Bhawan, Sansad Marg, New Delhi-110 001.
2. Chief Post Master General, Orissa Circle, Bhubaneswar, Dist-Khurda-751 001.
3. Senior Superintendent of Post Offices, Puri Division, At/PO/PS-Puri.
4. Assistant Superintendent of Post Offices, Puri Sub-Division, At/PO/PS/Dist-Puri

...Respondents

By the Advocate(s)-Mr.S.Behera

IN O.A.No.391 of 2013

Smt.Jonchha Mayee Pattnaik, aged about 29 years, W/o. Sri Aurabinda Mangaraj of Vill/PO-Kusubenti, PS-Brahmagiri, Dist-Puri presently working as GDSBPM, Kasubenti, Dist-Puri

...Applicant

By the Advocate(s)-M/s.D.P.Dhalasamant

N.M.Rout

-VERSUS-

Union of India represented through :

1. The Director General of Posts, Govt. of India, Ministry of Communication, Department of Posts, Dak Bhawan, Sansad Marg, New Delhi-110 001.
2. Chief Post Master General, Orissa Circle, Bhubaneswar, Dist-Khurda-751 001.
3. Senior Superintendent of Post Offices, Puri Division, At/PO/PS-Puri.
4. Assistant Superintendent of Post Offices, Puri Sub-Division, At/PO/PS/Dist-Puri

...Respondents

By the Advocate(s)-Mr.D.K.Mallick

IN O.A.No.16 of 2014

Shaikh Abdul Gaffar, aged about 33 years,S/o. Shaikh Mustafa, At-Karndipur, PO-Dhanipur, Dist-Jajpuir, presently wrking as GDS BPM, Uttarkul Hat B.O., Via-Pritipur S.O., Dist-Jajpur

...Applicant

18

By the Advocate(s)-M/s.D.P.Dhalasamant
N.M.Rout

-VERSUS-

Union of India represented through :

1. The Director General of Posts, Govt. of India, Ministry of Communication, Department of Posts, Dak Bhawan, Sansad Marg, New Delhi-110 001.
2. Chief Post Master General, Orissa Circle, Bhubaneswar, Dist-Khurda-751 001.
3. Superintendent of Post Offices, Cuttack North Division, At/PO/Dist-Cuttack-753 001.
4. Assistant Superintendent of Post Offices, Jajpur Sub Division, At/Po/Dist-Jajpur-755 001.

...Respondents

By the Advocate(s)-Mr.L.Jena

IN O.A.No.24 of 2014

Rahasa Ballava Mohanty, aged about 56 years, S/o. late Bhramarabara Mohanty, At/PO-Indalo, Via-Danpur, Dist-Kendrapara now working as GDSMD of Indala BO, S.O. now I/c. BPM Indala BO in account with Danpur SO

...Applicant

By the Advocate(s)-M/s.N.R.Routray
T.K.Choudhury

-VERSUS-

Union of India represented through :

1. The Secretary cum Director General of Posts, Govt. of India, Ministry of Communication, Department of Posts, Dak Bhawan, Sansad Marg, New Delhi-110 116.
2. Chief Post Master General, Orissa Circle, Bhubaneswar, Dist-Khurda-751 001.
3. Superintendent of Post Offices, Cuttack North Division, At-P.K.Parija Marg, PO-Cuttack GOP, Dist-Cuttack-753 001

...Respondents

By the Advocate(s)-Mr.D.K.Mallick

IN O.A.No.34 of 2014

Upendra Swain, aged about 60 years, S/o. late Harihar Swain, At/PO-Biruda, Via-Itamati, Dist-Nayagarh, now working as GDSBPM, Biruda B.O. Biruda

...Applicant

19

By the Advocate(s)-M/s. Dr.C.R.Mishra

G.Mishra

H.K.Mallick

-VERSUS-

Union of India represented through :

1. The Director General of Posts, Govt. of India, Ministry of Communication, Department of Posts, Dak Bhawan, Sansad Marg, New Delhi.
2. Chief Post Master General, Orissa Circle, Bhubaneswar, Dist-Khurda-751 001.
3. Senior Superintendent of Post Offices, Puri Division, At/PO/PS-Puri.
4. Inspector of Post, Nayagarh East Sub-Division, At/PO-Dit-Nayagarh

...Respondents

By the Advocate(s)-Mr.M.R.Mohanty

IN O.A.No.156 of 2014

Jairam Mallik, aged about 57 years, S/o. late Kangali Mallik, At/PO-Kumbhiragadia, Via-Dangadi, Dist-Jajpur, presently working as GDSBPM, Kaumbhiragadia BO, At/PO-Kumbhiragadia, Via-Dangadi, Dist-Jajpur

...Applicant

By the Advocate(s)-M/s.D.P.Dhalasamant

N.M.Rout

-VERSUS-

Union of India represented through :

1. The Director General of Posts, Govt. of India, Ministry of Communication, Department of Posts, Dak Bhawan, Sansad Marg, New Delhi-110 001.
2. Chief Post Master General, Orissa Circle, Bhubaneswar, Dist-Khurda-751 001.
3. Superintendent of Post Offices, Cuttack North Division, At/PO/Dist-Cuttack-753 001.
4. Assistant Superintendent of Post Offices, Jajpur Sub-Division, At/PO/Dist-Jajpur-755 001

...Respondents

By the Advocate(s)-Mr.D.K.Mallick

IN O.A.No.276 of 2014

Sukanta Kumar Sahoo, aged about 34 years, S/o. Sri Subash Chandra Sahoo, At/PO-Gumi, Via-Bahadajhola, Dist-Nayagarh working as GDSMC of Gumi B.O. now I/c. BPM Dimiripali BO in account with Nuagaon SO.

...Applicant

20

By the Advocate(s)-Mr.N.R.Routray
-VERSUS-

Union of India represented through :

1. The Secretary cum Director General of Posts, Govt. of India, Ministry of Communication, Department of Posts, Dak Bhawan, Sansad Marg, New Delhi-110 116.
2. Chief Post Master General, Orissa Circle, Bhubaneswar, Dist-Khurda-751 001.
3. Senior Superintendent of Post Offices, Puri Division, At/PO/PS-Puri.
4. Inspector of Post Offices, Nayagarh (West) Sub-division, At/PO/Dist-Nayagarh-752 069.

...Respondents

By the Advocate(s)-Mr.M.R.Mohanty

IN O.A.No.277 of 2014

Prakash Chandra Mishrwa, aged about 39 years, S/o. late Gangadhar Mishra, At/PO-Dihagaon, Via-Madhyakhanda, Dist-nayagarh working as GDSMD/MC of Dihagaon bo NOW i/C. bpm-CUM-md/mc Dihagaon BO in account with Madhyakhanda SO

...Applicant

By the Advocate(s)-M/s.N.R.Routray

-VERSUS-

Union of India represented through :

1. The Secretary cum Director General of Posts, Govt. of India, Ministry of Communication, Department of Posts, Dak Bhawan, Sansad Marg, New Delhi-110 0116.
2. Chief Post Master General, Orissa Circle, Bhubaneswar, Dist-Khurda-751 001.
3. Senior Superintendent of Post Offices, Puri Division, At/PO/PS-Puri.
4. Inspector of Post Offices, Nayagarh (West) Sub Division, At/PO/Dist-Nayagarh-752 069

...Respondents

By the Advocate(s)-Mr.J.K.Nayak

IN O.A.No.326 of 2014

Bichitrananda Sasmal, aged about 52 years, S/o. late Santha Sasmal, At/PO-Mahulapal, Via:Kamakhyanagar, Dist-Dhenkanal, now working as GDSBPM, Mahulpal BO, Mahulpal

...Applicant

81

By the Advocate(s)-Dr.C.R.Mishra

G.Mishra

H.K.Mallick

-VERSUS-

Union of India represented through :

1. The Director General of Posts, Govt. of India, Ministry of Communication, Department of Posts, Dak Bhawan, Sansad Marg, New Delhi-110 001.
2. Chief Post Master General, Orissa Circle, Bhubaneswar, Dist-Khurda-751 001.
3. Superintendent of Post Offices, Dhenkanal Division, At/PO/Dist-Dhenkanal
4. Inspector of Post Offices, Kamakhyuanagar Sub-Division, At/PO-Kamakhyanagar, Dist-Dhenkanal

...Respondents

By the Advocate(s)-Mr.S.Behera

IN O.A.No.414 of 2014

Bibudha Ku.Pradhan, aged about 42 years,S/o. Sri Surendra Nath Pradha, At/PO-Mandasahi, Dist-Jagatsinghpur now working as GDS Packer of Kaduapada S.O. now I/c. BPM Palasa B.O. inaccount with Mandasahi S.O.

...Applicant

By the Advocate(s)-M/s.P.K.Padhi

J.Mishra

-VERSUS-

Union of India represented through :

1. The Secretary cum Director General of Posts, Govt. of India, Ministry of Communication, Department of Posts, Dak Bhawan, Sansad Marg, New Delhi-110 116.
2. Chief Post Master General, Orissa Circle, Bhubaneswar, Dist-Khurda-751 001.
3. Superintendent of Post Offices, Cuttack South Division, At-P.K.Parija Marg, PO-Cuttack GPO, Dist-Cuttack-753 001.

...Respondents

By the Advocate(s)-Mr.M.R.Mohanty

IN O.A.No.4 of 2015

Sri Kunja Bihari Sethy, aged about 44 years, S/o. Sri SanatanSethy, At/PO-Maranpalli, Via-Kalimela, Dist-Malkangiri-764 047.

...Applicant

By the Advocate(s)-M/s.P.R.J.Dash

-VERSUS-

22
Union of India represented through :

1. The Director General of Posts, Govt. of India, Ministry of Communication, Department of Posts, Dak Bhawan, Sansad Marg, New Delhi-110 116.
2. Chief Post Master General, Orissa Circle, Bhubaneswar, Dist-Khurda-751 001.
3. Senior Superintendent of Post Offices, Koraput Division, At/PO-Jeypore(K), Dist-Koraput-764 001
4. Miss.Silpa Biswas, D/o.Bibek Biswas, MV-68, PO-Kalimela, Dist-Malkangiri

...Respondents

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

IN O.A.No.98 of 2015

Chamru Bariha, aged about 50 years, S/o. late Dhanu Bariha, At/PO-Chantipali, Via-Melchhamundu, Dist-Bargarh presently working as GDSMD/BPM,Chantipali BO, Via-Melchhamunda, Dist-Bargarh

...Applicant

By the Advocate(s)-M/s.D.P.Dhalasamant
N.M.Rout

-VERSUS-

Union of India represented through :

1. The Director General of Posts, Govt. of India, Ministry of Communication, Department of Posts, Dak Bhawan, Sansad Marg, New Delhi-110 001.
2. Chief Post Master General, Orissa Circle, Bhubaneswar, Dist-Khurda-751 001.
3. Superintendent of Post Offices, Sambalpur Division, At/PO/Dist-Sambalpur-768 001
4. Inspector of Posts, Rajborasambar Sub-Division, At/PO-Rajborasambar, Dist-Baragarh-768 036.

...Respondents

By the Advocate(s)-Mr.S.Behera

IN O.A.No.287 of 2015

Sri Raj Kumar Bag, aged about 36 years, S/o. Sri Baladev Bag, Vil/PO-Chapria, Via-Golamunda, Dist-Kalahandi now working as GDS I/c.,BPM Sanchergaon BO

...Applicant

23

By the Advocate(s)-M/s.P.R.J.Dash

M.P.J.Ray

-VERSUS-

Union of India represented through :

1. The Secretary cim Director General of Posts, Govt. of India, Ministry of Communication, Department of Posts, Dak Bhawan, Sansad Marg, New Delhi-110 116
2. Post Master General, Berhampur Region, At/PO-Berhampur, Dist-Ganjam-760 001.
3. Senior Superintendent of Post Offices, Kalahandi Division, At/PO-Bhawanipatna, Dist-Kalahandi-766 001 Puri Division, At/PO/PS-Puri.
4. Chief Post Master General, Odisha Circle, At/PO-Bhubaneswar, ?Dist-Khurda-751 001.

...Respondents

By the Advocate(s)-Mr.P.K.Mohanty

IN O.A.No.45 of 2016

Sri Dharmu Sahu, aged about 60 years,S/o. late Krushna Chandra Sahu, Vil/PO-Bargaon, Via-Borda, Dist-Kalahandi now working as GDS I/c. BPM Borda BO

...Applicant

By the Advocate(s)-M/s.P.R.J.Dash

M.P.J.Ray

-VERSUS-

Union of India represented through :

1. The Secretary Director General of Posts, Govt. of India, Ministry of Communication, Department of Posts, Dak Bhawan, Sansad Marg, New Delhi-110 116.
2. Post Master General, Berhampur Region, At/PO-Berhampur, ?Dist-Ganjam-760 001.
3. Superintendent of Post Offices, kalahandi Division, At/PO-Bhawanipatna, Dist-Kahalandi-766 001.
4. Chief Post Master General, Odisha Circle, at/PO-Bhubaneswar, Dist-Khurda-753 001.

...Respondents

By the Advocate(s)-Mr.B.Swain

O.A.No.363 of 2016

Sulochana Sahoo, aged about 40 years, W/o. Bikash Chandra Swain, At-Dihuda, PO-Ganeswarpur, Dist-Puri presently workignas GDSBPM Gopinathpur BO Dist-Puri

...Applicant

By the Advocate(s)-M/s.D.P.Dhalasamant
N.M.Rout

-VERSUS-

Union of India represented through :

1. The Director General of Posts, Govt. of India, Ministry of Communication, Department of Posts, Dak Bhawan, Sansad Marg, New Delhi-110 001.
2. Chief Post Master General, Orissa Circle, Bhubaneswar, Dist-Khurda-751 001.
3. Senior Superintendent of Post Offices, Puri Division, At/PO/PS-Puri.
4. Assistant Superintendent of Post Offices I/c., Puri Sub-Division, At/PO/PS/Dist-Puri

...Respondents

By the Advocate(s)-Mr.D.K.Mallick

IN O.A.No.545 of 2016

Duryodhan Sahoo, aged about 62 years, S/o. Krupasindhu Sahoo, At/PO-Gourangapur, PS-Ranpur, Dist-nayagarh, now working as GDS BPM, Gourangapur BO, Gourangapur

...Applicant

By the Advocate(s)-M/s.Dr.C.R.Mishra
G.Mishra
H.K.Mallick

-VERSUS-

Union of India represented through :

1. The Director General of Posts, Govt. of India, Ministry of Communication, Department of Posts, Dak Bhawan, Sansad Marg, New Delhi-110 001.
2. Chief Post Master General, Orissa Circle, Bhubaneswar, Dist-Khurda-751 001.
3. Senior Superintendent of Post Offices, Puri Division, At/PO/PS-Puri.
4. Inspector of Post, Nayagarh East Sub-Division, At/PO/Dist-Nayagarh

20

...Respondents

By the Advocate(s)-Mr.D.K.Mallick

IN O.A.No.112 of 2017

Ratikanta Sahoo, aged about 42 years, S/o. Parakhita Sahoo, At-Chhatis Ratanpal, PO-Sridharpur, Dist-Jajpur, presently working as GDSBPM, Rahasoi BO, Via-Debidwar SO, Dist-Jajpur

...Applicant

By the Advocate(s)-M/s.D.P.Dhalasamant
N.M.Rout

-VERSUS-

Union of India represented through :

1. The Director General of Posts, Govt. of India, Ministry of Communication, Department of Posts, Dak Bhawan, Sansad Marg, New Delhi-110 001.
2. Chief Post Master General, Orissa Circle, Bhubaneswar, Dist-Khurda-751 001.
3. Senior Superintendent of Post Offices, Cuttack North Division, At/PO/Dist-Cuttack-753 001.
4. Assistant Superintendent of Post Offices, Jajpur Sub Division, At/PO/Dist-Jajpur-755 001.

...Respondents

By the Advocate(s)-Mr.A.C.Deo

IN O.A.No.266 of 2017

Sushant Kumar Raut, aged about 52 years, S/o. late Sibaram Rauta, At-Dargaguda, PO-Chikalpadar, Via-Umarkote, Dist-Nawrangpur, presently working as GDS BPM Ghodakhunta BO, Via-Dabugaon SO, Dist-Nawrangpur

...Applicant

By the Advocate(s)-M/s.D.P.Dhalasamant
N.M.Rout

-VERSUS-

Union of India represented through :

1. The Director General of Posts, Govt. of India, Ministry of Communication, Department of Posts, Dak Bhawan, Sansad Marg, New Delhi-110 001.

2. Chief Post Master General, Orissa Circle, Bhubaneswar, Dist-Khurda-751 001.
3. Senior Superintendent of Post Offices, Koraput Division, At/PO-Jeypore, Dist-Koraput-764 001.
4. Inspector of Posts, Umerkote Sub Division, At/PO-Umerkote, Dist-Nawrangapur-764 073.

...Respondents

By the Advocate(s)-Mr.B.R.Mohapatra

ORDER

DR.MRUTYUNJAY SARANGI, MEMBER(A):

The applicant in O.A.No.786 of 2012 works as GDSBPM, Chhatarpada B.O. in the District of Jajpur. He joined in the post of GDSMD, Chhatarpada BO. on 18.05.2009 and was directed to manage the work of BPM, Chhatarpada B.O. in addition to his own duties from 03.08.2009. On 15.09.2012, he submitted a representation for regular appointment as GDSBPM, Chhatarpada B.O. However a notification was issued on 18.9.2012 to fill up the post of GDSBPM, Chhatarpada by the Superintendent of Post Offices, Cuttack (N) Division (Respondent No.4) inviting applications for the post of GDSBPM, Chhatarpada. The applicant is aggrieved by the said notification as he claims that he is eligible to be transferred from his post of GDSMD to GDSBPM in the said Chhatarpada B.O., as there is no provision for inviting applications from outsiders for the same post.

2. This O.A. is a part of group of OAs where the applicants are currently working in different categories of GDS and have either requested for transfer/posting to the post of GDS in

another category or to another Branch Office. Since the issue of eligibility of GDS to transfer to another unit or another post is the common question in all the OAs, we heard the learned counsels for the applicants and respondents together on 08.01.2018. After hearing, a common order is being passed addressing the general issue. The common order will be applicable to all the cases.

3. Respondents have opposed the transfer on the ground that as per instructions contained in DGP&T letter No.43/27/85-Pen dated 6.5.1985, ED Agents, now called Gramin Dak Sevaks, were not earlier liable nor entitled to transfer from one post to another. This instruction was modified in DGP&T Letter No.43-27/85-Pen. (EDC & TRG) dated 12.09.1988. As per this instruction, Gramin Dak Sevaks were allowed limited transfer facilities from one post to another without coming through the Employment Exchange. Such Limited Transfer Facility was made available only in exceptional circumstances, such as, when an ED post falls vacant in the same office or in any office in the same place or where ED Agent becomes surplus due to abolition of the post and he/she is offered alternative appointment in a place on fulfillment of certain conditions. It is the respondents' contention that the applicant does not fulfill this condition and therefore, he could not be considered or posted in the new post or in a new place.

4. The applicant on the other hand, has stated that although 1985 rules did not permit transfer of a GDS from one unit to another, on 1.9.2004, GDS Rules were amended by incorporating Note-II(IV) of Rule 3 which provides that a Sevak shall not be eligible for transfer in any case from one post/unit to another post/unit except in public interest. On 17.6.2006, Limited Transfer Facilities to GDS with certain conditions have been added to Rule-3 of Service Rules for Postal GDS. On 18.4.2011, the Department of Posts GDS(C&E) Rules, 2011 came into force by replacing GDS (C&E) Rules, 2001. Rule-3(A)(IV) provides that a Sevak can be transferred to one post/unit to another post/unit in public interest.

5. A modification was issued to the Rules regarding transfer through the circular dated 17.2.2011 by the Government of India, Ministry of Communications & IT, Department of Posts, which reads as under:

**"Sub: Filling up of GDS posts in Branch post Offices
- review of guidelines regarding:**

I am directed to invite attention to Directorate Letters No. even dated 14th July, 2009 and 29th Dec. 2010 on the subject cited above.

2. Para 2(ii) of this Directorate letter dated 14th Jul. 2009 provided that the vacant post of GDS in branch offices with two or more hands may be filled up on the basis of triennial review already carried out and in case the prescribed workload and financial parameters as prescribed for opening of a branch office are not fulfilled but the posts are required to be filled up for operational reasons then the approval of the Chief PMG will be required with concurrence of Circle

29

IFA. It was also provided in para 2(i) of the said communication that GDS vacant posts in BOs with a single establishment be filled up straight away and the permission was granted to the concerned Divisional head.

3. The above provisions were further reviewed and modified. It was prescribed vide this Directorate letter dated 29 Dec. 2010 that the vacant posts of GDS BPM may be filled up by adjusting the surplus GDS fulfilling the prescribed qualification and other prescribed conditions failing which action may be taken in advance to fill the vacant post of GDS BPM on a regular basis following the prescribed procedure and following other conditions prescribed under letter dated 14 July 2009.
3. Despite issue of above instructions, it has been brought to the notice of this office that the Posts of Branch Postmasters are not being filled up immediately, and they are allowed to be managed by additional charge or kept under combined duties, affecting the quality of service. The issue has been considered and Competent Authority has decided that the vacant post of GDSBPMs in Branch offices (irrespective of the number borne on establishment) be filled up Head of the Division without reference to HOC immediately after its falling vacant initiating action in advance by adopting the following methods:
 - (i) By appointment of surplus identified GDS fulfilling the conditions; failing which
 - (ii) By combination of the duties of GDS in the same B.O. provided the combined work load does not exceed five hours; failing which
 - (iii) By recruitment of outsiders by observing the selection.

However, the approval of the Head of the Circle shall continue to be obtained for filling up of other categories of GDS which are not justified by workload/financial parameters,

30
but the post is to be filled up for operational reasons.

4. These orders shall come into effect from the date of issue of the order. This issues with the approval of competent authority".

6. On 10.4.2012, a clarification was issued in Para-2 (e) of the Rules stating that there is no restriction for allowing transfer from one category to another. Relevant portion of the said clarification contained in the letter dated 10.04.2012 issued by the Government of India, Ministry of Communications & IT, Department of Posts (GDS Section) to the CPMG, Kerla Circle, Thiruvananthapuram regarding Limited Transfer Facility to Gramin Dak Sevaks reads as follows:

"This has a reference to your office letter No. CO/21/OA/12 dated 27th Mar 2012 received only on 29.03.2012 seeking advice if the various categories of the GDS Posts as prescribed in Rule 3(d) of GDS (Conduct &Engagement) Rules, 2011 could be classified based on the skills or hierarchy or TRC slabs within these categories.

2. The issue has been examined in this Directorate and I am directed to clarify the position as under:

(a) Rule 3(d) of the Department of Posts, Gramin Dak Sevaks(Conduct and Engagement) Rules, 2011 currently recognizes only the five categories of Gramin Dak Sevaks i.e., GDSBPM, GDS MD, GDS MC, GDS Mail Packer and GDS Stamp Vendor.

(b) With the issue and implementation of orders relating to downgrading the EDSO's to EDBO's the category of GDS SPM is not vogue. For the purposes of TRCA, Gramin Dak Sevaks are closed as three categories i.e., GDS BPM, GDSMD/SV & GDS MC/Packer, their TRCA has been fixed on pre-revised scales of pay of the corresponding

31

categories of regular Government employees on pro-rata bases. Their TRCA is further based on workload assessed as per laid down norms and slabs.

- © There is no concept of higher or lower post or skilled within a category and/or amongst various approved categories as recognized from time to time. For the purpose of direct recruitment to MTS Group C post, with reference to date of entry in any GDS post based on seniority in the concerned division as a whole. There is no categorization of various GDS posts into 'White Collar' or 'Blue Collar' and such a classification is not also defined anywhere.
- (d) The 'Recruiting Authority' mentioned in Rule 4 and further defined in the Schedule annexed to the Department of Posts, Gramin Dak Sevaks (Conduct and Engagement) Rules, 2011 is based on working arrangement and for administrative convenience only. As the Gramin Dak Sevaks are entitled to protection under Article 311(2) of the Constitution as held by Apex Court, the concerned authority will exercise his disciplinary jurisdiction as per the categories of GDS for which one is designated as recruiting authority.
- (e) The existing provisions governing Limited Transfer Facility do not prescribe any restriction for allowing transfer from one category to another and amongst the various categories of Posts irrespective of TRCA slabs prescribed for these categories and even from one wing to another i.e., RMS to Postal or vice versa. The requirement is fulfilled of required qualification and other conditions for limited transfer facility".

37

7. A summary of the above instructions issued from time to time shows that Limited Transfer Facility has been made available to the GDS on his/her request if he/she satisfies the conditions laid down from time to time. We find that in the case of one Ratikanta Sahoo, a transfer has been made from the post of GDSMD, Sridharpur BO in account with Chitalo SO under Cuttack North Division to the post of GDS BPM, Rahasol BO in account with Chitalo SO under Cuttack North Division. The order is quite relevant to quote hereunder for the purpose of illustration.

"The Chief Post Master General, Odisha Circle, Bhubaneswar is pleased to approve the transfer of Shri Ratikanta Sahoo, GDS MD, Sridharpur SBO i/a/w Chitalo SO under Cuttack North Division to the post of GDS BPM, Rahasol BO i/a/w Chitalo SO under Cuttack North Division with the following conditions under the existing provisions of amended Rule-3 of GDS (Conduct & Engagement) Rules 2011 as communicated vide Directorate letter No.19-10/2004-GDS dated 17.7.2006.

The above transfer is subject to the following terms and conditions:

1. The GDS will normally be eligible for only one transfer during the entire career.
2. TRCA of the new post to which the GDS is transferred shall be fixed as per the instructions contained in Directorate letter No.19-10/2004-GDS (Part 0 dated 21/22.07.2010 under para-3(iii). The TRC of the GDS official will be fixed at the minimum of the TRCA slab of the transferred post depending upon the workload of the said post.

3. The GDS will not have any claim to go back to the previous recruitment unit/division.
4. As the transfer is at his own request, he will rank junior in the seniority list of the new unit to all the GDS of that unit who exist in the seniority list on the date on which the transfer is ordered. A declaration to the effect that he accepts the seniority on transfer in accordance with this, should be obtained before he is transferred. However the past service of the GDS will be counted for assessing the eligibility for appearing the departmental examination.
5. The transfer will be at the cost and expenditure of the GDS. No expenditure whatsoever on this account will be borne by the Department under any circumstances.
6. All other terms and conditions stipulated in Directorate letter No.19-10/2004 dated 17.07.2006 will also be applicable to this transfer".

8. Inasmuch as a Limited Transfer Facility is available as an one time measure in the service career of a GDS, requests of the applicants in the present group of OAs have to be examined in the context of the conditions laid down from time to time and if they satisfy the conditions, they will be eligible for one time transfer to different posts/different units as per the existing rules. The Transfer Order quoted at Para-6 above serves as a good guiding point for consideration of the cases of the applicants.

9. Respondents are therefore directed to examine the cases of the applicants in all the OAs individually and take a decision

34

on their requests for transfer on the basis of rules and instructions issued from time to time. Needless to say wherever the GDS is being transferred to a new post/unit, any advertisement issued for filling up that post will stand annulled. The respondents are directed to pass orders on the representations of the applicants within a period of two months from the date of receipt of this order. All the 21 OAs are disposed with the above order. All Misc. Applications in individual OAs stand disposed off. No costs.

(DR.MRUTYUNJAY SARANGI)
MEMBER(A)

(S.K.PATTNAIK)
MEMBER(J)

BKS