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**CENTRAL ADMINISTRATIVE TRIBUNAL  
JODHPUR BENCH; JODHPUR.**

Original Application No. 245/2005  
Date of order: 14.11.2006

**HON'BLE MR. J.K. KAUSHIK, JUDICIAL MEMBER**  
**HON'BLE MR. R.R. BHANDARI, ADMINISTRATIVE MEMBER**

Babu Lal Jotasi S/o Shri Dhura Ram, aged about 44 years, resident of Vill. & Post - Jaimalsar, Tehsil & Distt. Bikaner, at present working / employee on the post of G D S M C/M D Jaimalsar, under Bikaner Head Office (Raj.).

**....Applicant.**

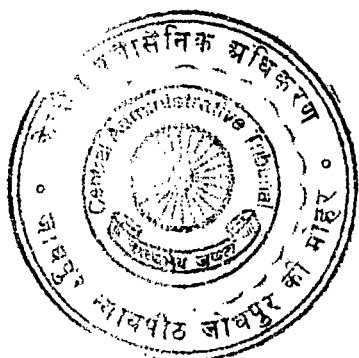
Mr. B. Khan, counsel for the applicant.

**VERSUS**

1. Union of India through the Secretary to Govt. of India, Ministry of Post Communication, Department of Post, Dak Bhawan, New Delhi.
2. The Post Master General, Rajasthan Western Region, Jodhpur (Raj.).
3. The Superintendent of Post Office, Bikaner (Raj.)
4. Inspector of Post Office North, Bikaner Sub Division, Bikaner.

**.....Respondents.**

Mr. Vinit Mathur & Mr. M. Godara, counsel for respondents.



**ORDER**

**(By Mr. J K Kaushik, Judicial Member)**

Shri Babu Lal Jotasi has filed this Original Application assailing the order dated 16.06.2005 (Annexure A/1) whereby he has been ordered to be transferred from the post of GDS MC/MD Jaimalsar under Bikaner Head Post Office to the post of GDS BPM Kanasar under Accounts Office Bikaner Head Post Office.

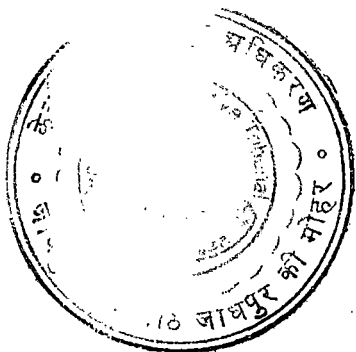
2. The facts of the case are that the applicant was initially appointed after facing due selection to the post of GDS MC/MD on 31.10.1994 and he has been discharging his duties to the post with his ability and to the entire satisfaction of the authorities. It has also

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been averred that there is difference of pay scale for the post of EDMC/MD and that of EDBPM. The pay of EDBPM is comparatively much less than the post of EDMC/MD. The applicant is being paid Rs. 3150/- per month and on the post of EDBPM one would get only about Rs. 2000/- per month. It has been averred that vide impugned order, the applicant has been transfer to work on the post of GDSBPM, Kanasar. He protested against the same but no response was the result. The application has been filed on multiple grounds mentioned in para 5 and its sub-paras.

3. The respondents have contested the case and have filed a detailed and exhaustive reply to the Original Application. It has been averred that the applicant is a matriculate and is also having the educational qualification of GDSBPM. There are two posts of GDS at Jaimalsar, one is GDSBPM and another is GDSCMC. A work analysis was carried out and a review report was submitted. It was advised that GDSCMC is running in loss and it was suggested to adjust the qualified GDSCMC i.e. the applicant on the post of GDSBPM, Kanasar by terminating the local arrangements at Kanasar. It has also been averred that the mail is being carried by private bus and there is no need to continue the GDSCMC further. Therefore, it was advised that the post of GDSCMC, Jaimalsar can be abolished and delivery of mail can be made by the GDSBPM by paying him Rs. 100/- per month extra as a CA/DA in order to reduce the loss of GDSCMC, Jaimalsar. Therefore, the applicant has been ordered to work on the post of GDSBPM, Kanasar being qualified for the same. The grounds mentioned in the Original Application have been generally denied.



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4. Both learned counsel for the parties have reiterated the facts and grounds narrated in the respective pleadings of the parties. Learned counsel for the applicant has made us to traverse through the relevant rules regarding the service conditions of the GDS and he has submitted that the GDS are not liable to any transfer and therefore the impugned order as such cannot be sustained. On the other hand, learned counsel for the respondents has submitted that the applicant has been transferred in peculiar facts and circumstances of this case as noticed above.

5. We have considered the rival submissions put forth on behalf of both the parties. There is no quarrel in regard to factual aspect. It is true that the post of GDSMC/MD and the post of GDSBPM carry different scale of pay as well educational qualification. The post of GDSMC in a higher scale of pay than that of GDSBPM. Admittedly the applicant has not requested for such transfer. As far as the legal aspect is concerned, we find from the perusal of GDS (Conduct and Employment) Rules 2001 (for brevity rules), that GDS are not liable to transfer and this position is reflected in NOTE-II (iv) to rule 3 of the rules. We have also taken judicial notice of para 22 at page 107 from Section IV - Method of Recruitment for Postal Gramin Dak Sevak by Muthuswamy and Brinda. The contents of the same are reproduced as under: -

"(22) Transfer of ED Agents from one post to another. - ED Agents are not liable or are entitled to transfer from one post to another. However, a few cases have arisen where some ED Agents have been shifted from one post to another at their request. The ED Agents are asked to resign their posts and a fresh appointment order is issued against new posts in such cases."

A bare perusal of the aforesaid makes it evident that the ED Agents now known as GDS are not at all liable to transfer and



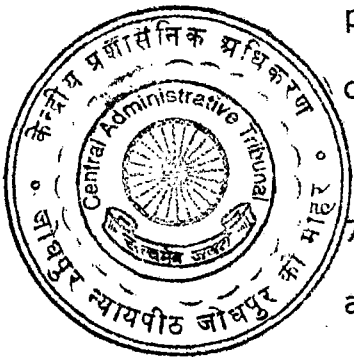
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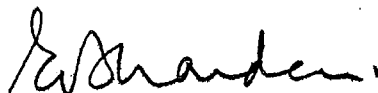
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therefore, the impugned transfer order is without jurisdiction and the same does not meet the scrutiny of law. Therefore, the same cannot be sustained and the action of the respondents in issuance of the impugned transfer order is held to be arbitrary and illegal.

6. Examining the matter from yet another angle, the applicant is sought to be transferred on a post carrying a lower pay scale of pay as well on a post to which he has neither been selected nor appointed. This would result in changing the service conditions of the applicant i.e. seniority including the recurring monetary loss etc. Otherwise also one cannot be reverted even as a measure of penalty to a lower post to the one he was initially appointed. The impugned transfer cannot, therefore, be held to be justified on any count.



7. In the premises, there is ample force in the Original Application and the same is hereby allowed. The impugned transfer order dated 16.06.2005 (Annexure A/1) is hereby quashed. The interim relief already granted is made absolute. There shall be no order as to costs.

  
( R. R. BHANDARI )  
ADMINISTRATIVE MEMBER

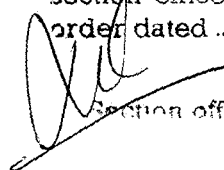
  
( J. K. KAUSHIK )  
JUDICIAL MEMBER

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Part II and III destroyed  
in my presence on 11/4/14  
under the supervision of  
section officer (J) as per  
order dated 31/01/14

  
Section officer (R)