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**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH**

ORIGINAL APPLICATION NO.183/2008

JODHPUR THIS DAY 27th MARCH, 2009.

CORAM:

**HON'BLE MR. JUSTICE M. RAMACHANDRAN, Vice Chairman(J)
HON'BLE DR. RAMESH CHANDRA PANDA, Member(A)**

Gopal Lal Kumhar
S/o Sh. Pema Lal,
G.D.S., Branch Post Master,
Post Office Lambia Khurd (Rayla Gaon),
District Bhilwara.

.... Applicant

(By Advocate: Mr.Vijay Mehta)

VERSUS



1. Union of India
through, the Secretary,
Ministry of Communication
Department of Post
Sanchar Bhawan, New Delhi.
2. Superintendent of Post Offices,
Bhilwara.
3. Inspector of Post Offices,
Gulabpura,
District Bhilwara.

.... Respondents.

(By Advocate: Mr.M. Godara, proxy for Mr. Vineet Mathur)

: O R D E R :

Hon'ble Dr. Ramesh Chandra Panda, Member (A):

By this order, Sh. Gopal Lal, presently working as Gramin
Dak Sewak (GDS) under the Department of Posts has impugned
the order of Inspector of Post Office, Gulabpura dated
28.07.2008 by which he was temporarily transferred from the

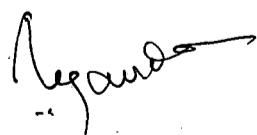
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Post Office Brahmano-Ki-Sareri to Post Office Lambia Khurd. Therefore, he has prayed under Section 19 of the Administrative Tribunals Act, 1985, (i) to quash and set aside the order dated 28.07.2008 (**Annex.A/1**) and (ii) to direct the respondents to post him back in the post office of Brahmano-Ki-Sareri.

2. It is stated by the applicant that he was appointed as Extra Departmental Mail Carrier (EDMC) in the Post Office Brahmano-Ki-Sareri, Bhilwara District in 1991 and the said post was renamed as Gramin Dak Sewak Mail Carrier (GDSMC). While the applicant was working in the said post at Brahmano-ki-Sareri, he was issued an order dated 28.07.2008 and temporarily transferred to Branch Post Office Lambia Khurd (Rayla Gaon). He has been aggrieved by the said order dated 28.07.2008 and approached this Tribunal.

3. We have heard Sh. Vijay Mehta, learned counsel for the applicant and Sh. M. Godara, proxy Counsel for Shri Vineet Mathur, representing the respondents and pursued the pleadings.

4. Sh. Vijay Mehta contended that the post of GDS as per rule, is neither a non-transferable post nor it is a promotional post. The qualification for the post of GDS is that he must be a permanent resident of the delivery jurisdiction of the post office to which he is posted. The orders of the Director General of Posts



dated 12.03.1993 specifies the ³ said provision. He drew our attention to the said direction at **Annex. A/3** and to the copy of the order dated 06.05.1985 (**Annex.A/4**) whereby, the Extra Departmental Agents were not liable to be transferred from one post office to another post office. He contended that Lambia Khurd is 30 Kms. away from Brahmano-Ki-Sareri and is not falling within the delivery jurisdiction of Lambia Khurd Post Office. The transfer was not in the interest of the applicant. He also contended that the order challenged by the applicant, and he did not indicate the duty hours and allowances to be paid to the applicant in view of the new responsibilities given to him. He also contended that as EDMC, his duty hours are for three hours 45 minutes and as EDBPM, it is three hours and, therefore, he has been working more than the duty hours prescribed by the respondent department. He also contended that the allowances and salaries should be commensurate to the higher responsibilities that the applicant has been discharging in view of the order dated 28.07.2008.

5. On the contrary, Sh. M. Godara, representing the respondents, submitted that the respondents have made local arrangements to ensure proper postal deliveries in Lambia Khurd which is in the public interest. The respondents aver that the applicant has been allowed office maintenance allowance at Rs. 50/- per month and will get allowance for remitting the cash as

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per provisions in Rule 7 (10) of Section VI of Gramin Dak Sewak (C&E) Rules, 2001. Sh. M. Godara submits that the applicant's posting to Lambia Khurd is not a transfer but a temporary local arrangement. He also submitted that the contention of permanent residence in the delivery jurisdiction of GDS raised by the learned counsel for the applicant has been lifted in the letter No. 17-104/93 - ED & TRG dated 06.12.1993, issued by the Director General (Posts) and as such the applicant can work at Lambia Khurd.

6. It is an admitted fact that the applicant was ordered to be relieved of his duties from Brahmano-Ki-Sareri to work at Lambia Khurd Branch Post Office. This is found to have been local arrangement on temporary basis. This is an admitted fact by the respondents, but the applicant terms the same as a transfer. The order clearly indicates that the local arrangement is temporary and remain in force until further orders. Due to the sudden demise of ED in Lambia Khurd Branch Post Office, the applicant was posted there in public interest on local arrangement to ensure that the works do not suffer. We find that the applicant was relieved on 28.07.2008 to join at Lambia Khurd. He entered on sickness leave from 29.07.2008 up to 08.08.2008 and joined as GDS BPM, Lambia Khurd Branch Post Office on 09.08.2008. He worked there from 9th to 12th August, 2008 and remained unauthorisedly absent. It is also noted that

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the applicant was placed in the vacancy caused due to the demise of Shri Bhola Ram Jat on 26.07.2008. We note that prior to the said arrangements, Mail Overseer, Gulabpura was looking after the work from 26.07.2008 to 08.08.2008. There exist provisions in the instructions of Director General, Posts letter dated 21.10.2002 that when a post of GDS falls vacant, the possibility of combining the duties of a GDS with the vacant GDS should be explored. Even the said instruction mentions that a post with the incumbent from a neighbouring post office can be diverted temporarily.

7. Para 10 of the letter No. 17-115/2001-GDS dated October 21, 2002, dealing with the Guidelines for regulating substitute / provisional arrangements in place of regular GDSs reads as follows :-

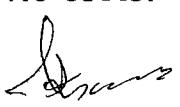
“10. Where provisional appointment becomes unavoidable, action may be initiated to fill the post following all the formalities prescribed for regular appointment, but clearly stipulating that the appointment is on a provisional basis. On no account should a provisional appointment be made without following every formality that is prescribed for regular appointment. Since the whole process will take a period not exceeding 60-90 days, stop gap arrangement may preferably be made at the local level in the interim through combination of duties or by allowing the GDS from a neighbouring office to function, or by deploying a Mail Overseer to look after the work. Under no circumstances should such local arrangement exceed 90 days. If, due to some unavoidable reasons, the local arrangement needs to be continued beyond 90 days, approval of the next higher authority is to be taken on a one time basis for reasons to be recorded in writing.”

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8. To a query the learned counsel for the respondents informed us that the temporary arrangement would terminate and the applicant would be positioned to his earlier place (Brahmano -Ki -Sareri) as soon as new GDS would get selected for Lambia Khurd.

9. Taking the full facts and the extant instructions into account we are of the view that the respondents have not transferred the applicant but positioned temporarily in the public interest and have made local arrangements temporarily with the applicant at Lambia Khurd due to the administrative exigency that arose at Lambia Khurd. The order dated 28.07.2008 (**Annex.A/1**) being in conformity with extant instructions is legally and procedurally sustainable. However, the respondent No 2 is directed to inform the applicant within one month from the date of receipt of a copy of this order as to by what date the applicant would be positioned back at his earlier place (Brahmano -Ki -Sareri).

10. In the result, the Original Application is disposed of in terms of our above observations and directions. No costs.

 
(Dr. Ramesh Chandra Panda) (Justice M. Ramachandran)
Member (A) Vice Chairman (J)

art II and III destroyed
in my presence on 8/1/15
under the supervision of
section officer () as per
order dated 27/8/2015

Section officer (Record)

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