CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.NOs.224/03, 809/03, 840/03, 956/03, 960/03
963/03, 969/03, 71/04 & 130/04

Friday this the 29th day of October, 2004

CORAM

HON'BLE MR. A.V. HARIDASAN, VICE CHAIRMAN
HON'BLE MR. H.P. DAS, ADMINISTRATIVE MEMBER

O.A.No.224/03:

Rajeev.C. S/o K.K.Chandrasekharan Nair,
GDS Mail Pakcer, Thiruvalla Market Junction PO
Thiruvalla residing at Konnothu House,
Muthoor PO,Thiruvalla.7. ...Applicant

(By Advocate Mr.M.R.Rajendran Nair)

V.

1. Union of India, represented by
Secretary to Government of India,
Ministry of Communications,
New Delhi.

2. Chief Postmaster General,
Kerala Postal Circle,
Trivandrum.

3. Superintendent of Post Offices,
Thiruvalla Division,
Thiruvalla. .....Respondents

(By Advocate Mr. C.B.Sreekumar, ACGSC)

O.A.809/2003:

V.Muraleedhara Pillai,
S/o Velayudha Pillai
GDS Messenger and Mail Carrier,
Ayur Post Office residing at
Lakshmi Vilasom, Ayur PO. ....Applicant

(By Advocate Mr. Sasidharan Chempazhanthiyil)

V.

1. Sub Divisional Inspector of
Post Offices, Punalur.

2. Superintendent of Post Offices,
Pathanamthitta Division,
Pathanamthitta.

3. Chief Postmaster General,
Kerala Circle,
Thiruvananthapuram.

4. Director General,
Postal Department,
New Delhi.

5. Union of India, rep. by its
Secretary, Ministry of Communications,
New Delhi.

(By Advocate Mr.S.K.Balachandran, ACGSC)

O.A.840/03:

V.V.Swapna, wife of T.Sasikumar,
GDS Mail Carrier, Thali PO
residing at Kumaranalloor
Thrissur.
....Applicant

(By Advocate Mr.P.Ramakrishnan)

V.

1. The Senior Superintendent of Post
Offices, Thrissur Division,
Thrissur.1.

2. The Chief Postmaster General,
Kerala Circle,
Thiruvananthapuram.

3. The Assistant Director General (GDS)
Department of Posts
New Delhi.

4. Union of India, represented by
Director General, Department of
Posts, New Delhi. ...Respondents

(By Advocate Mr.CB Sreekumar, ACGSC)

O.A.956/2003:

M.K.Rajasekharan Nair S/o Sri Neelakandan Nair,
Gramin Dak Sevak Mail Carrier,
Kanakapalam BO, Erumeli SO
Changanacherry.
residing at Lakshmi Nivas,
Kanakapalam PO
Erumeli,Changanachery. ....Applicant

(By Advocate Mr.O.V.Radhakrishnan)

V.

1. Sub Divisional Inspector of Post Offices,
Mundakayam Sub Division,
Mundakkayam.

2. Superintendent of Post Offices,
Changanachery Division,
Changanachery.

3. Director General of Posts,
Dak Bhavan, New Delhi.

4. Union of India, represented by its
Secretary, Ministry of Communications,
New Delhi. ....Respondents

(By Advocate Mr.C.Rajendran, SCGSC)

O.A.960/03:

Sandhya Ramachandran,
GDSMM/MC Athirampuzha Sub Post
Office, Kottayam. ...Applicant

(By Advocate Ms. K.Indu)

V.

1. Union of India, rep. by Secretary
Ministry of Communications,
New Delhi.

2. The Director General of Posts,
New Delhi.

3. The Senior Superintendent of Post
Offices, Kottayam. ...Respondents

(By Advocate Mr.K.Kesavankutty, ACGSC)

O.A.963/03:

P.Babu, S/o Nanoo,
Gramin Dak Sevak Packer/Mail Carrier
Kunnathur East Post Office,
Adur residing at Pattathil
Veedu, Panapetty,
Shastham Kotta Taluk,
Kunnathur,Kollam District. ...Applicant

(By Advocate Mr. M.R.Rajendran Nair)

V.

1. Union of India represented by the
Secretary, Department of Posts,
Ministry of Communications,
New Delhi.

2. Superintendent of Post Offices,
Pathanamthitta Division,
Pathanamthitta.

3. Sub Divisional Inspector (posts)
Adur Sub Division,
Adur. ....Respondents

(By Advocate Mr.T.C.Krishna, ACGSC)

O.A.969/2003:

N.N.Babudas S/o Sri C.N.Narayanan,
working as Gramin Dak Sevak Mail Carrier,
Venkurinji BO,Mukkottuthara SO
Chandganacherry residing at
Nanthikattu House,
Mukkottuthara PO,Changanachery. ...Applicant

(By Advocate Mr.O.V.Radhakrishnan)

V.

1. Sub Divisional Inspector (Postal)
Mundakkayam Sub Division
Mundakkayam.

2. Superintendent of Post Offices,
Changanachery Division,
Changanachery.

3. Director General of Posts,
Dak Bhavan, New Delhi.

4. Union of India, represented by its
Secretary, Ministry of Communications,
New Delhi. ....Respondents

(By Advocate Mr.C.Rajendran, SCGSC)

O.A.71/2004:

Nirmala M.T.
GDS SPM, Kaanam PO
Changanassery Division,
Changanassery. .....Applicant

(By Advocate Ms.K.Indu)

V.

1. Union of India, represented by its
Secretary, Ministry of Communications,
New Delhi.

2. Postmaster General, Central Region,
Kochi.

3. Superintendent of Post Offices,
Changanassery Division,
Changanassery.

4. V.C.Annamma Varghese,
Gramin Dak Sevak Stamp Vendor,
Mundakayam PO. ...Respondents

(By Advocate Mr. N.M.James, ACGSC for R.1to3
Mr.P.C.Sebastian for R.4)

O.A.130/2004:

Geetha.C.
W/o Sivan Pillai
Gramin Dak Sevak Mail Packer,
Pariyaram PO
residing at Thekkemadom House
Olessa PO, Kottayam Dist. ....Applicant

(By Advocate Mr.P.C.Sebastian)

V.

1. The Senior Superintendent of Post Offices,
Kottayam Division,
Kottayam-686 001.

2. The Sub Divisional Inspector of Post Offices,
Kottayam East Sub Division,
Kottayam.1.

3. The Assistant Superintendent of Post Offices.
Kottayam West Sub Division,
Kottayam.

4. The Union of India represented by
Secretary to Govt. of India,
Ministry of Communications,
Department of Posts,
New Delhi.
...Respondents

(By Advocate Mr.C.Rajendran, SCGSC)

These applications having been heard on 9.8.2004 and 13.8.2004, the Tribunal on 29..10..2004 delivered the following:

COMMON ORDER

HON'BLE MR. A.V. HARIDASAN, VICE CHAIRMAN

Common issues namely whether an E.D.Agent (GDS) is eligible to seek transfer and if eligible can he seek

appointment to a higher post carrying higher TRCA than the TRCA of the post to which he is holding are required to be decided for proper disposal of the individual cases. These cases are being considered and disposed of by this common order. The facts of the individual cases are stated as under:

OA 224/03:

The applicant working as GDS Mail Packer, Thiruvalla Market Junction PO has filed this application challenging Annexure.A.I communication of the third respondent Supdt. of Post Offices, Thiruvalla Division addressed to all post offices in the Thiruvalla Division by which circulars dated 3.1.03 and 20.1.03 inviting applications from GDS for transfer are withdrawn on the ground that it had been instructed that there was no provision in the rule for transfer of the GDS from one post to another. When post of GDS (BPM) Chaumathra was about to fall vacant the third respondent had issued Annexure.A.2 letter inviting applications from eligible GDS for transfer to that post. The applicant submitted his application. It was while so the impugned order was issued. Alleging that the decision to recall the letter inviting applications for transfer is arbitrary and against the instructions contained in the various letters of DG Posts the applicant has filed this application seeking to set aside Annexure.A.1 as also the notification inviting applications from open market for filling up the post and for a direction to the respondents to consider the case of the applicant for appointment by transfer.

The respondents in their reply statement contend that as there is no provision for transfer in the GDS (Conduct and Employment) Rules, 2001 and as per note 2(iv) of Rule 3 Sevaks have no transfer liability the claim of the applicant for transfer is unsustainable. The respondents contend that letter impugned has been validly issued.

OA 809/03:

The applicant was appointed as E.D.Messenger vide order dated 24.10.90. He applied for transfer to the post of GDS Mail Deliverer, Elamad. The request was turned down by Annexure.A.3 order of the second respondent on the ground that there is no provision in the rule for transfer of Gramin Dak Sevaks from one post to another or from one place to another as per GDS (Conduct and Employment) Rules, 2001 and as per DG (Posts) letter dated 27.6.2003. Aggrieved by that the applicant has filed this application seeking to set aside Annexure.A3 declaring that he is entitled to be considered for transfer to the post of GDS (MD) Elamad and for a direction tot he respondents to consider his case according.

Respondents in their reply statement contend that the applicant who is holding the post of GDS (MC) in the Time Related Continuity Allowance (TRCA for short) of Rs. 1545-25-2020 is not entitled to seek transfer to the post of GDS (MD) in the TRCA of Rs. 1740-30-2640 in terms of the judgment of the Hon'ble High Court of Kerala in W.P(C))

No.32571/03 the rejection of his claim is perfectly in order and that the application is devoid of merit.

OA 840/03:

The applicant working as GDS (Mail Carrier) Thali PO submitted an application for transfer to the post of GDS (BPM) Pantikad on 28.7.2003. This application was made pursuant to Annexure.A2 letter of the third respondent stating that such transfers may be permitted. However, the applicant finding that the third respondent issued Annexure A4 letter cancelling the instructions contained in Annexure.A.2 and the first respondent had notified the vacancy by Annexur.A.5 notification for being filled up from open market has filed this application seeking to set aside Annexure.A.4 and A5 and for a order holding that the GDS are entitled to transfer in accordance with the rules and instructions and for a direction to the respondents to consider his application afresh untrammeled by Annexures.A4 and A5.

The respondents contend that the applicant who was holding the post of GDS (MC) with TRCA of Rs. 1220-20-1600 is not entitled to claim appointment by transfer to a post of GDS BPM carrying higher TRCA of Rs. 1600-40-2400 and that the rules do not provide for transfer of GDS from one post to another the application is devoid of merit.

OA 956/03:

The applicant working as GDS (Mail Carrier) Kanakapalam Branch Office under the Mundakayam Sub Division

in Changanassery Division applied for transfer and appointment to the post of GDS BPM, Kanakapalam. He was informed by Annexure.A.2 letter dated 12.1.98 that as GDS were not eligible for transfer from one post to another his request could not be considered. However, the applicant came to know that a post of GDS MD Kanakapalam was created vide letter dated 31.7.2003. The applicant immediately submitted a representation seeking transfer to the post of GDS (MD) Kanakapalam. The applicant submitted another representation dated 10.11.2003 for the same purpose which was forwarded by the first respondent to the second respondent vide memo dated 17.11.2003 (A5). Alleging that the action of the first respondent in not transferring the applicant to the post of GDS (MD) but forwarding the representation is irregular the applicant has filed this application for a declaration that he is eligible and legally entitled to be appointed by transfer to the post of GDS (MD) Kanakapalm and for appropriate direction tot he first respondent to consider the candidate of the applicant for appointment by transfer to the said post.

The respondents resist the claim of the applicant on the ground that the applicant who holds the post of GDS (MC) with TRCA of Rs. 1220-20-1600 is neither eligible nor entitled to seek appointment by transfer to the post of GDS (MD) in the TRCA of Rs. 1740-30-2640. They further contend that the GDS (Conduct and Employment) Rules 2001 does not provide for a transfer liability and therefore the claim of the applicant for transfer cannot be sustained.

OA 960/03:

The applicant who is working as GDS (Mail Messenger/Mail Carrier) at Athirampuzha requested for transfer to the post of GDS (BPM) Kothenelloor. His request was turned down by Annexure.A3 order dated 17.10.2003 on the ground that GDS have no transfer liability. Alleging that the rejection of his candidature for appointment by transfer is illegal, the applicant has filed this application seeking to set aside Annexure.A.3 and for a direction the respondents to consider the candidature of the applicant for appointment by transfer to the post of GDS BPM, Kothenelloor.

The respondents contend that the applicant who is only a Gramin Dak Sevak (Mail Messsenger/Mail Carrier) in the TRCA of Rs. 1545-25-2020 is not entitled to seek appointment to the post of GDS (BPM) in the TRCA of Rs. 1600-40-2400 as has been held by the Hon'ble High Court of Kerala in Writ Petition (Civil) No.32571/03 the impugned order is fully justified and the application is liable to be dismissed.

OA 963/03:

The applicant working as GDS (Mail Packer/Mail Carrier) Kunnathur East Post Office requested by representation dated 24.6.2003 (A2) for appointment by transfer to the post of GDS (Mail Deliverer) in the same

office. Finding that the request was not being considered and that a total outsider was being engaged in the post the applicant has filed this application for a direction to the respondents to consider him for appointment to the post of GDS (Mail Deliverer)Kunnathur East Post Office in preference to outsiders.

The respondents in their reply statement resist the claim of the applicant on the ground that the applicant who holds the post in the Time Related Continuity Allowance of Rs. 1545-25-2020 is not eligible and entitled to be appointed by transfer to the post of GDS (Mail Deliverer) Kunnathur East Post Office carrying higher TRCA of Rs. 1740-30-2640) and that therefore the claim is untenable in view of the decision of the Hon'ble High Court of Kerala in Sr.Supdt. of Post Offices and others Vs. Raji Mol and others [W.P(C)No.32571/03].

OA 969/03:

The applicant working as GDS (Mail Carrier) Venkurunji Branch Office under the Mukkottuthara S.O. Changanassery Division coming to know of the creation of the post of GDS (MD) at Chathanthara submitted a representation on 18.11.2003 requesting for transfer to the said post. Since the request was not being considered the applicant has filed this application for a declaration that he is eligible and legally entitled for appointment by transfer to the post of GDS (MD) Chathanthara and for appropriate direction in that regard.

The respondents contend that the applicant who holds the post in the TRCA of Rs. 1220-20-1600 is not entitled to be appointed by transfer to the post of GDS (MD) which carries TRCA of Rs. 1740-3--2640 and therefore the application is devoid of merit.

OA 71/04:

The applicant working as GDS (BPM) Kaanam PO finding Annexure.A.1 notification calling applications from existing GDS for appointment by transfer to the post of GDS (SPM) Chittady submitted an application dated 9.12.02 for transfer (A2). The said request was rejected by Annexure.A.3 order dated 2.9.2003 on the ground that there is no provision for transfer of GDS from one post to another. Aggrieved by that the applicant has filed this application seeking to set aside Annexure.A.3 order and for a direction to the respondents to consider the applicant's request for transfer.

The respondents resist the claim of the applicant mainly on the ground that the applicant who holds the post of GDS BPM in the TRCA of Rs. 1600-40-2400 is not entitled for being appointed by transfer to the post of GDS Sub Post Master, Chittadi which carries higher TRCA of Rs. 2125-50-3125. The respondents contend that the applicant's request has been validly rejected.

OA 130/04:

The applicant who is working as GDS (Mail Packer) Pariyaram Post Office submitted a representation dated 22.12.2003 to the first respondent requesting for transfer to the post of GDS (MP) Olassa. The request was rejected by the first respondent by Annexure.A.3 order on the ground that the Directorate had informed that there was no transfer of GDS in future. Alleging that the decision not to transfer the applicant is unsustainable in the light of various decisions of this Tribunal in OA 45/98, OA 1057/99 etc. the applicant has filed this application seeking to set aside Annexure.A.3 declaring that the applicant is entitled to be considered for appointment by transfer as GDS (Mail Pakcer) Olassa and for a direction to the respondents to consider the request of the applicant for transfer.

The respondents contend that the applicant who is holding the post of GDS (MP) Pariyaram which carries TRCA of Rs. 1220-20-1600 is not entitled to seek appointment by transfer to the post of GDS (MP) Olassa which carries a higher TRCA of Rs. 1545-25-2020 and that therefore the application is devoid of merit.

Learned advocates appearing for the applicants in all these cases taking us through the provisions of (GDS (Conduct and Employment) Rules argued that the instructions permit appointment of GDS from one post to another by transfer and that there being no hierarchy or cadre there is

no embargo in a GDS holding a post like GDS (Mail Deliverer) or Messenger seeking appointment by transfer as GDS BPM or SPM. Senior CGSC and the Additional Central Government Standing Counsel appearing for the respondents in these cases on the other hand argued that the question whether a GDS is debarred from claiming appointment by transfer and whether the GDS can claim appointment by transfer to a post in a higher scale of pay are no mere res integra for the Hon'ble High Court of Kerala has in Senior Superintendent of Post Offices and others Vs. Raji Mol and another (WP(C) No.32571/03) considered these points specifically and held that a provision providing that the employee is not liable to be transfer does not debar an employee from seeking a transfer and that if an employee seeks appointment by transfer to a higher post than the one of which he is working the department can consider his claim only subject to his fulfilling the conditions of eligibility along with that of other eligible persons who may offer their candidature for appointment. The counsel argued that in view of the principles enunciated by the Hon'ble High Court of Kerala while the contentions that GDS cannot seek transfer would not stand the claim of the applicants that they are entitled to seek and obtain transfer to a post with higher TRCA has to be rejected. The decision rendered by the Hon'ble High Court of Kerala is binding on the Tribunal as a precedent and therefore the applicants claim for appointment by transfer to higher posts as a matter of right have to be dismissed, argued the learned counsel.

The learned counsel for the applicants meeting these arguments stated that while the principle enunciated in a ruling of the Hon'ble High Court of Kerala is binding as a precedent on this Bench of the Tribunal the decision relied on by the respondents do not have such binding force as it would be evident that the same has been rendered 'per incuriam'. To buttress the contention that the decision of the Hon'ble High Court of Kerala in Raji Mol's case was rendered 'per incuriam' the learned counsel took us through the provisions of GDS (Conduct and Employment) Rules and the various instructions and clarifications issued by the Director General (Posts) which would show that there is no hierarchy of posts in the category of GDS, that seniority of GDS in respect of the categories like GDSBPM, GDSSPM, GDS Mail Carrier, GDS Mail Deliverer etc, is maintained in the divisional gradation list on the basis of date of regular appointment, that there is no pay scale but there is only scales of Time Related Continuity Allowance which itself make clear that the remuneration is linked to the hours of work and that there is neither an element of promotion from one category to the other nor is there any power of supervision for GDS BPM, GDS SPM over the other categories. The counsel argued that the conclusion reached by the Hon'ble High Court of Kerala that certain posts are higher merely because higher rates of TRCA is attached to these posts is fallacious and that therefore the decision having been rendered in ignorance of the provisions in the rules and instructions governing appointment and service conditions of GDS through not statutory has no force as a binding precedent.

We have considered the rival arguments of the learned counsel. In Superintendent of Post Offices and Others Vs. Raji Mol and another the Hon'ble High Court formulated two points namely:

> (i) Does a Rule, which says that "Sevak shall not have any transfer liability" debar the employee from claiming appointment by transfer?
>
> (2) Does an employee have a right to claim appointment by transfer to a post in a higher scale of pay than the one in which he is working?

After detailed consideration, the Court held on these points thus:

> (1) A provision providing that the employee is not liable to be transferred does not debar an employee from seeking transfer.
>
> (2) If an employee seeks transfer to a post equivalent to the one held by him, the rules as at present do not place any bar and his claim has to be considered by the authority. In case an employee seeks appointment by transfer to a higher post than the one on

which he is working, the Department can consider his claim subject to his fulfilling the conditions of eligibility along with that of the other eligible persons who may offer their candidature for appointment.

It is not disputed and cannot be disputed also by the counsel of the applicants that the decision of the Hon'ble High Court of Kerala on a point of law is binding on this Bench of the Tribunal. The argument of the learned counsel of the applicants that the decision in Raji Mol's case is not binding on the Tribunal is based on the suggestion that while reaching the conclusion that an employee who seeks appointment by transfer to a post higher than one which he is holding the Department can consider his claim subject to fulfilling the conditions of eligibility only alongwith all other eligible persons who may offer their candidature having reached on an erroneous presumption that there is hierarchy of posts higher and lower among GDS. The conclusion of the Hon'ble High Court regarding the higher posts and lower posts has been arrived at on the basis of interpretation of the various provisions of GDS (Conduct and Employment) Rules which are non-statutory as also the instructions and clarifications. It cannot be said that while reaching the conclusion the Hon'ble High Court has ~~either~~ either overlooked any statutory provision or binding precedent so as to brand the decision as having been rendered per incuriam. We may not be understood to say that

there is no force or logic in the argument of the learned counsel of the applicants that there is no hierarchy of posts among the GDS, but we bow before the wisdom of the Higher Forum and are bound to follow it. We therefore, hold that while GDS are entitled to seek appointment by transfer to other posts of equivalent nature with similar scale of TRCA, they have no right to seek appointment by transfer to a higher post to the exclusion of eligible candidates from the open market.

On the basis of the conclusion as above, we shall now attempt to dispose of the individual cases.

OA. 224/03: In this case the applicant who is a GDS (Mail Packer) seeks appointment by transfer to the post of GDS (BPM) which is a different category carrying a higher TRCA. In view of the dictum of the ruling of the Hon'ble High Court of Kerala in Superintendent of Posts Offices, Changanassery Division and others Vs. Raji Mol and another, the applicant is not entitled to the reliefs sought. The OA is therefore dismissed.

OA 809/03: The applicant who is a GDS (Messenger) seeks appointment by transfer as GDS (Mail Deliverer). Two posts are different in nature and the post to which the applicant seeks transfer carries higher TRCA than the post which he is holding. In the light of the ruling of the Hon'ble High Court of Kerala in Raji Mol's case, the applicant is not entitled to the reliefs sought. The OA is therefore, dismissed.

OA 840/03: The applicant who is GDS (Mail Carrier) seeks transfer to the post of GDS BPM. In view of the ruling of the Hon'ble High Court of Kerala in Raji Mol's case, the applicant is not entitled to the reliefs sought and therefore, the OA is dismissed.

OA 956/03: The applicant who is a GDS (Mail Carrier) has in this application sought appointment by transfer to the post of GDS (Mail Deliverer). The post of GDS (MC) which the applicant holds is in the TRCA of Rs. 1220-20-1600 while the post of GDS(MD) carries the TRCA of Rs. 1740-30-2640. In view of the ruling of the Hon'ble High Court of Kerala in Raji Mol's case the applicant is not entitled to the reliefs sought and therefore the application is dismissed.

OA 960/03: The applicant who is working as GDS (Mail Messenger/Mail Carrier) is seeking appointment to the post of GDS BPM which is a post having higher TRCA. In the light of the ruling of the Hon'ble High Court of Kerala in Raji Mol's case the applicant is not entitled to the reliefs sought. Hence the OA is dismissed.

OA 963/03: The applicant who is working as GDS (Mail Packer/Mail Carrier) is seeking appointment by transfer to the post of GDS (Mail Deliverer) which is a different post with higher TRCA. In view of the ruling of the Hon'ble High Court of Kerala in Raji Mol's case the applicant is not entitled to the reliefs sought and therefore the OA is dismissed.

OA 969/03: Since the applicant who is working as GDS (Mail Carrier) is seeking appointment by transfer to the post of GDS (MD) which is on a higher TRCA. In view of the ruling of the Hon'ble High Court of Kerala in Raji Mol's case the claim is not sustainable. Hence the application is dismissed.

OA.71/04: The applicant who is working as GDS BPM, Kaanam sought a transfer to the post of GDS SPM, Chittadi which is in different category with higher TRCA. In view of the ruling of the Hon'ble High Court of Kerala in Raji Mol's case, the claim is not sustainable and hence the OA is dismissed.

OA.130/04: In this case the applicant who is working as GDS (Mail Packer) Pariyaram PO has sought transfer to the post of GDS (Mail Packer) Olassa. The respondents have contended that while the TRCA of the post of GDS (MP) Pariyaram is Rs. 1220-20-1600 the TRCA of the post of GDS (MP) Olassa is Rs. 1545-25-2020 and therefore the applicant is not entitled to the transfer. We are of the view that the decision of the Hon'ble High Court of Kerala in Raji Mol's case is not applicable to the facts of this case. The applicant who is GDS (Mail Packer) is seeking transfer to another post of GDS (Mail Packer) which is identical in nomenclature as also in nature of duties and responsibilities. The TRCA of the posts in Extra Departmental offices is related to the

quantum of work and the time taken for performance of the work. If on periodical work study the hours of duty of GDS (MP), Pariyaram is found to have increased the department would enhance the TRCA attached to the post and similarly if on such a review if it is found that there is diminition in the work in the post of GDS (MP) Olassa the TRCA of the post of GDS (MP) Olassa is liable to be reduced. Therefore, the TRCA of identical posts are subject to variation depending on the increase or decrease in the quantum of work. It does not alter the identity of the post. Therefore, we find that since the applicant in this case is seeking transfer to the identical post of GDS (MP) but in a different office, the applicant is bound to succeed. In the result this application is allowed declaring that the applicant is entitled to seek appointment by transfer to the post of GDS(MP) Olassa and directing the respondents to consider the applicant for such transfer and if found not otherwise ineligible or unsuitable to grant appointment by transfer to that post.

There is no order as to costs in all these cases.

Dated this the 29th day of October,2004

Sd/-
H.P. DAS
ADMINISTRATIVE MEMBER

Sd/-
A.V. HARIDASAN
VICE CHAIRMAN

s.