

CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH

RA No.4/2006 in OA No.435/2005.

Jaipur, this the 27th day of April, 2006.

Bhim Raj Sharma
S/o Shri Satya Narain Sharma
Aged about 36 years,
R/o Village & Post Raisar (Jamwa-Ramgarh)
District Jaipur.

... Applicant.

By Advocate : Shri C. B. Sharma.

Vs.

1. Union of India,
Through the Secretary to the Govt. of India,
Department of Posts,
Ministry of Communication & Information Technology,
Dak Bhawan, Sansad Marg,
New Delhi.
2. Chief Postmaster General,
Rajasthan Circle,
Jaipur-7.
3. Superintendent of Post Offices,
Jaipur (M) Postal Division,
Jaipur 302 016.

... Respondents.

: O R D E R (BY CIRCULATION):

The applicant has filed this Review Application for reviewing the order dated 22.03.2006 passed in OA No.435/2005.

2. This Tribunal vide the aforesaid judgment dismissed the OA of the applicant in which the order dated 13.09.2005 was under challenge whereby the temporary transfer of the applicant, which transfer was made on the request of the applicant, was cancelled and the applicant was directed to join on his original post i.e. on the

post of BPM, Dhula (Baskho). The relief was declined to the applicant on two grounds that the applicant was approved and posted on the post of BPM, Ghinai (Kaladera) and subsequently he was transferred from Ghinai to Dhoola and as per provisions contained in new GDS Rule, 2001, there is no provision for transfer of GDS to another post. The relief was also declined to the applicant on the ground that the applicant was temporarily shifted to the branch office Mehangi on his own request and assurance that he will increase the work and income of the post office and will achieve the target essential to maintain establishment of the post office within 6 months and when the applicant failed to fulfill the essential assurance his temporary transfer on his own request was cancelled and he was directed to join at his original post.

3. By way of this Review Application, the applicant has stated that this Tribunal did not consider the fact that the new GDS Rule 2001 nowhere provide for transfer of GDS from one place to another even on rendered surplus. Only departmental instructions provides adjustment of Gramin Dak Sevaks and respondents are in practice to shift Gramin Dak Sevak one place to another as done in the case of the applicant as well as in other cases. For that purpose the applicant has annexed copy of Annexure RA/2. According to me, the applicant cannot draw any assistance from the order Annexure RA/2 whereby one Shri Pooran Mal

Meena, GDS/MC/DA Titria (Shivdaspura) was posted as GDSBPM Booj (J. Ramgarh) on relief from Titria BO on abolition of post of GDSMC/DA Titria. Thus, from the Annexure RA/2 it is clear that Shri Pooran Mal Meena being a surplus employee on account of abolition of the post of GDSMC, Titria was adjusted in another branch. It is not a case of transfer, rather it was a case of redeployment of surplus GDS. Such a course was admissible to the respondent as can be seen from instruction viz Item No.23 of Chapter of Method of Recruitment (Annexure R/3) issued by the department and as relied upon by the applicant himself, in which in para 2 it is clearly stipulated as follows :-

"In the GDS (Conduct and Employment) Rules, 2001 under Note II (iv) of Rule 3, it is laid down that "Sevak shall not have any transfer liability". Thus, with the issue of above orders, all executive instructions regarding transfer of GDS issued prior to 24.4.2001 when these rules were circulated also stand superseded."

Further in para 3 of the aforesaid instructions of Item No.23 of Chapter of Method of Recruitment, it is clearly stipulated that the instructions issued prior to 24.4.2001 and as mentioned in that para and issued from time to time regarding alternative employment to surplus GDS and maintaining of waiting list of surplus GDS, will be followed. Thus, from the instructions/provisions contained under Note II (iv) of Rule 3, of GDS (Conduct and Employment) Rules 2001, it is clear that the Sevak shall not have any transfer liability and only surplus GDS and those whose name find mentioned in the waiting

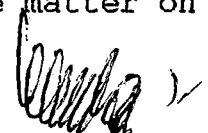
list of the surplus GDS can be adjusted/redeployed against the vacant post.

4. Admittedly, it is not a case of the applicant that the post on which he was working prior to his temporary adjustment on his own request has been abolished. Rather, the post still exists and the applicant has been repatriated to his original post. As such, even on merit, the applicant has not made out any case for interference on the basis of order Annexure RA/2. In any case, this cannot be a ground for reviewing the judgment dated 22.3.2006.

5. Another ground taken by the applicant for reviewing the judgment is that the respondents vide Annexure RA/4 have issued instructions for posting another person at Mehangi and the applicant has come to know that one Shri Hazari Lal is being posted on permanent basis in Mehangi in near future. Even this assertion of the applicant cannot be accepted. As can be seen from Annexure RA/4, the instruction issued by the higher authority to subordinate authority is that the applicant may be relieved in compliance of the judgment passed by this Tribunal. In such situation necessarily some alternative arrangement has to be made by the respondents so that the work of Branch post office Mehangi does not suffer. This does not mean that the respondents have made a permanent arrangement for posting someone at Mehangi. In any case

this itself cannot be a ground for reviewing the judgment and cause of action, if any, has not arisen as yet.

6. Thus, for the foregoing reasons, the present Review Application is dismissed. On the garb of Review Application, the applicant cannot be permitted to raise a ground which he has not pleaded in the original OA, neither it is permissible in exercise of the review jurisdiction to rehear the matter on merit.


(M. L. CHAUHAN)
JUDICIAL MEMBER

P.C./