

IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.18459 of 2019

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1. The Union of India through Director General, Department of Posts, Dak Bhawan, New Delhi-110001
 2. The Chief Postmaster General Bihar Circle, G.P.O. Complex, Patna-800001
 3. The Post Master General Northern Region, Muzaffarpur-842001
 4. The Director of Postal Services Northern Region, Muzaffarpur-842001
 5. The Superintendent of Post Offices Siwan Division, Siwan-841226
 6. The SDI Central Siwan Postal Division, Siwan-841226

... .. Petitioner/s

Versus

Irshad Gani, Son of Late Naushad Ali R/o Village-Hasanpura, P.O. Hasanpura, P.S. MH Nagar Hasanpura, District-Siwan

... .. Respondent/s

with

Civil Writ Jurisdiction Case No. 18499 of 2019

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1. The Union of India through the Secretary Cum D.G. Department of Post, Dak Bhawan, New Delhi- 110001.
 2. The Chief Postmaster General, Bihar Circle, Patna- 800001
 3. The Post Master General, Northern Region, Muzaffarpur- 842002
 4. The Superintendent of Post Office, Siwan Division, Siwan- 841226
 5. The Inspector of Post Offices, Central Sub Division, Siwan- 841226

... .. Petitioner/s

Versus

Deepak Kumar Giri, Son of late Rajendra Giri, Resident of Village- Bawandh Ke Mathiya, P.O. Chainpur, Via- Chalnpur, District- Siwan.

... .. Respondent/s

with

Civil Writ Jurisdiction Case No. 18828 of 2019

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1. The Union of India Through Director General, Department of Posts, Dak Bhawan, New Delhi- 110001.
 2. The Chief Postmaster General Bihar Circle, G.P.O. Complex, Patna- 800001.
 3. The Post Master Genenal Northern Region, Muzaffarpur- 842001.
 4. The Director of Postal Services Northern Region, Muzaffarpur- 842001.
 5. The Superintendent of Post Offices Siwan Division, Siwan- 841226.



6. The SDI Central Siwan Postal Division, Siwan- 841226.

... .. Petitioner/s

Versus

Murli Mahohar Ojha, Son of Chitamani Ojha Resident of Village-
Gamahariya, P.O.- Gamahariya, P.S.- Pachrukhi, District- Siwan.

... .. Respondent/s

Appearance :

(In Civil Writ Jurisdiction Case No. 18459 of 2019)

For the Petitioner/s : Mr.Manoj Kumar Singh, CGC

For the Respondent/s : Mr.Chandra Shekhar Singh, Advocate

(In Civil Writ Jurisdiction Case No. 18499 of 2019)

For the Petitioner/s : Mr.Manoj Kumar Singh, CGC

For the Respondent/s : Mr.Chandra Shekhar Singh, Advocate

(In Civil Writ Jurisdiction Case No. 18828 of 2019)

For the Petitioner/s : Mr.Manoj Kumar Singh, CGC

For the Respondent/s : Mr.Chandra Shekhar Singh, Advocate

CORAM: HONOURABLE THE CHIEF JUSTICE

and

HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR)

Date : 12-09-2019

Heard the learned counsel for the parties.

In all the writ petitions, the Union of India is the petitioner. The challenge is to the order passed in O.As. whereby the termination order of the respondents have been stayed till the final disposal of the original application preferred by them.

From the records, it appears that the respondents were appointed as GDSMP at different branches of the Post-Office but without observing the due procedure for their



appointment. On a complaint made by one of the applicants / aspirants, the irregularity in the appointment process of the respondents was unearthed and taking resort to the provisions contained in Section 8 (2) of the Gramin Dak Sevak (Conduct and Engagement) Rules, 2011 (hereinafter called "the rules"), the services of the respondents were terminated.

It further appears that challenge was made before the Tribunal by the respondents against such orders of termination on the ground that they were not noticed and that the termination order was not passed under Section 8(2) of the Act but only on the direction of the Superintendent of Post, who was neither the appointing nor the recruiting authority. Since the order of termination was sent for approval to the Superintendent of Post, the Tribunal perhaps suspected that something else had worked behind the termination of the services of the respondents. The matter was to be finally heard by the Tribunal but in the interregnum, by the orders impugned, the order of termination has been stayed.

Learned counsel for the Union of India has assailed the aforesaid interim orders by the Tribunal on several



grounds, but primarily on the reason that an order of termination cannot be stayed and that such an order amounts to finally disposing off the original application mid-way. The facts of the matter, it has been urged, were not brought to the notice of the Tribunal and that the same Presiding Officer, in cases of similar nature, while sitting in the Ranchi Bench had approved the termination of such employees under Section 8 (2) of the rules.

Section 8 (2) of the Gramin Dak Sevak (Conduct and Engagement) Rules, 2011, referred to above, is being extracted hereinbelow for the sake of completeness:

*"8. Termination of
Engagement*

*(1) The engagement of a
Sevak who has not already
rendered more than three years'
continuous service from the date of
his engagement shall be liable to
be terminated at any time by a
notice in writing given either by the
Sevak to the Recruiting Authority
or by the Recruiting Authority to
the Sevak;*



(2) The period of such notice shall be one month:

Provided that the service of any such Sevak may be terminated forthwith and on such termination, the Sevak shall be entitled to claim a sum equivalent to the amount of Basic Time Related Continuity Allowance plus Dearness Allowance as admissible for the period of the notice at the termination of his service, or, as the case may be, for the period by which such notice falls short of one month.

Note:- Were the intending effect of such termination has to be immediate, it should be mentioned that one month's Time Related Continuity Allowance plus Dearness Allowance as admissible is being remitted to the Sevak in lieu of notice of one month through money order."

The services of an employee / Dak Sevak can be terminated forthwith and on such termination, the concerned



Dak Sevak would only be entitled to claim a sum equivalent to the amount of Basic Time Related Continuity Allowance along with Dearness Allowance as admissible for the period of the notice which is one month at the termination of his service or for the period for which such notice falls short of one month.

It has been pointed out to this Court that after the order of termination, the respondents have already been relieved.

In that view of the matter, the Tribunal ought not to have stayed the order and should have proceeded ahead to decide the Original Applications finally.

Considering this aspect of the matter, we are of the considered view that the order impugned in the present set of petitions, whereby the Union of India has been directed not to implement the impugned orders of termination, is not sustainable in the eyes of law and the same are therefore required to be and are set aside.

The Tribunal would be under an obligation to decide the Original Applications of the concerned respondents within a reasonable period of time.



All the writ petitions are disposed off accordingly with
the aforesaid directions / observations.

(Amreshwar Pratap Sahi, CJ)

(Ashutosh Kumar, J)

skm/Krishna

AFR/NAFR	N.A.F.R.
CAV DATE	
Uploading Date	13.09.2019
Transmission Date	

