

20.02.2020.
Item No. 56

**CALCUTTA HIGH COURT
IN THE CIRCUIT BENCH AT JALPAIGURI.**

WP.CT 1 of 2019

**Pritam Biswas
Vs.
Union of India and others.**

**Mr. Kalyan Sarkar.
... for the petitioner.**

**Mr. Samir Pal.
... for the Union of India.**

The writ petitioner was working as a Gramin Dak Sevak under the Indian Postal Department. His service was terminated. He approached the Central Administrative Tribunal. The learned Tribunal dismissed the Original Application on the basis that rule 8 of the Gramin Dak Sevaks (Conduct and Engagement) Rules, 2011 would apply. The said rule reads as follows:

“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 any time by a notice in writing given either by the Sevak to 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 Basis Time Related Continuity Allowance plus Dearness Allowance as

admissible for the period of the notice at the same rates at which he was drawing them immediately before the termination of his service or as the case may be for the period by which such notice falls short of one month.”

The writ petitioner has assailed the said order of the learned Tribunal in the present writ application.

An identical issue arose in WPCT 2 of 2019 (Sanjeev Rai vs. Union of India & Ors.). A Co-ordinate Bench of this Court passed an order on 27th January 2020, the operative portion whereof reads as follows:

“We put query to Mr. Samir Paul, learned advocate appearing on behalf of Union of India regarding whether the period of engagement commencing from date of set aside termination (17th May, 2016) to second termination on 20.1.2017, would be period of new service? If it is not, inevitable conclusion is that petitioner is deemed to have been in continuous service. At this stage Mr. Paul, submits, this issue be remanded to the Tribunal. Mr. Mukherjee submits, that be done.

In view of the submission made on behalf of Union of India, we set aside impugned order and restore the matter to the Tribunal, for it to consider question on the point, as recorded above. Pending adjudication of the question, petitioner will be entitled to apply for interim measure before the Tribunal.”

We have heard learned Counsel for the parties. Learned Counsel are ad idem that the issue involved in the present writ application is the same as the one that was involved in the earlier writ application mentioned above and an order may be passed in this writ application following the order passed in the earlier writ application.

In view of the above, we set aside the order impugned in this writ application and remand the matter to the learned Tribunal, for it to consider the issues between the parties afresh in the light of the order passed by this Court on the earlier writ petition.

Pending adjudication of the matter, the writ petitioner will be entitled to apply for interim relief before the learned Tribunal.

The writ application being WPCT 1 of 2019 is, accordingly, disposed of.

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(Abhijit Gangopadhyay, J.)

(Arijit Banerjee, J.)