

**CENTRAL ADMINISTRATIVE TRIBUNAL  
CHANDIGARH BENCH**

**(Circuit Bench at Shimla)**

...

**Shimla, this the 5<sup>th</sup> day of October, 2017**

...

**CORAM: HON'BLE MR. SANJEEV KAUSHIK, MEMBER (J) &  
 HON'BLE MRS. P. GOPINATH, MEMBER (A)**

...

1. ORIGINAL APPLICATION NO. 063/00190/2017

Yashwant Singh, son of late Shri Baldev Singh Thakur, age 38 years, R/o Village Nandal, PO Oachhghat, District Solan, (H.P.) - (Group-D)

....APPLICANT

(Argued by: Shri M.L. Sharma , Advocate)

VERSUS

1. Union of India through the Secretary, Department of Posts, Ministry of Communication & IT, Dak Bhawan, Parliament Street, New Delhi-110001.
2. The Chief Post Master General, Himachal Pradesh Circle, Kasumpti, Shimla-171009.
3. Superintendent of Post Offices, Solan Postal Division, Solan, H.P.
4. Inspect, Post Office, Solan Sub-Divisional, District Solan, H.P.

....RESPONDENTS

(By Advocate: Shri Anshul Bansal)

2. ORIGINAL APPLICATION NO. 063/00191/2017

Manu Mashwer Singh son of Shri Prem Singh, r/o Village Kalyanpur, age 34 years, P.O. Sherol Via. Dumehar, Tehsil Arki, District Solan, H.P. (Group-D).

....APPLICANT

(Argued by: Shri M.L. Sharma , Advocate)

VERSUS

1. Union of India through the Secretary, Department of Posts, Ministry of Communication & IT, Dak Bhawan, Parliament Street, New Delhi-110001.

O.A. No. 063/00190/2017  
 O.A. No. 063/00191/2017  
 O.A. No. 063/00192/2017  
 O.A. NO. 063/00193/2017 )

2. The Chief Post Master General, Himachal Pradesh Circle, Kasumpti, Shimla-171009.
3. Superintendent of Post Offices, Solan Postal Division, Solan, H.P.
4. Inspect, Post Office, Solan Sub-Divisional, District Solan, H.P.

....RESPONDENTS

(By Advocate: Shri Anshul Bansal)

### 3. ORIGINAL APPLICATION NO. 063/00192/2017

Kuldip Singh s/o Shri Kirpal Singh age 42 years, r/o Village Lower Behli, P.O. Kunihar, Tehsil Arki, District Solan, H.P. (Group-D).

....APPLICANT

(Argued by: Shri M.L. Sharma , Advocate)

VERSUS

1. Union of India through the Secretary, Department of Posts, Ministry of Communication & IT, Dak Bhawan, Parliament Street, New Delhi-110001.
2. The Chief Post Master General, Himachal Pradesh Circle, Kasumpti, Shimla-171009.
3. Superintendent of Post Offices, Solan Postal Division, Solan, H.P.
4. Inspect, Post Office, Solan Sub-Divisional, District Solan, H.P.

....RESPONDENTS

(By Advocate: Shri Anshul Bansal)

### 4. ORIGINAL APPLICATION NO. 063/00193/2017

Monika Shama d/o Shri Sher Singh r/o Village Bandal, age 32 years, P.O. Kupvi, Tehsil & District Shimla, H.P. (Group-D).

....APPLICANT

(Argued by: Shri M.L. Sharma , Advocate)

VERSUS

1. Union of India through the Secretary, Department of Posts, Ministry of Communication & IT, Dak Bhawan, Parliament Street, New Delhi-110001.
2. The Chief Post Master General, Himachal Pradesh Circle, Kasumpti, Shimla-171009.

O.A. No. 063/00190/2017  
 O.A. No. 063/00191/2017  
 O.A. No. 063/00192/2017  
 O.A. NO. 063/00193/2017 )

3. Superintendent of Post Offices, Solan Postal Division, Solan, H.P.
4. Inspect, Post Office, Solan Sub-Divisional, District Solan, H.P.

....RESPONDENTS

(By Advocate: Shri Anshul Bansal)

**ORDER** (Oral)

**Sanjeev Kaushik, Member (J)**

All these cases involve identical facts and point of law and the impugned order is identical and as such these have been taken up for final disposal by a common order. For convenience, facts have been taken from OA No. 063/00190/2017 – Yashwant Singh Vs. Vs. U.O.I & Ors.

2. The applicant has impugned the action of the respondents, whereby his services have been terminated vide order dated 12.7.2016 (Annexure R-6), without following the due procedure as contained in Rule 8(1) and (2) of Gramin Dak Sevaks (Conduct & Engagement) Rules, 2011 ( for short ‘2011 Rules’) , as he was not given any show cause notice before terminating his services.

3. Mr. Sharma, learned counsel for the applicant argued that the impugned termination of the applicant is in violation of principles of natural justice as before passing the impugned order, the applicant was not put on notice thereby violating Rule 8 (1) and (2) of 2011 Rules and, therefore, impugned order is liable to be quashed and set aside on this ground. He further submitted that since the impugned order has civil consequences, the respondents ought to have passed the order after affording an opportunity of hearing to him.

4. Mr. Bansal, learned counsel appearing on behalf of the respondents while disputing the factual accuracy submitted that since there was glaring mistake in the engagement of applicant in the recruitment process, therefore, the engagement of the applicant was cancelled by passing the impugned termination order. The order has been passed inconsonance with the rule formulation. In support of his contention, he has placed reliance on the judgment rendered by the Hon'ble High Court of Himachal Pradesh in CWP No. 6377 of 2011-**Guman Singh Vs. The Union of India and Ors.** dated 26.5.2016 (Annexure R-8). He submitted that the action of respondents in terminating the service of the petitioner without giving him one month notice was upheld by the Hon'ble High Court.

5. We have given our thoughtful consideration to the matter and are in agreement with the submission made at the hands of the applicant that impugned order suffers from violation of principles of natural justice as the respondents have not followed the requirement of Rule 8 (1) & (2) of 2011 Rules, which reads as under:

**"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 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.”

6. From the perusal of above Rule, the requirement of one month notice, before passing the impugned termination order was mandatory, which the respondents admittedly have not followed and, therefore, the impugned order cannot sustain. In the case of Gurnam Singh (supra) relied upon by the respondents, the services of the petitioner was terminated in view of the order passed by this Tribunal in O.A. No. 272-HP-2010- **Ramesh Kumar Vs Union of India and Ors.** and further upheld by Hon’ble High Court in case of Gurnam Singh (Supra).

7. It is well established law that any order, having civil consequences, cannot be passed without giving an opportunity of hearing to the affected person. This issue is no longer res-integra. In catena of judgments, the Lordships have repeatedly held that if the authorities pass any order, which has civil consequences, then affected person is required to be served a notice before taking a view in that context. Natural justice has been variously defined by different Judges in **Drew v. Drew and Lebura (1855(2) Macg.1.8**, Lord Cranworth defined it as 'universal justice'. In James Dunbar Smith v. Her Majesty the Queen **(1877-78(3) App. Case 614, 623 JC) Sir Robert P. Collier**, speaking for the judicial committee of Privy Council, used the phrase 'the requirements of substantial justice'. Whereas Lord Parker, C.J. preferred to describe natural justice as 'a duty to act fairly'. In this regard, reliance is placed in the case of **Mohd. Sartaj & Another Vs. State of U.P. and Others**- 2006 (2) SCC 315.



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8. Accordingly, all the four O.As are allowed and the impugned orders, terminating the services of the applicants are set aside. However, the respondents are at liberty to pass fresh order in accordance with Rule 8 (1) & (2) of 2011 Rules.

9. No costs.

**(P. GOPINATH)**  
**MEMBER (A)**

**(SANJEEV KAUSHIK)**  
**MEMBER (J)**

**Dated: 05.10.2017**  
**‘SK’**



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