

**Chief Justice's Court**

**Case :-** SPECIAL APPEAL No. - 454 of 2023

**Appellant :-** Ganesh Prasad Srivastava And Others

**Respondent :-** Union Of India Thru. Joint Secy. To Govt.

Deptt. Of Rural Developent , New Delhi And Others

**Counsel for Appellant :-** Shishir Yadav,Narendra Pratap Singh

**Counsel for Respondent :-** A.S.G.I.,C.S.C.,Ram Kumar Singh

**Hon'ble Pritinker Diwaker,Chief Justice**

**Hon'ble Rajan Roy,J.**

Heard Sri Manik Sinha, learned Senior Counsel assisted by Sri Shishir Yadav, learned counsel for the appellants and Sri Ram Kumar Singh, learned counsel for respondent no.2.

This is a special appeal challenging an order dated 29.08.2023 passed in Writ-A No.6490 of 2023 by which writ petition of the petitioners has been dismissed. The contention of Sri Manik Sinha, learned Senior Counsel appearing for the appellants herein is that the services of the petitioners were discharged on the ground of laxity in work but no notice was given prior to such discharge, therefore, the order was purely stigmatic and unsustainable. The contention is that learned Single Judge accepted this argument but quashed only the stigmatic portion of the order and sustained the remaining order by which the services had been discharged, on the ground that the appellants herein did not have any right to continue in service. The submission is that once the stigmatic portion of the order goes then the order as a whole has to go because discharge of service was not on the ground of nature of appointment but only on the ground of laxity in work.

We confronted learned State counsel on the said aspect whereupon he submitted that the appellants do not have any indefeasible right to continue in service which in fact was an empanellment as they were retired personnel who had been engaged as State Quality Monitors on daily basis. However, we do not accept this contention for the reason that de-empanellment of the appellants is not on the ground that their services were on day to day basis hence liable to be discharged as the same were not required any more. Their de-empanellment or discharge, as the case may be, was on the ground of laxity in their work, therefore, the minimum that was required was to give a notice and thereafter pass an order as deemed proper. Of course, if a simplicitor order de-empanelling

them or discharging their services had been passed then it would have been something different. These aspects have not been appropriately considered by the writ court.

We, therefore, find that judgment of writ court is not sustainable. We, accordingly, quash it, however, subject to the caveat that it shall be open for the opposite parties to give a notice to the appellants herein, if they wish to discharge their services or de-empanell them on the ground of any laxity in their work and thereafter, pass a fresh order. However, if they want to discharge their services or de-empanell them by a simplicitor order in accordance with law that too shall be open for them.

Accordingly, the appeal is **allowed**. Consequences to follow accordingly as per law.

**(Rajan Roy,J.) (Pritinker Diwaker, CJ)**

**Order Date :- 21.9.2023**

Shanu/-