

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****Writ Appeal No. 296 of 2015**

1. Ajay Dadsena aged about 27 years, S/o Tikaram Dansena, Class IV employee in the department of Tribal, Boys Hostel Chatakpur (Kapoo) Tehsil: Dharamjaigarh, District: Raigarh Chhattisgarh at present R/o village Sondaka, Block Kharsiya, Police Station and Post Kharsiya Civil and Revenue District Raigarh, Chhattisgarh.
2. Jeevan Singh Rathia aged about 25 years, S/o Gajaram Rathia, Class IV employee in the department of Tribal, Post Matric Boys Hostel, Dharamjaigarh Tehsil Dharamjaigarh, District Raigarh Chhattisgarh at present R/o village Keeda Post Behramar, Police Station: Dharamjaigarh, Tehsil Dharamjaigarh, Civil and Revenue District Raigarh Chhattisgarh.
3. Lokesh Kumar Rathia aged about 22 years S/o Hetram Rathia, Class IV employee, in the department of Tribal, Boys Hostel, Khadgaon, District Raigarh Chhattisgarh at present R/o village Puchiypali, Post Purkanara, Police Station and Tehsil, Kharsiya, Civil and Revenue District Raigarh Chhattisgarh.
4. Angar Sai aged about 23 years, S/o Phooltan Singh Class IV employee in the department of Tribal, Boys Hostel Khadgaon, Tehsil Dharamjaigarh, District Raigarh Chhattisgarh at present R/o village and post Pulsada, Tehsil Dharamjaigarh, Police Station Dharamjaigarh, Civil and Revenue District Raigarh Chhattisgarh.
5. Aatmaram Rathia aged about 27 years, S/o Ramsai Rathia, Class IV employee in the department of Tribal, Boys Hostel Khadgaon, Tehsil Dharamjaigarh, District Raigarh Chhattisgarh at present R/o village and post Gurda, Tehsil Kharsiya, Police Station Kharsiya, Civil and Revenue District Raigarh Chhattisgarh.
6. Ku. Jeme Xess, aged about 23 years, D/o Ghasiram Xess, Class IV employee in the department of Tribal, Pre Matric Girls Hostel, Hati Dharamjaigarh, Tehsil Dharamjaigarh, District: Raigarh Chhattisgarh at present R/o village: Dhamnadand Panchayat: Kiriya Post Raimer, Tehsil Dharamjaigarh Police Station: Hati, Civil and Revenue District Raigarh Chhattisgarh.
7. Santosh Kumar, aged about 23 years, D/o Matther Singh Rathia, Class IV employee in the department of Tribal, Pre Matric Boys Hostel, Dharamjaigarh Tehsil: Dharamjaigarh, District Raigarh Chhattisgarh at present R/o village and

Post: Chandrashekharpur, Tehsil Dharamjaigarh, Police Station: Dharamjaigarh, Civil and Revenue District: Raigarh Chhattisgarh.

8. Nimanti Toppo aged about 25years, D/o Silash Toppo, Class IV employee in the department of Tribal, Govt. Post Matric Girls Hostel, Dharamjaigarh, District Raigarh Chhattisgarh at present R/o village & Post Tolma, Tehsil and Police Station Lailunga, Civil and Revenue District Raigarh Chhattisgarh.
9. Bihari Lal Rathia, aged about 34 years, S/o Badal Say Rathia, Class IV employee in the department of Tribal, Pre Matric Adivasi Boys Hostel, Dharamjaigarh, Tehsil Dharamjaigarh, District Raigarh Chhattisgarh, at present R/o village & Post Narkato, Post Dharamjaigarh, Tehsil and Police Station Dharamjaigarh, Civil and Revenue District Raigarh Chhattisgarh.
10. Puniram Birhor, aged about 24 years, S/o Manbodh Birhor, Class IV employee in the department of Tribal, Post Matric Adivasi Boys Hostel Dharamjaigarh, Tehsil Dharamjaigarh, District: Raigarh Chhattisgarh at present R/o village Sivar (Barpali) Post Gersa, Tehsil and Police Station: Dharamjaigarh, Civil and Revenue District Raigarh Chhattisgarh.
11. Ku. Jaibala Tirki aged about 26 years D/o Beer Singh Tirki, Class IV employee in the department of Tribal, Govt. Girls Sports Complex, Dharamjaigarh, Tehsil Dharamjaigarh, District Raigarh, Chhattisgarh at present R/o Near Pustak Sadan, Dharamjaigarh, Post/Tehsil/Police Station: Dharamjaigarh, Civil and Revenue District Raigarh Chhattisgarh.
12. Pooja Gavel, aged about 21 years, D/o Rajkumar Gavel, Class IV employee, in the department of Tribal, Govt. Pre Matric Girls HOStel, Dharamjaigarh, Tehsil Dharamjaigarh, District Raigarh Chhattisgarh at present R/o village and Post Toor, Tehsil and Post Kharsiya, Police Station Kharsiya, Civil and Revenue District Raigarh Chhattisgarh.
13. Smt. Bhanumati Rathia, aged about 32 years, W/o Bharat Rathia, Class IV employee in the department of Tribal, Govt. Girls Spots Complex, Dharamjaigarh, Tehsil Dharamjaigarh, District Raigarh, Chhattisgarh, at present R/o village and Post: Purunga, Post Hati, Tehsil Dharamjaigarh, Police Station Hati, Civil and Revenue District Raigarh Chhattisgarh.
14. Ku. Rajni Rathia, aged about 22 years, D/o Biharilal Rathia, Class IV employee in the department of Tribal, Govt. Post Matric Adivasi Girls Hostel, Dharamjaigarh, Tehsil Dharamjaigarh District Raigarh Chhattisgarh at present R/o village and Post: Purkanara, Tehsil and Police Station: Kharsiya, Civil and Revenue District Raigarh Chhattisgarh.
15. Pushpa Rathia aged about 25 years, S/o Thanda Ram Rathia, Class IV employee in the department of Tribal, Govt. Girls Sports Complex,

Dharamjaigarh, Tehsil: Dharamjaigarh District Raigarh Chhattisgarh at present R/o village Aamlitikra (Aamritpur) Post Post Shapur, Tehsil and Police Station Dharamjaigarh, Civil and Revenue District Raigarh Chhattisgarh.

16. Smt. Dhanmeth Rathia aged about 26 years, W/o Ram Kumar Rathia, Class IV employee in the department of Tribal, Post Matric Girls HOstel Dharamjaigarh Tehsil Dharamjaigarh District Raigarh Chhattisgarh at present R/o villag and post Hati, Police Station Chhal, Tehsil Dharamjaigarh, Civil and Revenue District Raigarh Chhattisgarh.
17. Dipika Rathia aged about 23 years, D/o Surendra Singh Rathia, Class IV employee in the department of Tribal, Posted at Govt. Girls Play Campus, Dharamjaigarh, District Raigarh Chhattisgarh at present R/o village and post Khamar, Tehsil and Block Kharsiya, Police Station Kharsiya, Civil and Revenue District Raigarh Chhattisgarh.
18. Bhuneshwar Patel aged about 28 years S/o Devcharan Patel, Class IV employee in the department of Tribal, Pre-Matric Boys Hostel, Dharamjaigarh, Tehsil Dharamjaigarh, District Raigarh Chhattisgarh at present R/o village and Post Dimanee Police Station and Tehsil Kharsiya, Civil and Revenue District Raigarh Chhattisgarh.
19. Vimal Kumar Sidar aged about 24 years S/o Ganesh Ram Sidar, Class IV employee in the department of Tribal, Pre-Matric Adivasi Boys Hostel, Dharamjaigarh, Tehsil Dharamjaigarh, District Raigarh Chhattisgarh at present R/o village Tatang, Post Jaimura, Tehsil and Police Station, Kharsiya, Civil and Revenue District Raigarh Chhattisgarh.
20. Dilip Chauhan, aged about 30 years, S/o Mohan Lal Chauhan, Class IV employee in the department of Tribal, Pre Matric Boys HOstel Vijaypur, Tehsil: Dharamjaigarh, District Raigarh Chhattisgarh at present R/o village Kosmanda, Post Bhagadola, Tehsil Pusoor, Civil and Revenue District Raigarh Chhattisgarh.
21. Santosh Kumar Birhor, aged about 23 years, S/o Gomaram Birhor, Class IV employee in the department of Tribal, Govt. Pre Matric Boys Hostel Vijaynagar (Kapu) Tehsil: Dharamjaigarh, District Raigarh, Chhattisgarh at present R/o village and post: Ruvaphool, Tehsil Dharamjaigarh Police Station Dharamjaigarh Civil and Revenue District Raigarh Chhattisgarh.
22. Sukh Singh Rathiya, aged about 25 years, S/o Karma Singh Rathia, Class IV employee in the department of Tribal, Posted at Boys HOstel Chatakpur (Kapu) Tehsil Dharamjaigarh District Raigarh Chhattisgarh at present R/o village Mudatikra (Amlitikra) Post Shapur, Tehsil and Police Station: Kharsiya, Civil and Revenue District Raigarh Chhattisgarh.

Versus

1. The State of Chhattisgarh, Through the Secretary, Department of Tribal and Welfare, Zero Point, Mahandi Bhawan, Mantralay, P.S. Mandir Hasaud, Naya Raipur, Chhattisgarh.
2. The Commissioner, Tribal Welfare Department, Indrawati Bhawan, Naya Raipur, District Chhattisgarh.
3. The Assistant Commissioner, Tribal Welfare Department, Raigarh, District Raigarh Chhattisgarh.
4. The Collector, Tribal Welfare Branch, District: Raigarh, Chhattisgarh.

---- Respondents

For Appellants	:	Shri Rakesh Anthony, Advocate.
For Respondent/State	:	Shri Prafull N Bharat, Additional Advocate General.

Hon'ble Shri Navin Sinha, Chief Justice
Hon'ble Shri Prashant Kumar Mishra, J.

Judgment on Board

Per Navin Sinha, Chief Justice

15/05/2015

1. The present appeal arises from order dated 19.3.2015 dismissing Writ Petition (S) No. 896 of 2015 declining to interfere with the order dated 20.11.2014 reducing the pay scale and directing payment of salary as contingency paid employee and also the modification of the appointment order putting them on probation.
2. Learned Counsel for the Appellants submits that they had applied in response to an advertisement, and after undergoing selection process were appointed regularly on a regular pay scale which was being paid to them also. The appointment order did not mention any probation period. The Respondents in gross violation of the principles of natural justice, have not only reduced the pay scale but also made recoveries from their salary alongwith introducing new conditions regarding probationary period.
3. Learned Additional Advocate General has invited our attention to paragraph 4 of the order under appeal and submits that the advertisement

itself mentioned that the appointment was to be made under the Chhattisgarh (Work Charged and Contingency Paid Employees) Act, 1976 (hereinafter called 'the Act') under which wages are paid at the Collector rate and not a regular pay scale. The initial appointment is followed by confirmation after satisfactory service. If an error was committed at the time of issuance of appointment letter and that has been rectified only, the Appellants throughout being aware of the nature of their appointment, the order under appeal calls for no interference. Principles of natural justice have no application in the facts of the case.

4. We have considered the submissions on behalf of the parties.

5. The advertisement dated 22.6.2012 specifically stated that the appointments were to be made on sanctioned vacant post of contingency paid employees. Contingency paid employees are appointed under the Act and are paid at the Collector rate which also provides for an initial temporary appointment to be followed by confirmation after satisfactory service. The Appellants cannot take the stand that they were not aware of the nature of their appointment as not being in the regular establishment but as a contingency paid employee. If the Respondents made a mistake by granting them a regular pay scale, it was the duty of the Appellants also to invite the attention of the Respondents to this error as the Appellants were fully aware of the nature of their appointment evident from the advertisement itself. Apparently, they preferred to keep quiet as they stood to benefit by a regular scale of pay.

6. The principles of natural justice sought to be urged on behalf of the Appellants before granting them Collector rate instead of regular pay scale and making recoveries as also with regard to the introduction of the clause regarding probationary period has no application in the facts of the case. Natural justice is not a phrase applicable across the board with a standard explanation. Its meaning will depend and vary on the facts of each case. In the

facts of the present case, we are satisfied that the principles of natural justice have no application applying the useless formality theory as no different conclusion is possible even if show cause notice had been given.

7. We therefore find no reason to interfere with the order under appeal.

8. The appeal is dismissed.

Sd/-
(Navin Sinha)
CHIEF JUSTICE

Sd/-
(Prashant Kumar Mishra)
JUDGE

Amit