

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

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**Civil Writ Petition No.1031 of 2015
Date of decision: 17.07.2015**

Ashu and another

....Petitioners

versus

State of Haryana and others

...Respondents

CORAM: HON'BLE MRS. JUSTICE DAYA CHAUDHARY

1. Whether Reporters of local papers may be allowed to see the judgment? Yes/No
2. To be referred to the Reporters or not? Yes/No
3. Whether the judgment should be reported in the Digest? Yes/No

Present: Mr. J.S. Maanipur, Advocate
for the petitioners.

Mr. Harish Rathee, Sr. DAG, Haryana.

DAYA CHAUDHARY, J.(Oral)

The case of the petitioners is that they have been working as Beldars since 1990 and were regularized vide order dated 31.07.2014 (Annexure P-1) but still they were being paid salary by considering them as daily wagers. At the time of regularization, they were asked to get themselves medically examined but even on completion of all the formalities, no order of regularization was ever conveyed to them.

Learned State counsel submits that the order of regularization dated 31.07.2014 (Annexure P-1) was passed by the Executive Engineer whereas, in case of Group C & D employees, the Superintending Engineer was the competent authority. Learned State counsel also submits that the petitioners were not eligible for regularization as they did not fulfill minimum qualification

criteria of 8th pass and other conditions laid down in 2014 Policy, therefore, the orders of regularization were withdrawn. Learned State counsel further submits that vide letter dated 11.09.2014, the Superintending Engineer delegated the powers conferred upon him to all Executive Engineers to pass orders of regularization of Group C & D employees.

The Executive Engineer, Provincial Division, PWD(B&R), Faridabad vide order dated 07.05.2015, was directed to file his affidavit explaining therein as to why order of regularization dated 31.07.2014 was passed by him when he was not competent to pass such order and why the order could not be implemented subsequently in spite of the fact that the petitioners have undergone medical examination.

In compliance thereto, an affidavit dated 27.11.2008 has been filed by the Executive Engineer, Provincial Division, PWD(B&R) Branch, Faridabad and the mentioned facts therein are as under:

1. that the order of regularization was passed by him as per orders given by the Superintending Engineer, Gurgaon Circle, PWD(B&R) Branch, Gurgaon on 17.07.2014.
2. that in compliance of orders passed by the Superintending Engineer on 17.07.2014, the order Nos. 320 and 321 dated 31.07.2014 have been passed and copies thereof were also sent to the Engineer-in-Chief, Haryana, Superintending Engineer, Gurgaon and to Civil Surgeon, Faridabad for medical examination and also to concerned employees
3. that the Engineer-in-Chief, Haryana, PWD(B&R), Chandigarh vide letter dated 01.08.2014 has stated that orders dated 31.07.2014 passed by the Executive Engineer are in violation of the service Rules as the regularization of Group C and D employees had to be issued after

scrutinizing by the Superintending Engineer of the circle concerned.

4. that as per direction issued by the Engineer-in-Chief, the orders of regularization dated 31.07.2014 were withdrawn on 27.08.2014.

5. that vide letter dated 11.09.2014, the Superintending Engineer, Gurgaon Circle, Gurgaon delegated the powers to the Executive Engineer to regularize the services of Group C & D employees.

I have heard learned counsel for the parties and have also perused the documents available on record carefully.

It is an admitted fact that the petitioners were regularized on 31.07.2014. The orders of regularization were withdrawn subsequently on the ground that the same were not passed by the competent authority. A perusal of the documents available on record as well as the written statement shows that on both the occasions, the orders have been passed by the Executive Engineer. The only stand taken is that the Executive Engineer was not authorized by the Superintending Engineer to pass orders of regularization but he was authorized subsequently also and the Superintending Engineer was the only competent authority to pass orders of regularization of Group C & D employees. It is also not disputed that the petitioners were neither given any opportunity of hearing nor any notice was issued to them before withdrawal/cancellation of the orders of regularization. Once the orders of regularization have been passed in favour of the petitioners, the same cannot be withdrawn without giving any opportunity of hearing which is the basic requirement of principles of natural justice and as such the order of withdrawal is bad in law.

Accordingly, the present petition is disposed of with a direction to the respondents to pass appropriate order in accordance with rules or instructions or policy of regularization after giving opportunity of hearing to the

petitioners. The petitioners shall not be reverted till then from their posts. The respondents are directed to maintain status quo and to release salary to the petitioners. The necessary exercise be done within a period of two months from the date of receipt of certified copy of this order.

(DAYA CHAUDHARY)
JUDGE

July 17, 2015
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