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HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 2015 of 2005

1. Murlidhar Patel S/o Shri Jhanjhanlal, aged about 33 years, R/o Bhedhwan, Sarangarh, District Raigarh

---- Petitioner

Versus

1. State of Madhya Pradesh through its Secretary, Department of Tribal Welfare, Vallabh Bhavan, Bhopal
2. State of Madhya Pradesh through its Secretary, General Administration Department, Vallabh Bhavan, Bhopal
3. Assistant Commissioner Tribal Welfare Development Raigarh
4. The Screening Committee, through its Asstt. Commissioner, Tribal Development Department, Raigarh

---- Respondent

And

WPS No. 5843 Of 2008

1. Murlidhar Patel, S/o Shri Jhunjhun Lal Patel, aged about 40 years, working as Peon, Middle School, Keshla, Tah. Lailunga, District Raigarh (C.G.)

---- Petitioner

Vs

1. State of Chhattisgarh through its Secretary Tribal Welfare Department, D.K.S. Bhawan, Raipur (C.G.)
2. Commissioner Tribal Welfare Department, Raipur, C.G.
3. Assistant Commissioner Tribal Welfare Development Department Raigarh, C.G.
4. Block Education Officer, Lailunga, Tahsil Lailunga, District Raigarh (C.G.)

---- Respondents

For Petitioner	Shri R. S. Patel and Shri Animesh Verma, Advocate
For Respondent/State	Shri P. K. Bhaduri, Govt. Advocate

Hon'ble Shri Justice Prashant Kumar Mishra

Order On Board

16/03/2016

1. In WPS No.2015/2005, the challenge is to the order dated 31.05.2000, whereby the petitioner was removed from service without issuing any show cause notice. This petition was originally filed under Section 19 of the Administrative Tribunals Act, 1985 before the Madhya Pradesh State Administrative Tribunal ('the Tribunal', in short) bearing O.A. No.3680/2000. By order dated 12.07.2000, the Tribunal stayed the operation of the removal order. The said interim order is still operative.
2. WPS No.5843/2008 has been preferred to seek quashment of the order dated 09.09.2008 and for commanding the respondent No.3 to grant pay scale of Rs.2780/- to the petitioner.
3. The petitioner was appointed as Peon on daily wage basis on 18.02.1993 for a period of 89 days, however, the appointment continued with artificial breaks. The petitioner was subsequently regularized in the service vide order dated 28.08.1995 and, thereafter, the petitioner continued as regular peon in the pay scale of Rs.750-945/-. When the petitioner, thus, continued for about 5 years as a regularized peon, he was removed from service on 31.05.2000, which has been stayed by the Tribunal.

4. By order dated 09.09.2008, the petitioner has again been regularized presumably by treating him as a daily wage peon, whereas, in fact, vide order dated 28.08.1995, he was already regularized. The effect on interim order passed by the Tribunal staying the order of removal in WPS No.2015/2005, is that the status of the petitioner immediately preceding the issuance of order dated 31.05.2000 would be revived and he would be treated as a regularized peon in the pay scale of Rs.750-945/-. The petitioner having already been regularized, there was no occasion for the respondent Collector to regularize him on 09.09.2008 in the pay scale of Rs.2550-3200/-.
5. Since the order (Annexure-P-8) in WPS No.2015/2005 was passed against the petitioner without giving any opportunity of hearing to the petitioner and the effect of the order is that the petitioner, who was regularized peon, was straightway removed from the service, it goes without saying that it had civil consequences.
6. It is the settled law that no order visiting with civil (evil) consequences be passed without affording an opportunity of hearing. Moreover, the order itself suggests that it preceded by an enquiry, however, no opportunity of hearing was afforded to the petitioner in the said enquiry nor the report thereof was supplied to him.

7. For the foregoing, the order dated 31.05.2000 (Annexure-P-8) in WPS No.2015/2005 and the order dated 09.09.2008 (Annexure-P-1) in WPS No.5843/2008, in respect of the petitioner, deserve to be and are hereby quashed. The petitioner shall be treated as a regularized peon w.e.f. 28.08.1995.
8. In the result, both the writ petitions are allowed to the extent indicated above. No order as to costs.

Sd/-

Judge

Prashant Kumar Mishra

Gowri