

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

**C.W.P No. 15794 of 2015
Date of decision : 17.03.2016**

Parveen Kumar and ors.Petitioners
versus

Shri Mata Mansa Devi Shrine Board & anr. ..Respondents

CORAM: HON'BLE MS. JUSTICE RITU BAHRI

Present: Mr. R.K. Malik, Sr. Advocate with
Ms. Rimpal Kadyan, Advocate
for the petitioners.

Mr. R.D. Bawa, Advocate
for the respondents

RITU BAHRI , J.

By way of present writ petition, petitioners are seeking writ in the nature of certiorari for quashing order dated 23/29.07.2015 (P-4) vide which the regularization order dated 28.04.2015/08.05.2015 (P-3) already implemented has been kept in abeyance and status of the petitioner has been changed from regular to contractual

Brief facts of the case are that the services of the petitioners have been regularized on 28.04.2015/08.05.2015 w.e.f 28.05.2014 as per policy decision (P-1 and P-2). Subsequently, petitioners joined on regular basis on 11.05.2015 and since then are

continuing on regular basis. However, vide impugned order dated 23/29.07.2015 the regularization order dated 28.04.2015/08.05.2015 already implemented has been kept in abeyance and status of the petitioner has been changed from regular to contractual.

The grievance of the petitioners before this court is that the petitioners are continuing without any break. They are duly qualified for the said post and were appointed against duly sanctioned posts. No show cause notice has been issued to the petitioners before passing the impugned order. The controversy is squarely covered by the various judgments whereby it has been settled that once the service of an employee has been regularized, the same cannot be de-regularized without observing the principles of natural justice.

Learned counsel for the respondents on the other hand submits that the Government in its meeting held on 05.11.2014 has taken a decision to review the announcements/recruitment's / appointments made by previous Government after 16.05.2014 and Government circulated vide U.O dated 05.05.2015. Further Government in its meeting held on 25.11.2014 decided to review all the regularization policies issued/revived on or after 16.05.2014 in respect of Group B, C and D employees appointed/engaged on adhoc, contractual basis etc. and as per the decision of the council of

Ministers, the matter is being reviewed by the State government. Thus, the Government vide its letter dated 05.05.2015 decided not to carry out the regularization of Group B, C and D employees appointed/engaged on adhoc, contractual basis etc.

Heard learned counsel for the parties.

A perusal of letter dated 05.05.2015 (R-1) shows that a decision was taken by Council of Ministers in its meeting held on 25.11.2014 ***to review all the regularization policies/revived on or after 16.06.2014 in respect of Group B, C and D employees appointed/engaged on adhoc, contractual basis etc.***

However, as per the above said letter, there was no decision taken to review the appointments made as per regularization policy on or after 16.06.2014. The services of the petitioners have been regularized on 28.04.2015/08.05.2015 w.e.f 28.05.2014 as per policy decision (P-1 and P-2).

For all intents and purposes, the decision dated 25.11.2014 would be prospective and as per the above said letter dated 05.05.2015, the department had not to regularize further employees after 18.06.2014. The regularization policy dated 18.06.2014 has been kept in abeyance on 05.05.2015 and thus, regularization order dated 28.04.2015/08.05.2015 could not be kept in abeyance, vide order dated

23/29.07.2015. Petitioners after being regularized in the department had a legitimate right to be treated as regular employee, as they fulfilled all the condition of policy decision dated 18.06.2014. Petitioners could not be asked to perform their duties on contractual basis, vide impugned order dated 23/29.07.2015. The respondent-department has misinterpreted letter dated 05.05.2015 (R-1) whereby only the regularization policy of on or after 16.06.2014 has been kept in abeyance. The correct interpretation of the letter dated 05.05.2015 would be that after 05.05.2015, the departments would not regularize the services of Group B, C and D employees appointed/engaged on adhoc, contractual basis etc.

For the reasons stated above, the writ petition is allowed and order dated 23/29.07.2015 is hereby quashed and the petitioner is entitled to all consequential benefits.

17.03.2016

G Arora

(RITU BAHRI)
JUDGE