

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

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**CWP No.24477 of 2014 (O&M)
Date of Decision: July 19, 2017**

Pawan Kumar Prashar

....Petitioner

vs.

State of Punjab and others

....Respondents

CORAM: HON'BLE MR. JUSTICE TEJINDER SINGH DHINDSA

Present: Mr.Y.M. Bhagirath, Advocate
for the petitioner.

Ms. Monica Chhibber Sharma, Sr. DAG, Punjab.

TEJINDER SINGH DHINDSA, J. (Oral)

Brief facts which are not in dispute are that the petitioner was appointed as Research Assistant (ad-hoc basis) in terms of order dated 16.07.1982 issued by the Chief Engineer, Irrigation Works, State of Punjab, Shahpur Kandi. Services of the petitioner were terminated vide order dated 08.07.1986. Petitioner filed CWP No.3602 of 1986 impugning the order of termination. The writ petition was dismissed by a Division Bench of this Court on 05.07.1986. Petitioner preferred Civil Appeal No.9291 of 1995 before the Hon'ble Supreme Court. The appeal was accepted and the operative part of the order passed by the Apex court was in the following terms:-

Leave granted.

In view of the fact that the reply of the respondents

to the averments made by the appellants in para 16 of the special leave petition is not satisfactory (whether in the original counter or in the additional courier, as the case may be and also taking into account the circumstance that the appellants are continuing in service under the orders of this Court since 1986, i.e., for a period of nine years, we do not think that it would be appropriate at this stage to disturb them from the posts, they are continuing. Accordingly, the appeal is allowed. The appellants shall be continued in service and shall be treated at par with the person similarly situated. No costs.”

It so transpires that the Chief Engineer, Ranjit Sagar Dam, Shahpur Kandi, directed regularization of services of the petitioner vide order dated 07.10.2005 but w.e.f. 22.07.1982. It is also not in dispute that such factual premise was even recorded in the service book of the petitioner.

The instant petition is directed against the order dated 26.08.2014 at Annexure P-7, passed by the Secretary to Punjab Government, Irrigation Department and whereby the date of regularization of the petitioner stands altered to 01.04.1985 instead of 22.07.1982.

During the course of arguments, it has gone uncontroverted that the petitioner was not put to notice prior to passing of the impugned order dated 26.08.2014.

It is a unilateral decision on the part of the State Government. It goes without saying that changing the date of

regularization of the petitioner from 01.04.1985 to 22.07.1982, would have a consequential adverse impact on his conditions of service including seniority. Such an order could not have been passed behind the back of the petitioner. The impugned order as such, cannot sustain on the short ground of violation of the principles of natural justice.

The instant petition is allowed. Order dated 26.08.2014 (Annexure P-7) is set aside. The matter is remanded back to the Secretary to Punjab Government, Irrigation Department/respondent No.1, to pass an order afresh after affording to the petitioner an opportunity of hearing.

Let fresh orders be passed within a period of three months from the date of receipt of a certified copy of this order.

It is however clarified that the impugned order has been set aside on the sole ground of opportunity having not been granted to the petitioner and this Court has not examined the claim of the petitioner as regards benefit of regularization to be accorded from any particular date on merits. Contentions in such regard for both sides are kept open.

Disposed of.

(TEJINDER SINGH DHINDSA)
JUDGE

19.07.2017
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Whether speaking/reasoned : **Yes/No**
Whether reportable : **Yes/No**