

HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No. 3094 of 2017**

1. Amrit Das Patela S/o Late Shri Daduram Patela, Aged About 39 Years Working As Peon, Chhattisgarh Council Of Science And Technology, Vigyan Bhawan, Raipur, R/o Near Barud Water Tank, Naya Raipur, Police Station Manakapa, District Raipur, Chhattisgarh., Chhattisgarh
2. Bhojeshwar Chandrakar S/o Shri Arun Chandrakar Aged About 30 Years Working As Peon, Chhattisgarh Council Of Science And Technology, Vigyan Bhawan, Vidhan Sabha Road, Daldal Seoni, Raipur, R/o Trishul Chowk, Baigapara, Police Station City Kotwali, District Durg, Chhattisgarh., District : Durg, Chhattisgarh
3. Bhupesh Kumar Nishad, S/o Shri Mahavir Prasad Nishad Aged About 29 Years Working As Peon, Vigyan Bhawan, Vidhan Sabha Road, Daldal Seoni, Raipur, R/o Village Bendari, Police Station Utai, District Durg, Chhattisgarh., District : Durg, Chhattisgarh
4. Sunil Yadu, S/o Shri Shankar Lal Yadu, Aged About 27 Years Working As Peon, Chhattisgarh Council Of Science And Technology, Vigyan Bhawan, Vidhan Sabha Road, Daldal Seoni, Raipur, R/o Near Khalarri Temple, Mahadev Ghat Road, Police Station Sundar Nagar, District Raipur, Chhattisgarh., District : Raipur, Chhattisgarh
5. Dooman Lal Soni S/o Shri Bahalram Soni Aged About 37 Years Working As Peon Chhattisgarh Council Of Science And Technology, Vigyan Bhawan, R/o Near Durgesh Grocery Shop, Baijnath Para, Police Station City Kotwali, District Durg, Chhattisgarh. Vidhan Sabha Road, Daldal Seoni, Raipur, , District : Durg, Chhattisgarh
6. Ashok Kumar Gaikwad S/o Shri Seukram Gaikwad Aged About 34 Years Working As Peon, Chhattisgarh Council Of Science And Technology, Vigyan Bhawan, Raipur, R/o Village Bharenga, Police Station Abhanpur, District Raipur, Chhattisgarh., District : Raipur, Chhattisgarh
7. Smt. Mamta Thandi, S/o Shri Shankar Lal Yadu, Aged About 45 Years Working As Peon, Chhattisgarh Council Of Science And Technology, Vigyan Bhawan, Vidhan Sabha Road, Daldal Seoni, Raipur, R/o Veer Shivaji Nagar, Kota, Police Station- Saraswati Nagar, District-Raipur, Chhattisgarh., District : Raipur, Chhattisgarh
8. Santosh Dhruv, S/o Shri Aghanuram Dhruv, Aged About 38 Years Working As Peon, Chhattisgarh Council Of Science And Technology, Vigyan Bhawan, Vidhan Sabha Road, Daldal Seoni, Raipur, R/o Village Korada, Police Station Kashdol, District Balodabazar Bhatapara, Chhattisgarh., District : Balodabazar-Bhatapara, Chhattisgarh
9. Madan Sona, S/o Shri Chinta Sona, Aged About 30 Years Working As Peon, Chhattisgarh Council Of Science And Technology, Vigyan Bhawan, Vidhan Sabha Road, Daldal Seoni, Raipur, R/o Ward No. 12, Jyoti Nagar, Police Station Saraswati Nagar, District Raipur, Chhattisgarh., District : Raipur, Chhattisgarh

10. Kheluram Yadav, S/o Shri Arti Yadav, Aged About 42 Years Working As Peon, Chhattisgarh Council Of Science And Technology, Vigyan Bhawan, Vidhan Sabha Road, Daldal Seoni, Raipur, R/o Julum Tekari, Abhanpur Police Station Abhanpur, District Raipur, Chhattisgarh., District : Raipur, Chhattisgarh
11. Aryahind Yadav, S/o Shri Sitaram Yadav. Aged About 30 Years Working As Peon, Chhattisgarh Council Of Science And Technology, Vigyan Bhawan, Vidhan Sabha Road, Daldal Seoni, Raipur, R/o Trishul Chowk, Baigapara, Police Station City Kotwali, District Durg, Chhattisgarh., District : Durg, Chhattisgarh
12. Devendra Chandrakar, S/o Shri Ishwari Chandrakar, Aged About 32 Years Working As Peon, Chhattisgarh Council Of Science And Technology, Vigyan Bhawan, Vidhan Sabha Road, Daldal Seoni, Raipur, R/o Village Kodawa, Police Station Dhadi, District Bemetara, Chhattisgarh., District : Bemetara, Chhattisgarh
13. Satish Kumar Chandra, S/o Shri Arti Yadav, Aged About 30 Years Working As Peon, Chhattisgarh Council Of Science And Technology, Vigyan Bhawan, Vidhan Sabha Road, Daldal Seoni, Raipur, R/o Ramlal Chandra, Police Station Jaijaipur, District Janjgir Champa, Chhattisgarh., District : Janjgir-Champa, Chhattisgarh

---- Petitioners

Versus

1. State Of Chhattisgarh S/o Through Secretary, Department Of Higher Education, Technical Education Science And Technology, Mantralaya, Mahanadi Bhawan, Naya Raipur, Chhattisgarh., Chhattisgarh
2. Director General Of Chhattisgarh, Council Of Science And Technology, Vigyan Bhawan, Vidhan Sabha Road, Daldal Seoni, Raipur, Chhattisgarh., District : Raipur, Chhattisgarh

---- Respondents

Shri Vinay Pandey, counsel for the petitioner/s.
 Shri S.Majid Ali, Dy. G.A. for the State.
 Dr. Saurabh Pande, counsel for respondent No.2.

Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

12/03/2018

With the consent of the parties, the matter is heard finally.

The petitioners are aggrieved by action of respondent No.2 whereby total emoluments, which they were receiving after regularisation in service vide order dated 25/08/2014 and 30/09/2014 has been reduced. As the pleading goes in the petition, the

salary of the petitioners has been reduced from Rs.15,814/- to Rs. 8,450/-.

2. Short and simple argument of learned counsel for the petitioners is that the order of regular appointment by which the petitioners were appointed and the pay scale provided therein has neither been cancelled nor withdrawn till date. Therefore, as long as the order of appointment on pay scale is there, respondent No.2 could not have reduced their salary. He further submits that reduction in salary was effected from July, 2017. By that time, no notice was given to the petitioners affording them opportunity of hearing to show cause against the order of reduction in salary.

3. Per contra, learned counsel for respondent No.2 would submit that the petitioners were daily wage employees appointed in the year 2012. He submits that these appointments were without any process of selection or by issuing any advertisement or on merits. According to learned counsel for respondent No.2, even criteria of reservation was not followed. Regularisation was also bad in view of the fact that number of approved and sanctioned posts in the set up are less than number of employees. After notices were issued by this Court, the authorities started making enquiry and each of the petitioners was noticed on more than one occasion to satisfy whether they were regularised in accordance with law. It is submitted that the employees submitted their reply and thereafter, records of selection were also examined by a committee of officers which has also submitted their report which reveals that the selection, appointment and regularisation of the petitioners was not in accordance with law.

4. It appears that taking a view that petitioners' regularisation was not in accordance with the procedure of selection applicable in the establishment in the matter of regular appointment, total pay / emoluments of the petitioners were reduced from July, 2017 onwards. As long as the order of appointment subsists, respondent No.2 is obliged under the law to pay salary to the petitioners as per contract of appointment.

5. If the respondents have a case that regularisation of the petitioners was illegal or impermissible under the law, it is open for them to take appropriate decision on the basis of enquiry made so far and replies submitted by the petitioners under two show cause notices.

6. In the result, this petition is allowed in the manner that order of reduction from salary of the petitioners from July, 2017 is held illegal. The petitioners are entitled for salary in accordance with the contract of appointment. It would be open for the respondents to take appropriate decision in the service matter of the petitioners on the basis of enquiry report collected by the respondents and due consideration of reply to the show cause notices, by a speaking order in respect of each of the petitioners.

Sd/-
(Manindra Mohan Shrivastava)
Judge