

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP No.12871 of 2013

Date of Decision: 22.02.2018

Asharfi Devi

... Petitioner

Versus

Dakshin Haryana Bijli Vitran
Nigam Ltd. Hisar and others

... Respondents

CORAM:- HON'BLE MR. JUSTICE RAJIV NARAIN RAINA

Present: Mr. Deepak Sonak, Advocate,
for the petitioner.

Mr. Hitesh Pandit, Advocate,
for the respondents.

RAJIV NARAIN RAINA, J.(Oral)

1. The reason for withdrawing the order of regularization is pedantic and utterly unrealistic in the case of a marginal worker engaged as a part time Sweeper by the DHBVNL for its office in Ballabgarh. The Nigam employed the petitioner in 1979, took work from her till December 12, 2012 when by the grace of the almighty her services were regularized by the competent authority. Within four months the order was withdrawn on the ground that when she was appointed, her name was not sponsored by the Employment Exchange; nor a Departmental Selection Committee considered her case for appointment and that too after inviting applications from the public through advertisement. The circumstances under which the oral appointment of a part time Sweeper made as long ago as in the year 1979 cannot be readily denounced as contrary to Article 16 (1) of the

Constitution of India it was a local arrangement to the satisfaction of the erstwhile HSEB and presently the Nigam. A part-time Sweeper does not hold a post designated in rules or regulations of the Nigam. This is need based employment and when carried on continuously over many decades gives regularity and permanence. The shortcomings, if any, in such an engagement may have to be overlooked to bring substantial justice to the petitioner by restoring the order of regularization. Besides, the deregularisation is bad in law for want of notice and hearing. Thus, the principles of natural justice have also been violated in passing the impugned order. It is not the case that the work and conduct of the petitioner is not satisfactory. Moreover, the Nigam should not be seen as an exploiter of human resources.

2. Accordingly, this petition is allowed and the impugned order dated April 25, 2013 withdrawing the office memo dated December 12, 2012 is quashed. As a consequence, the order dated May 16, 2013 is also set aside. The consequential benefits flowing therefrom be released to the petitioner within six weeks from the date of supply of certified copy of this order.

3. The petitioner would take litigation costs assessed at ₹11,000/-. The same be paid together with the other benefits accruing as a result of this order.

(RAJIV NARAIN RAINA)
JUDGE

22.02.2018
manju

Whether speaking/reasoned

Yes

Whether reportable

No