

(128) IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

LPA No.494 of 2018 (O&M)
In CWP No.12871 of 2013
Date of decision: 04.04.2018

Dakshin Haryana Bijli Vitran Nigam Ltd. Hisar and
Others

... Appellants

Versus

Asharfi Devi

... Respondent

CORAM: HON'BLE MR. JUSTICE RAJESH BINDAL.
HON'BLE MR. JUSTICE B.S. WALIA.

Present: Mr. R.S. Longia, Advocate for the appellants.

B.S. WALIA, J.

1. Intra-court appeal has been filed against order dated 22.02.2018 whereby CWP No.12871 of 2013 was allowed and impugned order (Annexure P-6) dated 25.04.2013 withdrawing office memo dated 12.12.2012 was quashed; besides, order (Annexure P-7) dated 16.05.2013 passed by respondent No.4 was also set aside and the consequential benefits thereon were ordered to be released to the respondent within six weeks from the date of supply of certified copy of the order.

2. Brief facts of the case leading to the filing of the intra-court appeal are that the respondent was engaged as part-time Sweeper by the appellants at its office in Ballabgarh in 1979 and worked as such till December 12, 2012 on which date her services were regularized by the competent authority. However, within four months thereafter, the order of regularization of her services was withdrawn on the ground that when the respondent was appointed, her name was not sponsored by the Employment

Exchange nor a Departmental Selection Committee considered her case for appointment after inviting applications for appointment through public advertisement.

3. The writ petition was allowed by holding that although a part-time Sweeper's job was not a post designated as per rules regulations of the Nigam yet the same was need based employment and when the same was carried out continuously over many decades, the same gave regularity and permanence and the shortcomings, if any, in such an engagement had to be overlooked to do substantial justice to the respondent by restoring the order of regularization. Besides, no notice of hearing had been given before passing the impugned order. Moreover, it was not the case of the appellants that the work and conduct of the respondent was not satisfactory.

4. Having considered the solitary submission of learned counsel for the appellants that the name of the respondent was not sponsored by the Employment Exchange nor did a Departmental Selection Committee considered her case for appointment after inviting applications through public advertisement, we are of the view that in the background of the respondent having been engaged as part-time Sweeper to meet the need based requirement of the appellants and the said arrangement having continued for 33 years whereupon her services were regularized, the order seeking to undo the order of regularization is unsustainable, particularly in the background of the same having been passed without compliance with the principles of natural justice. Besides, the shortcomings, if any, had to be overlooked in the background of number of years of service rendered by the respondent as also to do substantial justice to the respondent by restoring the order of regularization.

5. Accordingly, finding no merit in the appeal, the same is dismissed in limine with costs of ₹ 25,000/- to be deposited with Registry.

(Rajesh Bindal)
Judge

(B.S. Walia)
Judge

04.04.2018
amit

1. Whether speaking/reasoned

:

Yes/No.
2. Whether reportable

:

Yes/No.