

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No.700 of 2014**

- Maheshwar Dhruv, S/o Shri Tula Ram Dhruv, Aged About 27 Years, Occupation Peon, Vivekanand Vidyapeeth, Permanent R/o Ghatkara Post Pond Paduka, PS Rajim Tah Chura, Distt Gariyaband, At Present Vivekanand Vidyapeeth, Post Raipur, PS And Distt Raipur, Chhattisgarh

----- Petitioner**Versus**

- 1.State Of Chhattisgarh Through Principal Secretary, Department Of Tribal Welfare (Schedule Caste And Schedule Tribe) Mantralaya, Mahanadi Bhawan, Naya Raipur, PS Abhanpur, Distt Raipur, Chhattisgarh
- 2.Commissioner, Tribal Welfare (Schedule Caste And Schedule Tribe), C.G., Raipur, Distt Raipur, Chhattisgarh
- 3.Collector, Raipur, Distt Raipur, Chhattisgarh
- 4.Secretary, Vivekanand Vidyapeeth, Kota, Raipur, PS And Distt Raipur, Chhattisgarh

----- Respondents

For Petitioner	Ms. Deepali Pandey, Advocate
For Respondent-State	Mr. Shakti Singh, PL
For Respondent No.4	Mr. Aniket Verma, Advocate

Hon'ble Justice Shri Sanjay K. Agrawal**Order On Board****29/09/2021**

1. Ms. Deepali Pandey, learned counsel for the petitioner, would submit that the petitioner

was regularized on the post of Peon vide order dated 04.12.2012 (Annexure-P/7) passed by the respondent No.4, but by order dated 11.12.2013 (Annexure-P/1) passed by the respondent No.4 itself, the petitioner's order of regularization has been revoked without affording any opportunity of hearing and without giving any show cause notice to the petitioner, which is in violation of principle of natural justice, therefore, the impugned order is liable to set aside.

2. Mr. Shakti Singh, learned State counsel, and Mr. Aniket Verma, learned counsel for the respondent No.4, would support the impugned order.
3. I have heard learned counsel for the parties, considered their rival submissions made herein-above and went through the records with utmost circumspection.
4. True it is that petitioner was regularized on the post of Peon by order dated 04.12.2012 (Annexure-P/7) passed by the respondent No.4, but subsequently the same has been revoked by

order dated 11.12.2013 (Annexure-P/1) passed by the respondent No.4 itself without affording any opportunity of hearing to the petitioner, which is in violation of principle of natural justice.

5. The Supreme Court in the matter of **Rajnish Kumar Mishra & Others v. State of Uttar Pradesh and Others**¹ has held that even before cancellation of regularization, the opportunity of hearing is necessary. Paragraph 17 of the judgment states as under:-

"17. As such, apart from the Circular issued by the Registrar General of the High Court, dated 05.11.2009, the appellants' cases were also required to be taken into consideration in view of the exception carved out in the case of State of Karnataka v. Umadevi². We find that the Committee under the Chairmanship of the Additional District Judge had rightly submitted its report dated 12.07.2012 and the then District Judge had rightly passed the order of regularization on 09.11.2012 granting regularization from 01.06.2012. We find that while considering the representation of some of the employees for promotion, the successor in the office of the District Judge could not have annulled the order of the regularization of the appellants which was done after following the

¹ (2019) 17 SCC 648

² (2006) 4 SCC 1

proper procedure. The least that was required to be done was to follow the principles of natural justice by giving an opportunity of being heard to the appellants. We find that the three orders passed by the District Judge dated 16.08.2014 also suffer from violation of the principles of natural justice."

6. Reverting to the facts of the case in light of the principle laid down by the Supreme Court in the matter of Rajnish Kumar (supra), it is quite apparent that the petitioner's services were regularized on the post of Peon by order dated 04.12.2012 (Annexure-P/7) passed by the respondent No.4, but vide order dated 11.12.2013 (Annexure-P/1) passed by the respondent No.4 itself, the order of regularization has been revoked, which ought not to have been done without affording a minimum opportunity of hearing to the petitioner, therefore, the impugned order is in violation of principle of natural justice and in the teeth of the decision rendered by the Supreme Court in the matter of Rajnish Kumar (supra). Accordingly, the impugned order dated 11.12.2013 (Annexure-P/1) is hereby set aside. However, the respondents are

at liberty to proceed in accordance with law.

7. The writ petition is allowed. No order as to cost (s).

Sd/-
Sanjay K. Agrawal
Judge

Nirala