

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 4051 of 2013

1. Khamhan Lal S/o Shri Jivrakhan Lal Sahu Aged About 57 Years, Majdoor Govt. Polytechnic Durg 491001 Tah And Distt. Durg C.G.
2. Suraj Lal Thakur S/o Late Shri Shivdayal Thakur Aged About 46 Years, Majdoor Govt. Polytechnic Durg 491001 Tah. And Distt. Durg C.G.
3. Bhukhan Lal Sahu S/o Late Shri Ramhu Sahu Aged About 50 Years, Majdoor Govt. Polytechnic Durg 491001 Tah. And Distt. Durg C.G.

----- Petitioners

Versus

1. State Of Chhattisgarh Through Principal Secretary Technical Education Science And Technology Department Govt. Of Chhattisgarh Mahanadi Bhawan Naya Raipur Pin 492001 Tah And Distt. Raipur C.G.
2. Principal Government Polytechnic College Durg 491001 Tah. and Distt. Durg C.G.

----- Respondents

For Petitioners :-Mr. V.G. Tamaskar, Advocate.
For State :- Mr. Soumya Rai, PL.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

27/09/2021

1. Heard.

2. Learned counsel for the petitioners submits that the petitioners were regularized on the post of Majdoor by order dated 31.01.2008 but by order dated 13.03.2008 petitioners' order of regularization has been revoked without affording them any opportunity of hearing and without giving any show cause notice to the petitioners which violate principles of natural justice and, therefore, the impugned order dated 13.03.2008 is liable to set aside.

3. Learned State counsel supports the impugned order.

4. I have heard learned counsel for the parties, considered their rival submissions made herein-above and went through the records with utmost circumspection.

5. True it is that petitioners' were regularized on the post of Majdoor by order dated 31.01.2008 but it has been revoked by order dated 13.03.2008 without affording any opportunity to the petitioners. The Supreme Court, in the matter of Rajnish Kumar Mishra & Others v. State of Uttar Pradesh and Others¹ 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

¹ (2019) 17 SCC 648

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 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 the light of the principle law laid down by the Supreme Court in the matter of **Rajnish Kumar**

² (2006) 4 SCC

Mishra (supra) the impugned order (Annexure P/2) dated 13.03.2008 is liable to be dismissed and is hereby quashed. However the respondents are at liberty to proceed in accordance with law.

7. Accordingly, the instant writ petition is allowed to the extent indicated herein-above. No cost(s).

Sd/-
(Sanjay K. Agrawal)
Judge

Ankit