

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP No. 10850 of 2017 (O&M)

Date of Decision: March 22, 2021

Jai Bhagwan

.....Petitioner

versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE SUDHIR MITTALPresent: Mr. Aman Bansal, Advocate
for the petitioner

Mr. Sanjay Mittal, Addl. A.G. Haryana

Sudhir Mittal, J. (Oral)

The petitioner was appointed as Peon on 16.08.2000. Subsequently, he applied for change of cadre. Vide order dated 20.12.2013, the cadre was changed and the petitioner was re-designated as Beldar. The record further shows that he gave up his seniority in the post of Peon. His grievance is that vide order dated 02.05.2017, office of the Engineer-in-Chief, Haryana directed the Superintending Engineer to withdraw order dated 20.12.2013, which was done vide order dated 11.05.2017 without issuing any show cause notice or granting opportunity of hearing.

Learned counsel for the petitioner submits that the correspondence on record shows that order dated 20.12.2013 was acted upon and seniority of the petitioner was fixed keeping in view his date of appointment in the cadre of Beldar. The Executive Engineer was competent to pass an order of change of cadre and, thus, impugned orders are liable to be set aside being illegal and also violative of principles of natural justice.

A perusal of the order dated 02.05.2017 shows that the reason given by the office of the Chief Engineer is that the Executive Engineer had no authority to pass order dated 20.12.2013.

Neither learned counsel for the petitioner nor learned State counsel are able to show the authority of the Executive Engineer to pass an order of change of cadre. However, the correspondence on record conclusively shows that the order of change of cadre was acted upon and the respondents have taken subsequent actions in accordance therewith. Thus, before withdrawing said order it was incumbent upon the respondents to issue show cause notice to the petitioner and to grant him proper opportunity of hearing. The same having not been done, impugned orders are liable to be set aside.

Accordingly, the petition is allowed. Impugned orders dated 02.05.2017 and 11.05.2017 are set aside. The respondents shall, however, have liberty to pass fresh order after complying with the principles of natural justice.

March 22, 2021

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[SUDHIR MITTAL]
JUDGE

Whether speaking/reasoned : Yes/No

Whether Reportable : Yes/No