

225

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CWP No.12581 of 2020 (O&M)
Date of Decision: 27.02.2023**

KUSHLA DEVI

.....Petitioner

Vs

**HARYANA VIDYUT PRASARAN NIGAM LIMITED AND
OTHERS**

.....Respondents

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present: Mr. Shvetanshu Goel, Advocate
for the petitioner.

Mr. Shashi Kumar Yadav, Advocate
for the respondents.

RAJ MOHAN SINGH, J.(Oral)

[1]. The petitioner has preferred this writ petition assailing the impugned action of the respondents in withdrawing the benefit of regularisation given to the petitioner vide office order No.259 dated 22.02.2012 which was passed in favour of husband of the petitioner on the basis of available record in the office.

[2]. After six days of passing of the aforesaid order, order dated 28.02.2012 came to be passed by the respondent No.3 cancelling the order dated 22.02.2012. Daily wage period of the

husband of the petitioner from 05.02.1981 to 04.10.1992 was counted towards pensionary benefits.

[3]. The grievance of the petitioner is that the cancellation of order dated 22.02.2012 would result in financial repercussions and the order in question could have been passed only after affording due opportunity of hearing to the petitioner. Learned counsel for the petitioner places reliance upon **B.D. Gupta vs. State of Haryana, 1973(3) SCC 149**.

[4]. Per contra, learned counsel for the respondents supports the impugned action on the ground that necessary record was not available and the order dated 22.02.2012 was wrongly passed due to some clerical error. The error was rectified in time and timely rectification of the order has resulted in passing of the order dated 28.02.2012. The order dated 22.02.2012 was never implemented, therefore, question of financial implication does not arise.

[5]. I have considered the submissions made by learned counsel for the parties.

[6]. Perusal of order dated 22.02.2012 would shows that the same was passed in favour of husband of the petitioner on the basis of record available in the office and the period of daily wage service of the petitioner from 05.02.1981 to 04.10.1992 was considered towards pensionary benefits. The withdrawal of the said benefit would certainly result in financial repercussions

for which the competent authority was under obligation to hear the petitioner before passing of the impugned order. No such show cause notice was issued to the petitioner.

[7]. No opportunity of hearing was granted to the petitioner before passing of the order dated 28.02.2012. The order dated 28.02.2012 passed by the respondent No.3 can be quashed solely on the ground of violation of Article 14 of the Constitution of India. The principle of law of *audi alteram partem* can also be referred to in this regard as no one should be condemned unheard. The authority hearing the matter must afford hearing to the party who is likely to be affected by its decision.

[8]. The impugned order dated 28.02.2012 is hereby quashed, however liberty is granted to the respondent No.3 to pass fresh order after issuing show cause notice to the petitioner in accordance with law. The respondent No.3 shall pass fresh order within a period of three months from the date of receipt of certified copy of this order.

[9]. Disposed of.

February 27, 2023

Atik

Whether speaking/reasoned

Whether reportable

(RAJ MOHAN SINGH)
JUDGE

Yes/No

Yes/No