IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

248 CWP-20219-2022 (O&M)
Date of decision: 10.12.2024

Savita Devi and others ....Petitioners

Versus

State of Haryana and another ...Respondents

CORAM: HON'BLE MR. JUSTICE AMAN CHAUDHARY

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Present:- Mr. R.K. Malik, Senior Advocate with
Mr. Kartikey Chaudhary, Advocate for the petitioners.

Mr. Dushyant Saharan, AAG, Haryana.

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AMAN CHAUDHARY, J. (ORAL)

1. The petitioners, who were appointed to the post of Sub Divisional Clerk, which was re-designated on 18.01.2012, on contract basis way back between 2009 and 2011. Thereafter, they were regularized vide order dated 24.06.2020/02.07.2020 as Accounts Clerk, which was withdrawn vide order dated 27.12.2021/12.01.2022, without adhering to the principles of natural justice, which this Court had quashed in CWP-1975-2022 on 03.02.2022, Annexure P-9, whereafter they were called for personal hearing without issuing a proper show cause notice giving tentative reasons on basis of which, their order of regularization as Accounts Clerk was to be withdrawn. Attention of the Court is drawn to Annexure R-1 in this regard. The judgment of this Court in **Ramesh and others vs. State of Haryana and others**, CWP-21790-2014, decided on 14.02.2017, can be beneficially referred to, the relevant whereof reads thus:-

> "From the perusal of the impugned order and in the face of the fact that there is no denial by the respondents it is clear that no show cause notice was issued to the petitioners but they were only called for personal hearing.
> As per learned Senior counsel, the requirement of issuance of show cause notice and consideration of reply is a much more effective feature as compared to a simple personal hearing especially to a person who may not be aware about the niceties of law. As per him, personal hearing cannot be substituted for a proper show cause notice to which reply may also be given by

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the petitioners. More so since in the previous petition, there was a specific direction to this effect.

Learned State counsel on the other hand would try to justify that hearing is an effective substitute of a regular show cause and reply I regret my inability to agree with the learned State counsel.

In these circumstances, I have no option but to set aside the order (Annexure P-5) and grant one more opportunity to the respondents to pass fresh order after giving a show cause notice to the petitioner.

The instant petition stands disposed of in the aforesaid terms."

2. In view of the above, learned Senior counsel submits that a proper show cause notice having not been served, the impugned order, Annexure P-12, was stayed by this Court, vide order dated 07.09.2022. He, however, at this stage, prays that a fresh order may be passed by issuing a proper show cause notice and time to file a reply to the reasons mentioned therein.

3. Learned State counsel has no objection to the limited prayer made.

4. Without commenting on merits and by setting aside the order dated 31.08.2022, Annexure P-12, the respondents are directed to pass an order afresh, in accordance with law by serving a show cause notice to the petitioners and granting them an opportunity to file reply thereto as also afford an opportunity of hearing and till the final decision is taken, the interim order dated 07.09.2022 would enure to the petitioners.

(AMAN CHAUDHARY)
JUDGE

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Whether speaking/reasoned : Yes / No
Whether reportable : Yes / No

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