

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

217 (02 cases)

(1)CWP-6334-2018
Date of Decision :10.01.2024

Neha

...Petitioner

Versus

State of Haryana and others

....Respondents

(2)CWP-6992-2018

Rakesh

...Petitioner

Versus

State of Haryana and others

....Respondent

CORAM: HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present: Mr. Satbir Singh Gill, Advocate for the petitioner
in CWP-6334-2018.

Mr. Japsehaj Singh, Advocate for
Mr. Aman Pal, Advocate for the petitioner
in CWP-6992-2018.

Mr. Saurabh Mohunta, DAG, Haryana
assisted by Mr. Manjeet, Assistant, O/o Chief Principal,
Chief Conservator of Forest, Panchkula, Haryana.

Mr. Abhishek Yadav, Advocate for respondents No. 5 to 8
in CWP-6334-2018.

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Harsimran Singh Sethi, J. (Oral)

1. By this common order, above mentioned two writ petitions are

being disposed as both the writ petitions involve the same question of law on similar facts.

1. Challenge in the present petitions is to the show cause notice, which has been issued to the petitioners for terminating of their services on the ground that the petitioners were selected in the wrong category and, therefore, their services needs to be terminated so as to accommodate the other candidates belonging to the category in which the petitioners have actually been selected and appointed.

2. Learned counsel for the petitioners submits that two candidates namely, Manjit and Shyam, who were to be accommodated, have already been appointed and petitioners are still continuing in service hence, especially when there is no misrepresentation on the part of the petitioners and it was only the respondents who had passed an order appointing the petitioners in the category of BCB instead of BCA and the petitioners are continuing in service since 2014, the petitioners be allowed to continue in service.

3. Learned counsel for the petitioners further submits that bare perusal of the impugned orders would show that services of the petitioners were terminated without following due process as envisaged under law and without giving any opportunity of hearing, services of the petitioners have been terminated by the respondents by passing the impugned orders unilaterally and that too without even seeking any explanation from the petitioners, such action on the part of the respondents is arbitrary and illegal.

4. Learned counsel for the respondents concedes the factum that before passing the impugned orders, no notice was given to the petitioners.

through the record with their able assistance.

6. It is a settled principle of law settled by this Court in **CWP-16486-2020 titled as Pardeep vs. State of Haryana and others decided on 09.11.2022**, that any executive order, which is to be passed, has to be passed by observing the rule of natural justice in case any prejudice is to be caused to an employee and opportunity of hearing has to be given to an employee before any action is to be taken.

7. Further, action of the respondents terminating the services of the petitioners without giving them due opportunity of hearing is contrary to the settled principle of law settled by the Hon'ble Supreme Court of India in **Civil Appeal No.9417-2019** titled as **M/s Daffodils Pharmaceuticals Ltd. and another vs. State of U.P. and another,** decided on 13.12.2019 and **Chamoli District Co-operative Bank Ltd through its Secretary/Mahaprandhak and another vs. Raghunath Singh Rana and others,** 2016(12) SCC 204, decided on 17.05.2016. Relevant paragraphs of the judgment are as under:-

“15. In the present case, even if one assumes that Surender Chaudhary, the accused in the pending criminal case was involved and had sought to indulge in objectionable activities, that ipso facto could not have resulted in unilateral action of the kind which the State resorted to- against Daffodils, which was never granted any opportunity of hearing or a chance to represent against the impugned order. If there is one constant lodestar that lights the judicial horizon in this country, it is this: that no one can be inflicted with an adverse order, without being afforded a minimum opportunity of hearing, and prior intimation of such a move. This principle is too well entrenched in the legal ethos of this country to be ignored, as the state did, in this case.

16. The High Court, in the opinion of this court, fell into error in holding that in matters of award of public contracts, the scope of inquiry in judicial review is limited. Granted, such jurisdiction is extremely circumscribed;

no doubt the court had refused to grant relief to Daffodils against its plea of wrongful rejection of its tender. However, what the impugned judgment clearly overlooks is that the action of the state, not to procure indefinitely, on an assumption of complicity by Daffodils, was in flagrant violation of principles of natural justice.”

7. Keeping in view the facts and circumstances hereinbefore coupled with the settled principle of law, present petitions are allowed and impugned orders are set aside with liberty to the respondents that in case at this stage any action needs to be taken against the petitioners, the respondents will take the said action in accordance with law by giving due opportunity of hearing to the petitioners.

8. Copy of this order be placed on the files of connected cases.

January 10, 2024
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(HARSIMRAN SINGH SETHI)
JUDGE

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