



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

CWP-5773-2022

Date of Decision: 09.10.2025

Rakesh Kumar

...Petitioner

Vs.

State of Punjab and Others

...Respondents

Coram : Hon'ble Mr. Justice N.S.Shekhawat

**Present : Mr. Harinder Sharma, Advocate
for the petitioner.**

Mr. Swapan Shorey, DAG, Punjab.

Mr. Dhirinder Kamal, Advocate
for respondent No.4.

N.S.Shekhawat J.

1. The petitioner has filed the present writ petition under Article 226 of the Constitution of India with a prayer to issue a Writ in the nature of Certiorari for quashing the order dated 04.03.2022 (Annexure P-10) passed by respondent No.1, whereby, directions had been issued to respondent No.3 to withdraw the letter of regular appointment dated 05.03.2019 (Annexure P-6) issued to the petitioner. It was further prayed that respondents may be directed to treat the petitioner as regular employee, appointed in the office of *Panchayat Samiti*, Faridkot, respondent No.4 in pursuance to the letter of appointment dated 05.03.2019 (Annexure P-6) for all intends and purposes.
2. Learned counsel for the petitioner has vehemently argued that the petitioner had obtained the Post Graduate Diploma in Computer Applications in



the year 2008 from Centre for Advance Learning in Computers, which is recognized by the Government of Punjab. He also passed his Master of Science-Information Technology (M.Sc I.T) from Karnatka State Open University in July 2011. Apart from that, the petitioner had passed his matriculation with Punjabi as a compulsory subject. Vide his resolution dated 25.06.2010 (Annexure P-1), respondent No.4 appointed the present petitioner on the post of Computer Operator/Computer Typist on DC rates. It was mentioned in the resolution (Annexure P-1) that the petitioner possessed the requisite qualification for the said post. In compliance of the resolution (Annexure P-1), the letter of appointment (Annexure P-2) dated 05.07.2010 was issued to the petitioner and the petitioner joined his duties as Computer Operator in the office of respondent No.4. Thereafter, the petitioner performed his duties as Computer Operator/Computer Typist/Data Entry Operator to the satisfaction of his superior and no complaint was ever filled by anyone against him. On 24.12.2016, the Punjab Government enacted “The Punjab Ad-hoc, Contractual, Daily Wage, Temporary, Work Charged and Out Sourced Employees Welfare Act, 2016” [Act No.55 of 2016] to provide for the regularization of services of Group “A”, “B”, “C” and “D” employees working on Ad hoc, contractual, Daily Wage, Temporary and Work charged basis under the State Government or its entities. Section 3 of the said Act provides for the regularization of the services of Group “A”, “B” and “C” employees, whereas, the provisions of Section 7 provide that the necessary number of category wise posts in the service of State Government and its entities equal to the number of persons to



be regularized shall be deemed to have been created in excess of already existing sanctioned posts in the cadre to which they are inducted. Ultimately, the respondent No.1 issued directions on 06.01.2017 to all Executive Officers of all the *Panchayat* Samitis in the State of Punjab to ensure necessary action at their own level and directed further that any failure thereof would invite disciplinary action against the concerned official. Ultimately, in compliance of the aforesaid order dated 06.01.2017, the respondent No.4 considered the case of the petitioner in the meeting held on 03.07.2018 for regularisation of his services as Computer Operator/Data Entry Operator in the *Panchayat* Samiti, Faridkot in the pay scale of Rs.10300-34800+3200 Grade Pay.

3. Learned counsel for the petitioner further argued by referring to the Act of 2016, memo dated 06.01.2017 (Annexure P-4) and resolution dated 03.07.2018 (Annexure P-5), the respondent No.3 issued the letter of regularisation (Annexure P-6) dated 05.03.2019 in favour of the petitioner in the Grade Pay of Rs.10300-34800+3200. Even, the respondent No.4 had ordered the regularisation of services of other employees also, who were also earlier working on Daily wage/contract basis. Since, the sanctioned post of Clerk was lying vacant in the office of respondent No.4 since long and the petitioner, besides the discharge of his duties as Computer Operator, also used to perform the duties of Clerk in the effective manner; consequently, respondent No.4 in its meeting held on 09.06.2020 decided to appoint the petitioner as a Clerk with effect from the date of his appointment as Computer Operator i.e. 05.03.2019. Consequently, on 19.06.2020, the respondent No.3 issued the



regular appointment letter of the petitioner as Clerk in the office of respondent No.4. Surprisingly, without issuing any show cause notice and without granting any opportunity of hearing, respondent No.1 issued a memo dated 04.03.2022, whereby, directions were issued to respondent No.4 to withdraw the order of regular appointment dated 05.03.2019 (Annexure P-6), which was issued to the petitioner.

4. Learned counsel for the petitioner further argued that vide the impugned order dated 04.03.2022 (Annexure P-10), services of the petitioner were altered from regular to its initial position as employee on contract basis was issued by completely overlooking the mandatory provisions of the Act of 2016. The Act of 2016 had been challenged in CWP No.4187-2017 titled as “*Ankita Gupta Vs.State of Punjab and Others*”, however, no specific interim order of staying the operation of the Act of 2016 had been passed in the writ petition. Even, the State of Punjab had not repealed the said Act. Still further, the present petitioner fulfilled all the eligibility conditions for the post of Computer Operator/Clerk and his regularization was ordered by respondents after taking into consideration the eligibility conditions provided in the Act of 2016. Apart from that, several other similarly placed employees were also regularized in the office of respondent No.4, however, the benefit was withdrawn qua the present petitioner only.

5. On the other hand learned counsel for the respondents have vehemently opposed the submissions made by learned counsel for the petitioner on the ground that the petitioner was appointed by respondent No.4 without



following the Punjab *Panchayat* Samiti and Zila Parishad Service Rules, 1965. Since, the petitioner was not appointed as per the rules, his services could not have been regularized. Still further, as per 1965 rules, all the appointments at District level in a *Panchayat* Samiti are to be made by the appointing authority on the recommendations of the District Committee constituted under Rule 4(3) comprised of Deputy Commissioner of the District, District Development and *Panchayat* Officer and the Chairman of the *Panchayat* Samiti concerned. However, the petitioner was wrongly appointed by the respondents and all subsequent proceedings regarding his regularization were illegal. Apart from that, the Government had submitted a reply in CWP No.4187-2017 titled as “*Ankita Gupta Vs. State of Punjab and Others*” and it was specifically mentioned in the reply that the Government had decided to repeal the said Act of 2016 and to replace it with a new Bill. However, during the course of arguments, learned State counsel could not show to the Court that the Act of 2016 had been withdrawn by the State Government or had been stayed by this Court in any of the proceedings. Similar, submissions have been made by learned counsel appearing on behalf of respondent No.4 as well.

6. I have heard learned counsel for the parties and with their able assistance; I have perused the record carefully.

7. It is the conceded position that on the date of his initial appointment as Computer Operator-cum-Computer Typist on contract basis, the petitioner possessed the required qualification. He had passed his matriculation with Punjabi as a compulsory subject and also possessed Master of Science-



Information Technology (M.Sc I.T) degree from Karnatka State Open University. He also had acquired the qualification of Post Graduate Diploma in Computer Application, which was recognized by Government of Punjab. After his initial appointment on contract basis, the petitioner had performed his duties till 05.03.2019 without any complaint against him, when his services were ordered to be regularized as Computer Operator/Data Entry Operator. Thereafter, the service of several other employees were also regularized by respondent No.4, which is apparent from the letters of regularization (Annexures P-7 and P-8) regarding the other employees as well. Even, thereafter, the petitioner was ordered to be appointed as Clerk in the office of respondent No.4 with effect from 05.03.2019 itself as he was discharging his duties as Computer Operator/Data Entry Operator as well as Clerk of the Samiti. It is also conceded position that the services of the petitioner were regularized in compliance of the provisions of the Act of 2016, which was not repealed by the respondent-State till the date of passing of the impugned order dated 04.03.2022 (Annexure P-10). Even, the learned State counsel could not produce any orders by State Government in this regard nor it could be proved before this Court that any interim order staying the operation of the Act of 2016 has been passed by this Court in CWP No.4187-2017. Thus, the impugned order dated 04.03.2022 (Annexure P-10) was passed by respondent No.1 without any basis and the relief granted to the petitioner vide orders (Annexures (P-6 and P-9) was wrongly withdrawn.

8. Apart from that, it cannot be disputed that the order of



regularization constitutes an important civil right of an employee on the basis of which he gets different service benefits. Therefore, before passing any order adversely effecting his service/service benefits, the public employer is duty bound to act in accordance with the basic principles of natural justice. The duty to act judiciously and in consonance with the principles of natural justice is inherent in exercise of powers by the competent authority in such matters and in case any decision is taken by the State by violating the principles of natural justice, then the Courts should not hesitate invalidating such decision or order. The Hon'ble Supreme Court in the matter of "State of Orissa Vs. Dr.(Miss) Binapani Dei and others, AIR 1967 (SC)1269", laid down the following proposition:-

"An order by the State to the prejudice of a person in derogation of his vested rights may be made only in accordance with the case rules of justice and fair play. The deciding authority, it is true, is not in the position of a Judge called upon to decide an action between contesting parties, and strict compliance with the forms of judicial procedure may not be insisted upon. He is however under duty to give the person against whom an enquiry is held an opportunity to see his version or defence and an opportunity to correct or to controvert any evidence in the possession of the authority which is sought to be relied upon to his prejudice. For that purpose the person against whom an enquiry is held must be informed of the case he is called upon to meet, and the evidence in support thereof. The rule that a party to whose prejudice an order is intended to be passed is entitled to a hearing applies alike to judicial tribunals and bodies of



persons invested with authority to adjudicate upon matters involving civil consequences. It is one of the fundamental rules of our constitutional set-up that every citizen is protected against exercise of arbitrary authority by the State or its officers. Duty to act judicially, would therefore arise from the very nature of the function intended to be performed; it need not be shown to be super-added. If there is power to decide and determine to the prejudice of a person, duty to act judicially is implicit in the exercise of such power. If the essential of justice be ignored and an order to the prejudice of a person is made, the order is a nullity. That is a basic concept of the rule of law and importance thereof transcends the significance of a decision in any particular case.

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It is true that the order is administrative in character, but even an administrative order which involves civil consequences as already stated must be made consistently with the rules of natural justice after informing the first respondent of the case of the State, the evidence in support thereof and after giving an opportunity to the first respondent of being heard and meeting or explaining the evidence. No such steps were admittedly taken; the High Court was, in our judgment, right in setting aside the order of the State.

9. In view of the above discussion, the present writ petition is allowed and the impugned order dated 04.03.2022 (Annexure P-10) issued by respondent No.1 is ordered to be quashed.

10. The respondents are directed to grant the petitioner all

consequential benefits in compliance of the orders (Annexures P-6 & P-9) issued by *Panchayat* Samiti, Faridkot, within a period of four months from the date of receipt of certified copy of this order along with interest at the rate of 6% per annum.

11. The writ petition stands allowed in above terms.

09.10.2025
hitesh

(N.S.SHEKHAWAT)
JUDGE

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