

(2003) 04 AHC CK 0078

In the Allahabad High Court

Case No : C.M.W.P. No's. 15369 and 16902 of 2000

Prempal and Others

APPELLANT

Vs

Prabhari Nideshak, U.P. Ganna Shodh Parishad and Others

RESPONDENT

Date of Decision : 29-04-2003

Acts Referred:

Constitution of India, 1950 — Article 12, 226

Citation : (2003) 5 AWC 3526

Hon'ble Judges : Anjani Kumar, J

Bench : Single Bench

Advocate : I.P. Srivastava, for the Appellant; Siddharth Singh and S.C., for the Respondent

Final Decision : Allowed

Judgement

Anjani Kumar, J.—Both these writ petitions raise common question of fact and law hence they are being dealt together.

2. Both these writ Petitioner filed by the Petitioners, under Article 226 of the Constitution of India, are directed against the judgment and order dated 14th March, 2000 (Annexure-1 to the Writ Petition No. 15369 of 2000 and Annexure-2 to the Writ Petition No. 16902 of 2000), whereby the Respondent No. 1 has cancelled the order dated 1st November, 1999, whereby these Petitioners were regularised after recommendation of the Departmental Selection Committee which consists of Secretary, Sugarcane Industries and Cane Development, U.P. Government and also the Chairman of the Governing Body of Uttar Pradesh Sugar Cane Research Council.

3. The facts leading to the filing of the present writ petitions are that the Petitioners of Writ Petition No. 15369 of 2000 have been working as unskilled class IV employees with the Respondents from the year 1979 to 1999 continuously on daily wages and the Petitioner Nos. 1 to 6 of Writ Petition No. 16902 of 2000 have been working as Class III employee and the Petitioner Nos.

7 and 8 have been working as Class IV employee. They were regularised by the order dated 1st November, 1999, on the recommendation of the Selection Committee constituted for the purpose. The aforesaid order dated 1st November, 1999, as asserted by the Petitioners, has been given effect to and the Petitioners joined their respective posts. It is asserted in the writ petition, particularly, in paragraph 23 of the Writ Petition No. 15369 of 2000 and writ petition No. 16902 of 2000 that no opportunity, whatsoever, has been given to the Petitioner before passing of the impugned order 14th March, 2000. This Court at the time of filing of the Writ Petition No. 15369 of 2000 has passed the following interim order on 4.4.2000 : The contention of the Petitioners is that their services were regularised on 1.11.1999. However, the Incharge Director, U.P. Ganna Shodh Parishad, Lucknow, vide order dated 14.3.2000 had cancelled the earlier order of regularisation without giving any show cause notice or opportunity of hearing to the Petitioner.

Issue notice to the Respondents, who are represented by the standing counsel. He prays for and is granted a month's time to file counter-affidavit. Rejoinder-affidavit may be filed within a week thereafter.

List this petition for admission in the week commencing 15.5.2000.

Till further orders, the operation of the impugned order dated 14.3.2000 (filed as Annexure-1 to the writ petition) shall remain stayed.

Similar order was also passed in Civil Misc. Writ Petition No. 16902 of 2000 on 21.4.2000 by this Court.

4. Pursuant to the aforesaid interim order, it appears that the Petitioners are working on their respective posts. The ground for challenge in the aforesaid order is firstly that the Incharge Director is not empowered to pass the impugned order and secondly that before passing of the impugned order, no opportunity, whatsoever, has been given to the Petitioners.

5. Both these facts have not been denied by the Respondents in the counter-affidavit. The Respondents have taken the stand that the Petitioners could not have been regularised as they were employees of the Society. The entire control whereof is vested in the State Government and the finance also flow from the State Government. In this view of the matter, it cannot be disputed that even assuming the Respondents' stand that the Petitioners are employees of the society, the action of the society being an action of State within the meaning of Article 12 of the Constitution of India can be subjected to challenge before this Court under Article 226 of the Constitution of India.

6. Since, it is not disputed that the Petitioners have not been afforded any opportunity before passing of the impugned order, the impugned order deserves to be quashed and is hereby quashed on the ground of violation of principles of natural justice itself.

7. In the result, both the writ petitions succeed and are allowed. The impugned

order dated 14.3.2000 (Annexure-1 to the Writ Petition No. 15369 of 2000 and Annexure-2 to the Writ Petition No. 16902 of 2000) is quashed. The parties shall bear their own costs.