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THE HIGH COURT OF SINDH BENCH AT SUKKUR

Before:

**Mr. Ahmed Ali M. Shaikh &
Mr. Salahuddin Panhwar, JJ.**

C.P No. D-2850/2011

1. For Katcha Peshi
2. For hearing of CMA 10041/2011

14.11.2012.

Mr. Zulfiqar Ali Sangi for the petitioners.
Mr. Imtiaz Ali Soomro, AAG along with Dr. Altaf Hussain, FSMO, Health Department, Ghotki.

Ahmed Ali M. Shaikh, J – Petitioners claim to have been appointed as Chowkidars after observance of all the codal formalities. The grievance, that has culminated in filing of instant Petition, is that albeit the posts to which they were employed were permanent in nature, their services were terminated by means of orders dated 28.09.2011, notwithstanding the fact that they were rendering their services punctually and that there was no complaint, whatsoever in nature, against them from any corner. This wrong they hereby seek to be undone by this Court.

Petitioners' counsel said that the impugned orders have been passed in utter violation of principles of natural justice, in that, the petitioners have not been served with notice to show cause and that, therefore, the orders are liable to be set aside.

Learned AAG urged that the Petition is liable to be dismissed inasmuch as the Petitioners, who were appointed without following the prescribed procedure, have been issued termination orders. Nonetheless, the factum of petitioners being appointed and having served as such has not been refuted in the comments, filed by the respondents. So has also been done by learned AAG as

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also Dr. Altaf Hussain, FSMO, Health Department, Ghotki, who is present in Court. Show cause notices being not issued and the opportunity of being heard not being provided before serving orders of termination have also been admitted by them. They further went on to concede that the performance of the petitioners has remained up to the mark and that there has not been any complaint against them.

It appears to us that the impugned orders lack reasoning, which is mandatory requirement of Section 24-A of the General Clauses Act. Such fact is eminent from language of the impugned orders, i.e. "As per directions of higher authorities, the Appointment Order of such and such vide office order so and so is hereby cancelled/withdrawn with immediate effect." Yet another thing apparent in the orders is that although therein is allusion as to their being issued with the directions of authorities, yet it is not specifically stated as to which was the authority by approval of whom such has been so done. Furthermore, issuance of termination orders was in sheer infraction of principles of natural justice, which are applicable to every statute unless the statute itself provides for the contrary effect, inasmuch as the petitioners were neither issued show cause notices nor were they afforded any opportunity of being heard before undertaking such an exercise of termination.

Impugned orders, thus, cannot be sustained and, consequently, we allow this Petition and quash the impugned orders dated 28.09.2011. Needless to say, the Department may have recourse to proceedings against the petitioners in accordance with law.


Judge


Judge