

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 2765 of 2016

1. Smt. Sulechni Rajwade W/o Likhu Ram Rajwade, Aged About 22 Years R/o Village Darhora, Post Chandaora, Tehsil & P.S. Pratappur, District Surajpur, Chhattisgarh Working On The Post Of Sweeper, Government Azaak High School Darhora, Block Pratappur, District Surajpur Chhattisgarh
2. Samod Yadav, S/o Shivdhari Yadav, Aged About 27 Years R/o Village Tultuli, District Surajpur Chhattisgarh Working On The Post Of Sweeper Primary School Tultuli, Block Pratappur, District Surajpur Chhattisgarh
3. Danuk Dhari Yadav, S/o Ram Briksh Yadav, Aged About 26 Years R/o Village Kodi, Post Kevra, P.S. Pratappur, District Surajpur, Chhattisgarh Working On The Post Of Sweeper New Primary School Khuthanpara, Semrakhurd, Block Pratappur, District Surajpur Chhattisgarh
4. Dharmendra Patel S/o Mahabir, Aged About 26 Years R/o Village Dandkarva, Post & P.S. Pratappur, District Surajpur, Chhattisgarh Working On The Post Of Sweeper Primary School Muranidand, Block Pratappur, District Surajpur Chhattisgarh
5. Jagarnath Singh, S/o Amarsai Aged About 28 Years R/o Village Dandkarva, Post & P.S. Pratappur, District Surajpur, Chhattisgarh Workin On The Post Of Sweeper Middle School Dandkarva, Block Pratappur, District Surajpur Chhattisgarh
6. Smt. Saroj Patel, D/o Shivprasad Patel, Aged About 22 Years R/o Village Muranidand, Post Revti, P.S. Chandaora, Tehsil Pratappur, District Surajpur, Chhattisgarh Workin On The Post Of Sweeper, Primary School, Chirmahuva, Dandkarva, Block Pratapuor, District Surajpur Chhattisgarh
7. Suresh Singh, S/o Sundar Ram, Aged About 25 Years R/o Village Arjun Nagar, P.S. & Tahsil Pratappur, District Surajpur, Chhattisgarh Workin On The Post Of Sweeper, Primary School Arjun Nagar, Block Surajpur, District Surajpur Chhattisgarh
8. Shivnarayan, S/o Goverdhan, Aged About 26 Years R/o Village Amapara, Koteya, P.S. & Tahsil Pratappur, District Surajpur, Chhattisgarh Workin On The Post Of Sweeper, New Primary School Amapara Koteya Block Surajpur District Surajpur Chhattisgarh
9. Santra Bai W/o Raj Singh Chaudhary, Aged About 27 Years R/o Village Kandrai, P.S. & Tahsil Pratappur, District Surajpur, Chhattisgarh Workin On The Post Of Sweeper, Government Azaak Higher Secondary School Kandara, Block Surajpur, District Surajpur Chhattisgarh
10. Bajrang Singh, S/o Late Kanta Singh, Aged About 31 Years R/o Village & Post Kandrai, Tehsil & District Surajpur, Chhattisgarh Workin On The Post Of Sweeper, Azaak Primary School Basenpara, Block Surajpur, District Surajpur Chhattisgarh
11. Devi Prasad S/o Bagar Sai, Aged About 25 Years R/o Village Kandrai, Post Kandrai, Tehsil District Surajpur, Chhattisgarh Workin On The Post Of Sweeper, Government Primary School Turipatra, Block Surajpur, District Surajpur Chhattisgarh
12. Arjun Yadav, S/o Late Nankeshwar, Aged About 31 Years R/o Village Dandkarva,

P.S. & District Surajpur, Chhattisgahr Workin On The Post Of Sweeper, Primary School Kodakupara, Dandkarva, Block Pratappur, District Surajpur Chhattisgarh

13. Ranjit Singh, S/o Baccha Singh, Aged About 32 Years R/o Village Semrakhurd, Tehsil & District Surajpur, Chhattisgahr Workin On The Post Of Sweeper Primary School Pandopara, Semrakhurd, Block Pratappur, District Surajpur Chhattisgarh
14. Arvind Kumar Kushwaha, S/o Bachaulal, Aged About 30 Years R/o Village Sarhari, Post Kevra, P.S. Pratappur, District Surajpur, Chhattisgahr Workin On The Post Of Sweeper, Middle School, Sarhari, Block Pratappur, District Surajpur Chhattisgarh
15. Lalit Kumar Shrivastava, S/o Prahlad Kumar Shrivastava, Aged About 38 Years R/o Village Shanti Ngar, Post & P.S. Pratappur, District Surajpur, Chhattisgahr Workin On The Post Of Sweeper, Boys Middle School, Pratappur, Block Pratappur, District Surajpur Chhattisgarh
16. Rakesh Kumar Shrivastava S/o Prahlad Shrivastava, Aged About 34 Years R/o Village Shanti Nagar, Post & P.S. Pratappur, District Surajpur, Chhattisgahr Workin On The Post Of Sweeper, Girl Middle Middle School, Pratappur, Block Pratappur, District Surajpur Chhattisgarh
17. Kapil Rajwade, S/o Ramsundar, Aged About 28 Years R/o Village Semrakhurd, Post Kevra, P.S. Pratappur District Surajpur, Chhattisgahr Workin On The Post Of Sweeper, Primary School , Amapara Semrakhurd, Block Pratappur, District Surajpur Chhattisgarh
18. Smt. Shushila Kushwaha D/o Late Dugheshwar Prasad, Aged About 25 Years R/o Village Khorma, P.S. & Tehsil Pratappur, District Surajpur, Chhattisgahr Workin On The Post Of Sweeper, Primary School, Kanya Ashram, Khorma, Block Pratappur, District Surajpur Chhattisgarh
19. Devsaran Singh, S/o Late Sufla Singh, Aged About 20 Years R/o Village Khorma, P.S. Pratappur, District Surajpur, Chhattisgahr Workin On The Post Of Sweeper, Azaak Boys Primary School, Khorma, Block Pratappur, District Surajpur Chhattisgarh

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Versus

1. State Of Chhattisgarh Through The Secretary, Department Of Tribal Development, Mahandi Bhawan, Naya Raipur District Raipur Chhattisgarh
2. The Commissioner, Tribal Development, Indrawati Bhawan, Naya Raipur District Raipur Chhattisgarh
3. The Collector, Surajpur, District Surajpur Chhattisgarh
4. The Assistant Commissioner, Tribal Development, Surajpur, District Surajpur Chhattisgarh
5. The Block Education Officer, Pratappur, District Surajpur Chhattisgarh
6. The Block Education Officer, Surajpur, District Surajpur Chhattisgarh

---- Respondents

Shri V.K.Pandey, counsel for the petitioner/s.
Shri R.K.Gupta, Dy.A.G. for the State.

Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

08/07/2016

1. This petition has been filed by the Part-Time Sweepers working in various schools in district - Surajpur whose services have been discontinued in the year 2012.

2. At the outset, learned counsel for the petitioners submits that large number of similarly situated Part-Time Sweepers were discontinued from service and they had filed petitions before this Court. All those petitions were disposed off by a common order dated 9.9.2015. It is submitted that the petitioners herein are identically situated as the petitioners in those petitions, because these petitioners were also Part-Time Sweepers appointed in various schools in the same district i.e. Surajpur and on similar consideration which weighed at the time of termination of petitioners in above referred petitions, these petitioners were also discontinued from service.

Learned counsel for the petitioners submits that the Part Time Sweepers are low rank of employees and very meagerly paid. Therefore, in these circumstances, this petition may be finally disposed off with a direction to respondents to examine their individual cases and on parity, similar relief may be granted in cases of each of the petitioners.

3. Learned State counsel submits that at this stage, it cannot be said that the cases of the petitioners are also identically situated, as it requires verification of facts.

4. In a batch of petitions filed by Part-Time Sweepers working in various schools in the same district where the petitioners were also working as Part-Time Sweepers, this Court had an occasion to examine the correctness of decision taken by the authority towards enmass termination of Part-Time Sweepers. The reasons assigned for enmass termination, as reflected in the case of *Rameshwar Prasad Rajwar & Ors. Vs. State of Chhattisgarh & Ors.* and batch of petitions, show that the appointments were illegally made by wrongly construing and interpreting direction of the State Govt. This Court after hearing the parties, held as below:

“7. Upon hearing learned counsel for the parties, it would appear that even if the respective principals/head masters were not informed or authorized to make appointment, the fact remains that the State Government had earlier issued communications to the effect that there is no restriction for appointing part time sweepers. It has not been disputed by the respondents that the petitioners were infact appointed by the respective principals/head masters prior to issuance of the order (Annexure-P-1) and the order (Annexure-P-7). Once the appointments have been made, even on part time basis, mass cancellation of appointments, without there being any specific individual allegation of corruption or nepotism is not permissible. At the same time, if any part time sweeper is not attending duties as he belongs to some other village or is otherwise not efficient in his work, it always remains open for the concerned head of the department or the appointing authority to initiate action, as the petitioners have no right to hold the post, being only part time sweepers.”

5. Prima facie, these petitioners also seems to be affected by the enmass termination while working in the same district and on similar consideration.

6. The petitioners, therefore, would also be entitled to similar benefits if their cases are similarly situated as the case of those petitioners, who had earlier approached this Court and in whose favour, common order was passed on 9.9.2015.

7. In view of the above consideration, respondent - Assistant Commissioner, Tribal Development, Surajpur shall individually examine the case of each of the petitioners and verify facts. If these petitioners are similarly situated as the petitioners in earlier batch of petitions, which was decided on 9.9.2015, the benefits which have accrued to those petitioners and as ordered by this Court earlier in the case of *Rameshwar Prasad Rajwar* (supra) shall also be granted to these petitioners.

8. Considering that the petitioners are very low-paid employee, Assistant Commissioner, Tribal Development, Surajpur shall complete the exercise within a maximum period of 90 days from the date of receipt of copy of this order.

9. If the petitioners' grievance are not redressed/fully redressed, they will be at liberty to revive this petition.

Sd/-
(Manindra Mohan Shrivastava)
Judge

Deepti