NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 6535 of 2016

Anita Gupta, D/o Shri Parasnath Gupta, aged about 29 years, working as Part Time Sweeper, Govt. Girls Primary School, Salkha, R/o Village Salkha, Block Bhaiyathan, District Surajpur (CG).

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary, Tribal Development Department Mahanadi Bhawan, Mantralaya New Raipur, District-Raipur (Chhattisgarh)

2. The Commissioner, Tribal Development Department, Indrawati Bhawan, New Raipur, District-Raipur (Chhattisgarh)

3. The Collector, Surajpur, District-Surajpur (Chhattisgarh)

4. The Block Education Officer, Bhaiyathan, District-Surajpur (Chhattisgarh)

---- Respondents

For Petitioner : Shri C.Jayant K. Rao, Advocate
For State: : Shri Avinash Singh, Panel Lawyer

S.B.:Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

01/12/2016

1. This petition has been filed by the petitioner-Part-Time Sweeper working in a school of District -Surajpur whose service has been discontinued in the year 2012.

2. At the outset, learned counsel for the petitioner submits that the 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 petitioner herein is identically situated as the petitioners in those

petitions, because the petitioner was also Part-Time Sweepers appointed in school in the same district i.e. Surajpur and on similar consideration which weighed at the time of termination of petitioners in above referred petitions, this petitioner was also discontinued from service.

Learned counsel for the petitioner 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 his case and on parity, similar relief may be granted to the petitioner.

3. In this petition filed by Part-Time Sweeper working in school 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 thereis 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."

4. Prima facie this petitioner also seem to be affected by the enmass termination while working in the same district and on similar consideration.

5. The petitioner, therefore, would also be entitled to similar benefits if his case is 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.

6. In view of the above consideration, respondent -Assistant Commissioner Tribal Development, Surajpur, shall examine the case of the petitioner and verify facts. If this petitioner is 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 this petitioner.

   Considering that the petitioner is 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.

7. If the petitioner's grievance is not redressed/fully redressed, he will be at liberty to revive his petition.

Sd/-

(Sanjay K. Agrawal)
Judge

L/-