

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 5541 of 2016

Umeshwar Prasad Kushwaha S/o Shri Subran Ram Aged About 39 Years Part Time Sweeper Primary School Uperpara Kewara Block Bhaiyathan P. S. & Tahsil Bhaiyathan Distt. Surajpur (Chhattisgarh)

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary, Department Of Tribal Development Mahanadi Bhawan New Raipur Distt. Raipur (Chhattisgarh)
2. The Commissioner, Tribal Development Indrawati Bhawan New Raipur Distt. Raipur (Chhattisgarh)
3. The Collector, Surajpur Distt. Surajpur (Chhattisgarh)
4. The Assistant Commissioner, Tribal Development, Surajpur District Surajpur (Chhattisgarh)
5. The District Education Officer, Surajpur, District Surajpur (Chhattisgarh)
6. The Block Education Officer, Bhaiyathan District Surajpur (Chhattisgarh)

---- Respondents

Shri A.N.Pandey, counsel for the petitioner/s.
Shri Gary Mukhopadhyaya, Dy.G.A. for the State on advance copy.

Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

06/10/2016

1. This petition has been filed by a Part-Time Sweeper working in a school in district - Surajpur whose services have been discontinued in the year 2012.
2. At the outset, learned counsel for the petitioner 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 petitioner herein is identically situated as the petitioners in those petitions, because this petitioner was also a Part-Time Sweeper appointed in a 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.

3. Learned counsel for the petitioner further 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.

4. Learned State counsel submits that at this stage, it cannot be said that the case of the petitioner is also identically situated, as it requires verification of facts.

5. 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.”

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

7. 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.

8. In view of the above consideration, respondent - Assistant Commissioner, Tribal Development, Surajpur shall individually 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 the petitioner.

9. Considering that the petitioner is a 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.

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

Sd/-
(Manindra Mohan Shrivastava)
Judge