

HIGH COURT OF CHHATTISGARH, BILASPUR

WPS No. 5314 of 2017

1. Sukh Sai Toppo S/o Shri Faguwa Toppo Aged About 38 Years Occupation Part Time Sweeper, Primary School Tamki, Block Odgi, District Surajpur, Chhattisgarh.
2. Tilbasiya D/o Shri Junu Aged About 35 Years Occupation- Part Time Sweeper, Primary School Karwan, Block Odgi, District Surajpur, Chhattisgarh.
3. Smt. Rajkumari W/o Late Shri Kalicharan Aged About 41 Years Occupation- Part Time Sweeper, Middle School, Tamki, Block Odgi, District Surajpur, Chhattisgarh.

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary, Scheduled Caste And Scheduled Tribe Development Department, Dau Kalyan Singh Bhawan, Raipur, Chhattisgarh.
2. The Commissioner, Scheduled Caste And Scheduled Tribe Development, Raipur, Chhattisgarh.
3. The Collector (Tribal Development), Surajpur, District Surajpur, Chhattisgarh.
4. The Assistant Commissioner, Tribal Development, Surajpur, District Surajpur, Chhattisgarh.
5. Block Education Officer, Odgi, District Surajpur, Chhattisgarh.

---- Respondents

For petitioner : Mr. D. N. Prajapati, Advocate

For State : Mr. Manish Nigam, Panel Lawyer

Hon'ble Shri Justice Manindra Mohan Shrivastava

Order on Board

09/10/2017

This petition has been filed by the Part-Time Sweeper working in school in district - Surajpur whose services has 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 the petitioners were also Part-Time Sweeper appointed in school in district Surajpur and on similar consideration which weighed at the time of termination of petitioners in above referred petitions, the petitioners were also discontinued from service.

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

3. Learned State counsel submits that at this stage, it cannot be said that the case 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, the petitioners also seem 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 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.

7. In view of the above consideration, respondent-Assistant Commissioner, Tribal Development, Surajpur shall examine the case of the petitioners and verify facts. If the 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 the petitioners.

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.

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

Sd/-

(Manindra Mohan Shrivastava)

Judge