

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**WPS No. 6682 of 2017**

- Dhaneshwar Yadav S/o Shri Bhuleram Yadav, Aged About 33 Years R/o Village Kaskela, Block & Tahsil Bhaiyathan, District Surajpur Chhattisgarh

---- Petitioner**Versus**

1. State Of Chhattisgarh Through The Secretary, Department Of Tribal Development, Mantralaya, Mahanadi Bhawan, Naya Raipur District Raipur Chhattisgarh
2. Commissioner, Tribal Development, Indrawati Bhawan, New Raipur (Chhattisgarh).
3. Collector, Surajpur, District Surajpur Chhattisgarh
4. Assistant Commissioner, Tribal Development, Surajpur, District Surajpur (Chhattisgarh).
5. District Education Officer, Surajpur, District Surajpur Chhattisgarh
6. Block Education Officer, Bhaiyathan, District Surajpur Chhattisgarh
7. Principal, Govt. Higher Secondary, School Bhatgaon, District Surajpur Chhattisgarh

---- Respondent

For Petitioner	Ms Meena Shastri, Advocate.
For Respondents/State	Shri Rajendra Tripathi, P.L.

Hon'ble Shri Justice Prashant Kumar Mishra**Order On Board****04/12/2017**

1. This petition has been filed by the Part-Time Sweeper working in the district Surajpur, whose services have 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 appointed in the school of same district i.e. Surajpur and on similar consideration which weighed at the time of termination of petitioners in above referred petitions, the petitioner was also discontinued from service.
3. 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 of with a direction to respondents to examine the case of the petitioners and on parity, similar relief may be granted.
4. Learned State counsel submits that in this case, return has not been filed. Therefore, at this stage, it cannot be said that the case of the petitioner is also identically situated, as it require verification of facts.
5. In a batch of petitions filed by the Part-Time Sweepers working in various schools, in the same district where the petitioner was working as Part-Time Sweepers, this Court had an occasion to examine the correctness of decision taken by the authority towards en masse termination of Part-Time Sweepers. The reasons assigned for en masse 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/ headmasters 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 master 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 is 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 held the post, being only part time sweepers.”

6. Prima facie, these petitioners also seem to be affected by the en masse termination while working on similar consideration.
7. The petitioner, therefore, would also be entitled to similar benefits if his cases 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 No.2/Assistant Commissioner Tribal Development, shall examine the case of petitioner and verify facts. If the 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 these petitioners.
9. Considering that the petitioner is very low-paid employee, Assistant Commissioner, Tribal Development/respondent No.2 shall complete the exercise within a maximum period of 90 days from the date of receipt 2.00cmof copy of this order.
10. If the petitioner's grievance is not redressed/fully redressed, they will be at liberty to revive the petition.

Sd/-

Judge

Prashant Kumar Mishra

Akhilesh