

HIGH COURT OF CHHATTISGARH AT BILASPURWPS No. 741 of 2019

Nandkeshwar S/o Shri Shivnandanram, Aged About 26 Years,
Occupation Ex Part Time Sweeper, At Government Middle School
Chatarpur, Village Chatarpur, Block Surajpur, District- Surajpur,
Chhattisgarh.

---Petitioner

Versus

1. State Of Chhattisgarh, Through The Secretary Director, Tribal Welfare Department Mantralaya, Mahanadi Bhavan, Atal Nagar, Chhattisgarh.
2. The Collector, District- Surajpur, Chhattisgarh.
3. The District Education Officer, Surajpur, District- Surajpur, Chhattisgarh.
4. The Assistant Commissioner, Tribal Development, Surajpur, District- Surajpur, Chhattisgarh.
5. The Block Education Officer, Surajpur, District- Surajpur, Chhattisgarh.

---Respondents

For petitioner : Shri R.V.Rajwade, Advocate.

For State : Shri Anshuman Shrivastava, Panel Lawyer.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

05/02/2019

1. At the outset, learned counsel for the petitioner would submit that the petitioner has filed this petition seeking direction for consideration of his case on the same terms as in case of petitioners in W.P. (S) No.1888/2017 in whose favour order dated 26.04.2017 has been passed, which has been placed on record as Annexure P-5.

2. Learned State counsel submits in order to apply the aforesaid verdict in the present case, it will require verification with regard to extending the same benefit to the present petitioner.

3. It is found that the petitioner is also the Part-Time Sweeper working in the Govt. Primary/Middle School of District Surajpur and his services have been discontinued in the year 2018.

4. 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 passed in WPS No.3981/2012 on 09.09.2015, 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 petitioner also seem to be affected by the enmass termination while working in the same district and on similar consideration.

6. 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 in Rameshwar Prasad Rajwar (supra).

7. In view of the above consideration, respondent Assistant Commissioner Tribal Development, Surajpur shall individually examine the case of the 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 the petitioner.

8. 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.

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

10. The writ petition stands disposed of.

Sumit

Sd/-
(P. Sam Koshy)
JUDGE