

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPS No. 5589 of 2019

Smt. Bhagmaniya W/o Late Chain Sai Aged About 33 Years Part Time Sweeper, Primary School Amapara Latori, Block Surajpur, District Surajpur Chhattisgarh.

---- Petitioner

Versus

1. State Of Chhattisgarh Through The Secretary, Department Of Tribal Development, Mahanadi Bhawan, New Raipur, District Raipur Chhattisgarh.
2. The Commissioner Tribal Development Indrawati Bhawan, New Raipur, District Raipur Chhattisgarh
3. The Collector Surajpur, District 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 Surajpur, District Surajpur Chhattisgarh.

---Respondents

For Petitioner	:	Mr. A.N. Pandey, Advocate
For State	:	Mr. Jitendra Pali, Dy. A.G.

Hon'ble Shri Justice Goutam Bhaduri

Order on Board

31/07/2019

1. Learned counsel for the petitioner submits that the petitioner was appointed as a Part Time Sweeper in the school of Tribal Welfare Department by the concerned Headmaster.
2. Learned counsel for the petitioner further submits that the similarly placed persons had filed a petition before this High Court, which was registered as WPS No. 2305/2019 and this Court had disposed of the said writ petition on 05.04.2019 passing the following orders:

"1. This petition has been filed by the Part-Time Sweeper working in a primary school in District - Surajpur whose services have 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 Sweepers appointed in primary school in the same district i.e. Surajpur and on similar consideration which weighed at the time of termination of the petitioners in above referred petitions, these petitioners were also discontinued from service. Learned counsel for the petitioners 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 the case of the petitioners and on parity, similar relief may be granted.

3. 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 the 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.”

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

5. The petitioners, 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 individually examine the case of the petitioners and verify facts. If these petitioner 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.

7. Considering that the petitioners are very low-paid employees, 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."

3. The State counsel do not dispute the fact that the case is similar to the WPS No. 2305/2019.
4. It is ordered accordingly. The directions given in paragraph Nos. 6 & 7 of the aforesaid order shall also be applicable to the case of the petitioner and she shall be entitled for the same relief.
5. With the aforesaid observations, the present writ petition stands disposed off.

Sd/-
(Goutam Bhaduri)
Judge

Ved