

CWP-1829-2020

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

**CWP-1829-2020 (O & M)
Date of decision: 02.02.2023**

Umesh Kumar and others

...Petitioners

Versus

State of Haryana and others

.....Respondents

CORAM: HON'BLE MR. JUSTICE HARNARESH SINGH GILL

Present:- Mr. Anil Kumar Sharma, Advocate,
for the petitioners.

Mr. Rohit Arya, DAG, Haryana.

HARNARESH SINGH GILL, J. (ORAL)

CRM-1930-2023

Allowed as prayed for. Affidavit of petitioner No.3, alongwith
Annexure A-1, is taken on record.

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Challenge in the present petition is to the order dated
17.09.2018 (Annexure P-8), vide which claim of the petitioners for the
grant of minimum regular pay scale as extended to the regular employees
holding the same post, or to revise the wages of the petitioners from the due
date as per the D.C. rate, has been rejected.

Learned counsel for the petitioners contends that the
petitioners being contingent employees, have been working as Sweepers in
various schools since 2007; that the petitioners were engaged on part-time
basis, and that in fact, the petitioners are performing the duties of full-time

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sweepers, but they are being paid wages as per the DC rate considering their engagement for one and half hour only and presently, they are getting consolidated emoluments. Learned counsel prays that the petitioners be also paid the wages as per the DC rate, which is being revised from time to time. In support of his contentions, learned counsel relies upon the judgments rendered by the Coordinate Benches in CWP-1133-2010, titled as 'Ram Harsh and others Vs. State of Haryana and others', decided on 19.05.2011, and CWP-9861-2012, titled as 'Bishan Singh and others Vs. State of Haryana and others', decided on 23.05.2012.

On the other hand, learned State counsel, while opposing the prayer made by the petitioners, submits that Special Secretary to Govt. of Haryana, Secondary Education Department, Haryana, vide impugned order dated 17.09.2018, has taken a conscious decision and rightly rejected the claim of the petitioners; that the petitioners were engaged in the year 2007 by the department on part-time basis; that the petitioners are being paid wages as per DC rate considering their engagement for one and half hour only and that the petitioners are getting consolidated major emoluments of Rs.2,361 which they deserve as per the DC rate and their time of work.

I have heard the learned counsel for the parties.

A perusal of the record would show that earlier, the petitioners approached this Court by way of CWP-14943-2018. The aforesaid writ petition was disposed of, vide order dated 01.06.2018 (Annexure P-7), with a direction to respondent no.2 therein to objectively consider the legal notice dated 26.02.2018, in the light of the law laid down by this Court in CWP-1133-2010, titled as 'Ram Harsh and others Vs. State of Haryana

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and others', decided on 19.05.2011, by passing a speaking order thereupon, within a period of eight weeks.

However while passing the impugned order dated 17.09.2018, the concerned authority has not taken into consideration the law laid down by the Coordinate Bench in Ram Harsh's case (supra).

The petitioners while working as Sweepers in various schools, cannot be denied at least the minimum wages and compelled to work on starvation wages. The Government should be a model employer. Moreover, a sweeper in school not only cleans floors by mopping, but also even cleans the wash-room/toilets. The services of the petitioners being sweepers are required throughout the day in schools. As such, the denial of minimum wages to the petitioners amounts to exploitation of labour.

In view of the above, the impugned order dated 17.09.2018 is set aside and the Secretary/Director, Secondary Education, Haryana, is directed to re-consider the case of the petitioners in view of the judgments rendered by the Coordinate Benches in Ram Harsh's case (supra) and Bishan Singh's case (supra), and and pass a speaking order within a period of eight weeks from the date of receipt of copy of this order.

Disposed of.

02.02.2023

parveen kumar

(HARNARESH SINGH GILL)
JUDGE

Whether reasoned/speaking?
Whether reportable?

Yes/No
Yes/No