

CWP-15484-2016 and connected petitions

1

211

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

Date of Decision : 30.11.2023
CWP-15484-2016 (O&M)

1.

Rajesh Kumar

....Petitioner

Versus

State of Haryana and others

.....Respondents

2.

CWP-15496-2016 (O&M)

Pawan Kumar

....Petitioner

Versus

State of Haryana and others

.....Respondents

3.

CWP-15503-2016 (O&M)

Jaswinder Singh

...Petitioner

Versus

State of Haryana and others

.....Respondents

4.

CWP-15507-2016 (O&M)

Pal Singh

...Petitioner

Versus

State of Haryana and others

.....Respondents

CORAM : HON'BLE MR. JUSTICE HARSIMRAN SINGH SETHI

Present:- Mr. Sushil Jain, Advocate for the petitioner(s).

Mr. Saurabh Mohunta, D.A.G., Haryana.

Harsimran Singh Sethi, J. (Oral)

1. By this common order, the bunch of four writ petitions, which involves the same question of law and similar facts are being decided. For the purpose of the order, facts are being taken from CWP No.15484-2016.

2. The grievance raised in the present petitions is that the petitioners are being directed to work as a Sweeper as well as Chowkidar and therefore, are being made to work for 24 hours, whereas, either the petitioners should be directed to work as a Sweeper or Chowkidar and not perform the duties of both posts.

3. Learned counsel for the petitioners argues that the petitioners are being made to work for 24 hours, which is humanly impossible hence, appropriate direction be issued to the respondents to fix the duty hours of the petitioners so as to perform the duty of either Sweeper or Chowkidar. Learned counsel further submits that as per the rules governing the service there is no post with nomenclature of Sweeper-cum-Chowkidar hence, asking the petitioners to perform the duties of both the posts, is totally arbitrary and illegal.

4. Learned State counsel submits that in the present petition, the petitioner is only discharging the duties as per his appointment order. Once, the petitioner has accepted that he was appointed on the post of Sweeper-cum-Chowkidar, raising of a grievance that there is no post with the nomenclature of Sweeper-cum-Chowkidar with the Department, the petitioner is creating problems for himself as in case there is no post of Sweeper-cum-Chowkidar, the petitioner has to leave the job.

5. Learned counsel for the respondents further submits that in the impugned order, the duty hours of the petitioner has been fixed, as it has been duly mentioned in the impugned order that the duty of the petitioner only starts when working hours of the school ends till, the teachers or the other staff joins the school in the morning. Learned State counsel further submits that the job of the petitioner is to clean the school premises after the closing

of the school and take care of the property of the school as a Chowkidar hence, it is incorrect that the working hours of the petitioner is not fixed or he is being made to work for 24 hours.

6. I have heard learned counsel for the parties and have gone through the record with their able assistance.

7. In the present petition, it is a conceded fact that though the petitioner was initially appointed on the post of a part time Sweeper in the 1995 but at present the petitioner is working in view the order dated 01.08.1998, copy of which has been appended as Annexure P-13. A bare perusal of Annexure P-13 would show that the petitioner was appointed on the post of Sweeper-cum-Chowkidar, on whole time basis. That being the factual position, the petitioner cannot say that the petitioner was never appointed to work as a Sweeper-cum-Chowkidar. Once, the petitioner had worked for a period of 16 years without raising any grievance, raising the grievance at this stage, is totally arbitrary and illegal. In case the petitioner is of the view that there is no post with the nomenclature of Sweeper-cum-Chowkidar, he is free to challenge the order Annexure P-13 but he should be conscious of the fact that in case order Annexure P-13 is set aside, the petitioner will have to lose the job. Moreover, once the petitioner has been appointed on a particular post with particular designation, he has to discharge the duties of the same.

8. With regard to the argument of the learned counsel for the petitioners that the petitioner is being made to work for 24 hours, the same is also not correct keeping in view the factual assertions made in the impugned order, wherein the duty hours of the petitioner have been clearly defined. A bare perusal of the impugned order would show that it has been mentioned by

the respondents that the duty hours of the petitioner starts when the school timings ends so that the petitioner can clean the premises and take care of the same as a Chowkidar. That being so, it cannot be said that the petitioner is working for 24 hours. Once in the impugned order, the duties of the petitioners have already been defined and keeping in view the fact that the petitioners were appointed on the post of Sweeper-cum-Chowkidar, the grievance being raised by the petitioners is not at all correct.

9. At this stage, learned counsel for the petitioners submits that the petitioners can only be taken the duty either of Sweeper or Chowkidar. He relies upon the judgment of the Division Bench in CWP-15045-1991 decided on 17.12.1992.

10. It may be noticed that once the petitioner has already been appointed on the post of Sweeper-cum-Chowkidar, work of which post starts after the school timings are over, it cannot be said that the petitioner is discharging the duty of a whole time Sweeper even during the working hours of the School. That being the position, the judgment being relied by the petitioner, will not be applicable.

11. Keeping in view the facts mentioned hereinbefore, no interference is called for by this Court in the facts and circumstances of the present case.

12. Dismissed.

13. Photocopy of this order be placed on the files of other connected cases.

30.11.2023

ps-I

Whether reasoned/speaking?

Whether reportable?

(HARSIMRAN SINGH SETHI)

JUDGE

Yes

Yes