Nisha Singh Vs State Of Chhattisgarh And Ors

Writ Petition (S) No. 1221 Of 2018

Court: Chhattisgarh High Court

Date of Decision: Feb. 7, 2018

Hon'ble Judges: Manindra Mohan Shrivastava, J

Bench: Single Bench

Advocate: A. N. Pandey, Dhiraj Wankhede

Judgement

Manindra Mohan Shrivastava, J

1. This petition has been filed by the Part-Time Sweeper working in school in district - Surajpur whose services has 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 Sweeper appointed in school

in district Surajpur and on similar consideration which weighed at the time of termination of petitioners in above referred petitions, the petitioners were

also discontinued from service.

Learned counsel for the petitioners submits that the Part Time Sweeper is low rank of employee and very meagerly paid. Therefore, in these

circumstances, this petition may be finally disposed off with a direction to respondents to examine their case and on parity, similar relief may be

granted in case of the petitioners.

3. Learned State counsel submits that at this stage, it cannot be said that the case of the petitioners are also identically situated, as it requires

verification of facts.

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

6. The petitioners, therefore, would also be entitled to similar benefits if their 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.

7. In view of the above consideration, respondent-Assistant Commissioner, Tribal Development, Surajpur shall examine the case of the petitioners and

verify facts. If the petitioners 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. Considering that the petitioners are 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.

8. If the petitioners' grievance is not redressed/fully redressed, they will be at liberty to revive this petition.