



**Central Administrative Tribunal
Jammu Bench, Jammu**

T.A. No. 4008/2020
(SWP No.1653/2020)

This the 9th day of September, 2021

Through Video Conferencing

**Hon'ble Ms. Manjula Das, Chairman
Hon'ble Mr. Anand Mathur, Member (A)**

1. Zahoor Ahmad Mochi
S/o Mohd Ismail Mochi,
R/o Memander Shopian, Age 30 years.
2. Rubia Akheter
W/o Manzoor Ahmad Mochi,
R/o Washbugh Pulwana, Age 25 years.
3. Mushtaq Ahmad Bhat,
S/o Ab. Ahad Bhat,
R/o Pathal Bagh, Pampore, Age 25 years
4. Fayaz Ahmad Mochi
S/o Rajpora, Pulwama, Age 28 Years.

.. Applicants

(Nemo for applicants)

Versus

1. State of &K
Through Director Family Welfare (MCH)
Immunization J&K Srinagar
2. Dy. Chief Medical Officer, Pulwama/ Block Medical
Officer , Tral.
3. Chief Medical Officer, Shopia.
4. Block Medical Officer Keller.

.. Respondents

(Mr. Raghu Mehta, Senior CGSC)

**ORDER (ORAL)****Hon'ble Ms. Manjula Das, Chairman:**

The case of the applicants is that they were engaged as part-time sweeper / safaiwala on consolidated pay of Rs.100/- per month and performed their duties to the full satisfaction of their seniors. It is stated that the respondents are discriminating them by not paying the minimum wages, i.e., Rs.110/- per day, which are being paid to all other part-time sweepers/ safaiwalas engaged after their appointment. It is also stated that in terms of the provisions of Minimum Wages Act, the State Government has been issuing orders from time to time, whereby the minimum wages are being prescribed, but the applicants are not being paid. It is further stated that the Department has regularized the services of some sweepers/consolidated and contractual employees, who are working on consolidated basis. Accordingly, the applicants filed SWP No.1653/2020 before the Hon'ble High Court of Jammu & Kashmir, seeking the following reliefs:

“I) By a writ of Mandamus commanding upon the respondents to consider the case of the petitioners for payment of minimum wages at the rate of Rs.110/ per day retrospectively. The respondents be further directed by issuance of writ of Mandamus



commanding upon the respondents to give the same and similar treatment to the working with the petitioners and performing the same and similar duty as are being performed by the petitioners.

II) By a writ of Mandamus whereby the respondents be directed to consider the representation of the petitioners already filed by them from time to time for payment of minimum wages and as such, consideration be accorded within period of one month.

III) By a writ of Mandamus, whereby the respondents be directed to give the benefit of two Division Bench judgments reported in SLJ 2001 page 352 and SLJ 2003 Volume II Page 326 to the petitioners which has been passed by Division Bench of this Hon'ble Court in a identical matters.

IV) Any other order or direction which the Hon'ble Court deems just and proper may also be passed in favour of the petitioners and against the respondents."

2. *Per contra*, the respondents filed a detailed counter affidavit. It is submitted that the applicants were engaged as part-time sweepers for cleaning the Medical Aid Centres for half an hour in the morning and are not rendering any full time services. The Department is also not utilizing their services for official hours. Accordingly, they are not entitled to any minimum wages. It is also submitted that the applicants are being paid monthly wages out of the local fund and there is no provision in the allocation of budget to draw their dues as per the Minimum Wages Act.



3. The SWP has since been transferred to the Tribunal in view of reorganization of the State of Jammu & Kashmir and renumbered as T.A. No.4008/2020.

4. Today, there is no representation for the applicants. We have perused the records and heard Mr. Raghu Mehta, learned Senior Central Government Standing Counsel.

5. It is not in dispute that the applicants were engaged by the respondents in their Department. The Hon'ble High Court passed an interim direction on 02.12.2010 to the effect that the respondents shall consider the cases of the applicants for payment of minimum wages in case they are eligible.

6. Accordingly, we dispose of the T.A., directing the applicants to file a comprehensive representation, duly enclosing the original orders of their appointment, to the respondents within a period of one month from the date of receipt of a copy of this order. On receipt of such, the respondents shall consider the same and pass a speaking order, within a period of four months thereafter, under



intimation to the applicants. There shall be no order as to costs.

**(Anand Mathur)
Member (A)**

**(Manjula Das)
Chairman**

September 9, 2021
/sunil/jyoti/mk