Reserved
A.F.R.

HIGH COURT OF JUDICATURE AT ALLAHABAD

WRIT - A No. - 10655 of 2024

Gobinddas and another .....Petitioners

Versus

State of U.P. and others .....Respondents

Counsel for Petitioners	:	Anand Kumar Pandey, Kamini Pandey (Dubey)
Counsel for Respondents	:	C.S.C.

Court No. - 44

HON'BLE J.J. MUNIR, J.

1. The two petitioners here are *Safaikarmi* / Sweepers, who say that they are holding the post of a *Safaikarmi* on a temporary basis in the establishment of the Uttar Pradesh Police at Lalitpur. The first petitioner, Gobinddas, claims to be working as a temporary hand with Police Station Madanpur, District Lalitpur, whereas the second petitioner, Kaushla, says that he is similarly working with Police Station Barrar Narahat, District Lalitpur. Both the petitioners say that they are working as *Safaikarmi* with their respective police stations on a temporary basis. They receive for their services an honorarium of Rs.1200/- per month from the State Government.

2. The petitioners claim that they are employed as temporary hands since July, 2022, but no appointment letters have been issued in their favour by the respondents. It is added, however, that the Station House Officers of the two police stations have issued a certificate in favour of the two petitioners, acknowledging their respective services. It is also the petitioners' case that they are regularly working at Police Stations Madanpur and Barrar Narahat, performing their duties in two shifts, *viz.* 7.00 a.m. to

1.00 p.m. and 4.00 p.m. to 7.00 p.m. They say that there has been no complaint against them. The officers, under whom the petitioners served, were satisfied with their performance.

3. The grievance of the petitioners is that they are compensated for their services by an honorarium of a mere Rs.1200/- per month, which is less than what is paid to a casual hand employed under the Mahatma Gandhi National Rural Employment Guarantee Act (MGNREGA) by the Government. It is pleaded that under the MGNREGA, a worker was paid a wage of Rs.261/- per day in the year 2023-24, which has been raised to a sum of Rs.289/- per day in the year 2024-25. The petitioners are working as temporary employees, *Safaikarmi* / Sweeper, in the police establishment and are entitled to the minimum wages, provided under the Minimum Wages, 1948 (for short, 'the Act of 1948'), instead of the illusory sum of Rs.1200/- per month.

4. It is pleaded that the petitioners, who are engaged by the U.P. Police Establishment, perform the same functions and duties as the other *Safaikarmi* / Sweeper, in the service of the U.P. Government and the Central Government. It is pleaded that even in cases, where Sweepers are engaged on an honorarium or daily-wages, they are paid a much higher remuneration, approximating to the minimum wages prescribed under the last mentioned statute. Finding themselves unfairly treated, the petitioners, along with other employees, also *Safaikarmi*, moved an application dated 09.01.2023 before the Superintendent of Police, Lalitpur, demanding an increase in their honorarium. They say that no action has been taken upon the said application, a copy whereof is on record.

5. It is also the petitioners' case that the Superintendent of Police kept the application dated 09.01.2023 pending with him and extended oral assurance to the effect that he would convey the petitioners' grievance to the Government, but nothing has

been done. He has neither enhanced the honorarium paid to the petitioners nor decided the application dated 09.01.2023. The petitioners made another application dated 10.05.2023 to the same effect before the Superintendent of Police, Lalitpur. It is also the petitioners' case that finding little success before the Superintendent of Police, they approached the District Magistrate, Lalitpur, the Hon'ble Member of the Legislative Assembly, representing the Constituency, and also the Chief Minister. The various applications as aforesaid are appended as Annexure No.5 to the writ petition, to which our attention was drawn. Since, there has been no redress for the petitioners in the matter of payment of minimum wages for the work done by them for the Police Establishment in their two stations, this writ petition has been instituted.

6. A notice of motion was issued on 07.08.2024, requiring the Superintendent of Police to file his own affidavit. An interim order was also passed to the effect that the petitioners shall not be disengaged in the meantime. The Superintendent of Police was casual in his approach and did not file a return on schedule. We appropriately admonished him by our order dated 14.08.2024 and granted a week's time to comply. A return was filed by the Superintendent of Police, Lalitpur, where the following stand was taken – one that we have already noticed in our order dated 27.08.2024:

> "6. That it is noteworthy to mention here that in terms of government order dated 09.03.2019, as per written report provided by concord Station House In-charge, petitioners and other similarly part-time Sweepers use to perform cleaning work for a period approximately one hour or less at various police station-chawkis of District Lalitpur.
>
> 7. That all the part-time sweepers are residents of the local police station area and after completing their work of sweeping, they go back to their homes. After this, they are free to start their own business or to take advantage of various government schemes and participate in them, hence they are

> being paid the fixed honorarium of Rs. 1200/- for part-time work.
>
> 8. That the petitioners are the temporary employees of UP Police Administrative Service and nor they have been engaged in services by the Police Department. The petitioners come to work at various Police Stations and Outposts of the District on fixed wages as Part Time Sweeping Labourers and as per Government Order dated 09.03.2019, honorarium/wages of a sum Rs. 1200/- per month, (increased from Rs. 600/- per month) was paid to them for sweeping and cleaning for approximately 01 hour daily. True copy of government order dated 09.03.2019 is being annexed herewith and marked as Annexure-P.A.-1 to this affidavit.
>
> 9. That it is further submitted that the petitioners are not regular employees, rather their part time services are taken for approximately 01 hour, for which honorarium of Rs. 1200/- per month, determined and approved by the U.P. Government, is sent to their respectively accounts."

7. In substance, the stand of the Superintendent of Police was that the petitioners are not employees of the Establishment, but they are hired on a part time basis for an approximately one hour a day to undertake the necessary sweeping and cleaning duties in the police station. It is for this one hour of work every day that they are compensated by an honorarium of Rs.1200/- a month. This stand being in complete conflict with the petitioners' case, where they have alleged a morning to evening engagement, with a three hour break in the afternoon, this Court was confronted with a purely factual dispute and one which was necessary to determine in order to decide the *lis* between parties.

8. Taking into account the fact that a dispute of this kind had arisen between a State Establishment of a very sovereign kind, that is to say, the Police on one hand, and some employees working for them in the mundane task of maintaining cleanliness in the police station premises, we considered it expedient to determine what was the extent and kind of duties that the petitioners would render for the police establishment at Lalitpur. In these circumstances, we issued a commission to the learned Civil Judge (Sr. Div.), Lalitpur, ordering him to make a local inspection

of Police Stations Madanpur and Barrar Narahat, where he was given a charter to summon the petitioners and inquire of them, besides others, whom he considered necessary, including the police personnel or members of the public and inquire into the working hours of the petitioners at the respective police stations. The Superintendent of Police was ordered to extend necessary support to the learned Civil Judge, acting as our Commissioner, in the execution of his commission. The dates, which were fixed by this Court, the learned Commissioner was directed to execute his commission after Court hours. The parties were directed to produce, whatever records they had in their possession, relating to their respective claims. The record produced by parties was directed to be appended to the learned Commissioner's report along with the minutes of the Commission. This order was made by us on the 27th of August, 2024. The learned Commissioner, who submitted his report dated 02.09.2024, upon doing a thorough inspection of the two police stations and taking necessary evidence from both sides, returned the following finding, which is quoted in our order dated 02.09.2024, as well:

> "सफाई कर्मियों गोविन्द दास एंव कौशल व स्वतंत्र साक्षियों के बयानों के आधार पर यह दर्शित हो रहा है कि दोनो सफाई कर्मी 8 से 9 घंटा सफाई का कार्य करते हैं परंतु थाने पर उपस्थित पुलिस द्वारा इस तथ्य से इंकार किया गया है तथा अपने बयानों में सफाई कर्मियों द्वारा मात्र 1 से 1½ घंटा ही थाने पर सफाई का कार्य किये जाने का कथन किया गया है। किसी भी थाने में सफाई कर्मियों की उपस्थिति एवं उनके कार्य अवधि से संबंधित कोई पंजिका संरक्षित नहीं की जाती है जिससे सफाई कर्मी कितने बजे आते हैं एवं कितने बजे जाते हैं और कुल कितने घंटे काम करते हैं इसका निर्धारण किया जा सके। दोनों थानों का क्षेत्रफल व उसमें स्थित निर्माण के अवलोकन से प्रथम दृष्टया यह प्रतीत होता है कि थाना परिसर की साफ–सफाई एक–डेढ़ घंटे में हो पाना सम्भव नही है। थाना परिसर एक सार्वजनिक स्थल है जहाँ पर लोगों का आवागमन लगा रहता है जिस कारण गंदगी होते रहना स्वभाविक है। प्रातः के एक–डेढ़ घंटे की सफाई के उपरांत यह सम्भव नही है कि पूरा दिन परिसर साफ सुथरा रहे। मेरे द्वारा भी जब थाने का मुआयना किया गया तो पाया गया कि थाने में उचित सफाई व्यवस्था है जिससे यह स्पष्ट है कि थाने में लगातार सफाई का कार्य होता रहता होगा।"

9. The Commission report dated 02.09.2024, which carries with it documents, annexed as annexures, including copies of recorded and signed statements, was made part of record of this writ petition. A copy of the Commission report was directed to be

provided to the learned Standing Counsel with directions that he would seek instructions in the matter by 05.09.2024. On 05.09.2024, Mr. S.C. Upadhyay, the learned Standing Counsel, prayed for two weeks' time to file objections to the Commission report. The time sought was granted. Time was also granted to the petitioners to file objections to the Commission report, if they thought it necessary. A counter affidavit and objections were filed on 26.09.2024 in the Registry, but those were not on record. Accordingly, the matter was adjourned to 22.10.2024. On the 22nd October, 2024, this matter came up before Hon'ble Mr. Justice Neeraj Tiwari, and as the order of the day would show, His Lordship thought that I had heard the matter substantially and passed detailed orders, necessitating the matter to be placed before me. His Lordship, accordingly, directed the matter to be placed before the Chief Justice, since in the meantime, the roster had changed. This cause was then nominated to me by an order of His Lordship, the Hon’ble the Chief Justice dated 24th October, 2024.

10. On 12.11.2024, the parties having exchanged affidavits, when the matter came up before this Court, it was admitted to hearing and directed to be posted for hearing on 29.11.2024. After three adjournments, hearing commenced on 11.07.2025. On the 29th of July, 2025, hearing concluded and judgment was reserved.

11. Heard Ms. Kamini Pandey (Dubey), learned Counsel for the petitioners and Mr. Sharad Chandra Upadhyay, learned Standing Counsel appearing on behalf of the State.

12. The foremost question to be determined is whether the petitioners are engaged on a whole-time basis to work at the two police stations or their duties require presence on a part-time basis. Whereas the petitioners say that their job at the police stations lasts 8-9 hours a day, the respondents are steadfast on their stand that the petitioners are part-timers, who undertake the

sweeping and sanitary work at the police stations for a duration of an hour and a half and no more. The learned Commissioner, who was deputed to report on the matter, did a survey of the premises, ascertaining the area of the police stations, the number of rooms and took down statements of men from the establishment as also witnesses, who are located in the vicinity of the premises. These statements are those of one Komal son of Arjan, who has his field opposite Police Station, Madanpur. Likewise, the statement of Dashrath Kushwaha son of Mulayam Kushwaha too was taken down, who has his tea-shop at a distance of 200 meters from Police Station, Madanpur. The statement of one Ram Prasad son of Bhagauni was recorded, who is a labourer and a neighbour of the second petitioner, Kaushla. Equally, the statements of police personnel were also recorded by the learned Commissioner, like that of Ajeet Singh, S.H.O., P.S. Madanpur and Head Constable Kaushalendra Singh, posted at Police Station Narahat.

13. The statements show that persons, not connected to the establishment, have supported the petitioners' case of their working on a whole-time basis, whereas all members of the police establishment at both the police stations have come forward with a case about the petitioners' engagement being limited to an hour and a half. The learned Commissioner has looked into the circumstances also to infer that the petitioners would be doing their job at the two police stations for a period of at least 8-9 hours a day. He has relied on the cleanliness and upkeep at the station premises to infer for the petitioners a full-day working time. In the objections to the learned Commissioner's report submitted on behalf of the Superintendent of Police, it is said that he has looked into the CCTV Footage to come to the conclusion that the petitioners arrive at the station premises between 6.30 – 7.00 a.m., but never looked further at the footage to find out at what time, they leave the campus. It is mentioned that the CCTV Footage for the latter hours was not available due to power-cut. It

is also said that cleanliness is not an index to determine the number of hours and that reasoning would place the findings in the realm of conjectures. It is also said that, just like a maid in a household, detailed to the duties of maintaining cleanliness and sanitation, finishes her job within a short period of time, which lasts all the 24 hours, so is the case with the petitioners. They clean the entire compound of the station within one and a half hours, which then lasts the whole day with the staff maintaining it.

14. This objection discounts one remark of the learned Commissioner that the police station is a public place, where the number of people frequenting is large and consistent. It is a place, which on account of the consistent movement of the public, would be soiled from time to time, and, therefore, the primstate of cleanliness noticed by the learned Commissioner, is telltale of the constant discharge of duties by the sanitation and sweeping staff. While the objections on behalf of the Superintendent of Police carry force this particular feature, has not been explained in the objections. The absence of the CCTV Footage, on whatever account, is also not something that does much credit to the respondents' case. Nevertheless, considering the stand of parties, the report of the Commission and evidence that the learned Commissioner collected, it is difficult for this Court to hold, in the absence of some very convincing material, that the petitioners are indeed whole-timers. After all the petitioners are men, who are hired *dehors* the rules and not part of the police establishment. They are engaged on a contract to undertake sweeping and sanitary work at the two police stations. But, the question is even if the petitioners' work on a part-time basis, whatever be the duration of their toil, they are entitled to be paid minimum wages as per the relevant notification issued under the Act of 1948. This was a plea, which the petitioners raised in the writ petition and in answering it, the Superintendent of Police in his personal affidavit dated 20.08.2024, has averred:

> "10. That the petitioners are not employees of the police department or those sent by any other outsourcing agency. Hence, there is no provision for paying them minimum wages under the Minimum Wages Act. Thus, entire action taken by the answering deponent, is strictly in accordance with rules and law."

15. In our opinion, the stand of the Superintendent of Police is absolutely flawed. The fact asserted by him in the personal affidavit would lead to the contrary conclusion in law than the one, he moots. If the petitioners were employees of the Police Department or Establishment, their salaries or wages would be governed by the relevant service rules. Since, they are men, whose service and labour is hired as outsiders, the protection of the Act of 1948 would be available to them.

16. In order to test the soundness of this conclusion, it would be profitable to refer to certain provisions of the Act of 1948. Section 2(b) defines appropriate government in the following term:

> "2. Interpretation.—In this Act, unless there is anything repugnant in the subject or context,—
>
> (*b*) "appropriate Government" means,—
>
> (*i*) in relation to any scheduled employment carried on by or under the authority of the Central Government or a railway administration], or in relation to a mine, oilfield or major port, or any corporation established by a Central Act, the Central Government; and
>
> (*ii*) in relation to any other scheduled employment, the State Government;"

17. Likewise, the employer is defined under Section 2(e), which reads:

> "2. Interpretation.— x x x x
>
> (*e*) "employer" means any person who employs, whether directly or through another person, or whether on behalf of himself or any other person, one or more employees in any scheduled employment in respect of which minimum rates of wages have been fixed under this Act, and includes, except in sub-section (3) of Section 26,—

> (*i*) in a factory where there is carried on any scheduled employment in respect of which minimum rates of wages have been fixed under this Act, any person named under clause (*f*) of sub-section (1) of Section 7 of the Factories Act, 1948 (63 of 1948), as manager of the factory;
>
> (*ii*) in any scheduled employment under the control of any Government in India in respect of which minimum rates of wages have been fixed under this Act, the person or authority appointed by such Government for the supervision and control of employees or where no person or authority is so appointed, the head of the department;
>
> (*iii*) in any scheduled employment under any local authority in respect of which minimum rates of wages have been fixed under this Act, the person appointed by such authority for the supervision and control of employees or where no person is so appointed, the chief executive officer of the local authority;
>
> (*iv*) in any other case where there is carried on any scheduled employment in respect of which minimum rates of wages have been fixed under this Act, any person responsible to the owner for the supervision and control of the employees or for the payment of wages;"

18. A 'scheduled employment' and an 'employee' are defined under the Act of 1948 in the following terms:

> "2. Interpretation.— x x x x
>
> (*g*) "scheduled employment" means an employment specified in the Schedule, or any process or branch of work forming part of such employment;
>
> (*i*) "employee" means any person who is employed for hire or reward to do any work, skilled or unskilled, manual or clerical, in a scheduled employment in respect of which minimum rates of wages have been fixed; and includes an out-worker to whom any articles or materials are given out by another person to be made up, cleaned, washed, altered, ornamented, finished, repaired, adapted or otherwise processed for sale for the purposes of the trade or business of that other person where the process is to be carried out either in the home of the out-worker or in some other premises not being premises under the control and management of that other person; and also includes an employee declared to be an employee by the appropriate Government; but does not include any member of the Armed Forces of the Union."

19. Sections 3, 5, 12 and 26 of the Act of 1948 reads:

"**3. Fixing of minimum rates of wages.**—(1) The appropriate Government shall, in the manner hereinafter provided,—

(*a*) fix the minimum rates of wages payable to employees employed in an employment specified in Part I or Part II of the Schedule and in an employment added to either Part by notification under Section 27:

Provided that the appropriate Government may, in respect of employees employed in an employment specified in Part II of the Schedule, instead of fixing minimum rates of wages under this clause for the whole State, fix such rates for a part of the State or for any specified class or classes of such employment in the whole State or part thereof;

(*b*) review at such intervals as it may think fit, such intervals not exceeding five years, the minimum rates of wages so fixed and revise the minimum rates, if necessary:

Provided that where for any reason the appropriate Government has not reviewed the minimum rates of wages fixed by it in respect of any scheduled employment within any interval of five years, nothing contained in this clause shall be deemed to prevent it from reviewing the minimum rates after the expiry of the said period of five years and revising them, if necessary, and until they are so revised the minimum rates in force immediately before the expiry of the said period of five years shall continue in force.

(1-A) Notwithstanding anything contained in sub-section (1), the appropriate Government may refrain from fixing minimum rates of wages in respect of any Scheduled employment in which there are in the whole State less than one thousand employees engaged in such employment, but if at any time the appropriate Government comes to a finding after such inquiry as it may make or cause to be made in this behalf that the number of employees in any scheduled employment in respect of which it has refrained from fixing minimum rates of wages has risen to one thousand or more, it shall fix minimum rates of wages payable to employees in such employment as soon as may be after such finding.

(2) The appropriate Government may fix—

(*a*) a minimum rate of wages for time work (hereinafter referred to as "a minimum time rate");

(*b*) a minimum rate of wages for piece work (hereinafter referred to as "a minimum piece rate");

(*c*) a minimum rate of remuneration to apply in the case of employees employed on piece work for the purpose of securing to such employees a minimum rate of wages on a time work basis (hereinafter referred to as "a guaranteed time rate");

(*d*) a minimum rate (whether a time rate or a piece rate) to apply in substitution for the minimum rate which would otherwise be applicable, in respect of overtime work done by employees (hereinafter referred to as "overtime rate").

(2-A) Where in respect of an industrial dispute relating to the rates of wages payable to any of the employees employed in a scheduled employment, any proceeding is pending before a Tribunal or National Tribunal under the Industrial Disputes Act, 1947 or before any like authority under any other law for the time being in force, or an award made by any Tribunal, National Tribunal or such authority is in operation, and a notification fixing or revising the minimum rates of wages in respect of the scheduled employment is issued during the pendency of such proceeding or the operation of the award, then, notwithstanding anything contained in this Act, the minimum rates of wages so fixed or so revised shall not apply to those employees during the period in which the proceeding is pending and the award made therein is in operation or, as the case may be, where the notification is issued during the period of operation of an award, during that period; and where such proceeding or award relates to the rates of wages payable to all the employees in the scheduled employment, no minimum rates of wages shall be fixed or revised in respect of that employment during the said period.

(3) In fixing or revising minimum rates of wages under this section,—

(*a*) different minimum rates of wages may be fixed for—

(*i*) different scheduled employments;

(*ii*) different classes of work in the same scheduled employment;

(*iii*) adults, adolescents, children and apprentices;

(*iv*) different localities;

(*b*) minimum rates of wages may be fixed by any one or more of the following wage-periods, namely:

(*i*) by the hour,

(*ii*) by the day,

(*iii*) by the month, or

(*iv*) by such other larger wage-period as may be prescribed;

and where such rates are fixed by the day or by the month, the manner of calculating wages for a month or for a day, as the case may be, may be indicated :

Provided that where any wage-periods have been fixed under Section 4 of the Payment of Wages Act, 1936 (4 of 1936), minimum wages shall be fixed in accordance therewith.

5. Procedure for fixing and revising minimum wages. —(1) In fixing minimum rates of wages in respect of any scheduled employment for the first time under this Act or in revising minimum rates of wages so fixed, the appropriate Government shall either—

(*a*) appoint as many committees and sub-committees as it considers necessary to hold enquiries and advise it in respect of such fixation or revision, as the case may be, or

(*b*) by notification in the Official Gazette, publish its proposals for the information of persons likely to be affected thereby and specify a date, not less than two months from the date of the notification, on which the proposals will be taken into consideration.

(2) After considering the advice of the committee or committees appointed under clause (*a*) of sub-section (1) or, as the case may be, all representations received by it before the date specified in the notification under clause (*b*) of that sub-section, the appropriate Government shall, by notification in the Official Gazette, fix, or, as the case may be, revise the minimum rates of wages in respect of each scheduled employment, and unless such notification otherwise provides, it shall come into force on the expiry of three months from the date of its issue:

Provided that where the appropriate Government proposes to revise the minimum rates of wages by the mode specified in clause (*b*) of sub-section (1), the appropriate Government shall consult the Advisory Board also.

> **12. Payment of minimum rates of wages.**—(1) Where in respect of any scheduled employment a notification under Section 5 is in force, the employer shall pay to every employee engaged in a scheduled employment under him wages at a rate not less than the minimum rate of wages fixed by such notification for that class of employees in that employment without any deductions except as may be authorised within such time and subject to such conditions as may be prescribed.
>
> (2) Nothing contained in this section shall affect the provisions of the Payment of Wages Act, 1936 (4 of 1936).
>
> **26. Exemptions and exceptions.**—(1) The appropriate Government may, subject to such conditions, if any, as it may think fit to impose, direct that the provisions of this Act shall not apply in relation to the wages payable to disabled employees.
>
> (2) The appropriate Government may, if for special reasons it thinks so fit, by notification in the Official Gazette, direct that subject to such conditions and] for such period as it may specify the provisions of this Act or any of them shall not apply to all or any class of employees employed in any scheduled employment or to any locality where there is carried on a scheduled employment.
>
> (2-A) The appropriate Government may, if it is of opinion that, having regard to the terms and conditions of service applicable to any class of employees in a scheduled employment generally or in a scheduled employment in a local area or to any establishment or a part of any establishment in a scheduled employment, it is not necessary to fix minimum wages in respect of such employees of that class or in respect of employees in such establishment or such part of any establishment as are in receipt of wages exceeding such limit as may be prescribed in this behalf, direct, by notification in the Official Gazette and subject to such conditions, if any, as it may think fit to impose, that the provisions of this Act or any of them shall not apply in relation to such employees.
>
> (3) Nothing in this Act shall apply to the wages payable by an employer to a member of his family who is living with him and is dependent on him.
>
> *Explanation*.—In this sub-section a member of the employer's family shall be deemed to include his or her spouse or child or parent or brother or sister."

20. In the Schedule appended to the Act of 1948, specifying the scheduled employments, employment of sweeping and cleaning, excluding activities prohibited under the Employment of Manual

Scavengers and Construction of Dry Latrines (Prohibition) Act, 1993, has been added by the Central Government w.e.f. 03.11.2005. The work done by the petitioners is, therefore, part of the scheduled employment under the Act of 1948. A perusal of Section 2(e)(ii) would show that the Act of 1948 applies to a case of scheduled employment under the control of any Government in India in respect of which minimum rates of wages have been fixed under the Act of 1948. Now, sweeping and cleaning, being a scheduled employment under the Act of 1948, there can be no cavil that it would apply to the respondents, who are a Department and Establishment of the State Government. It is nobody's case that the respondents are in any manner exempted or excepted from the operation of the Act of 1948. Now, minimum wages have been fixed by a notification No.958-65 प्रवर्तन-(एम 0 डब्लू0) dated 30.09.2022 issued under the Act of 1948, the material part whereof reads:

> "<u>न्यूनतम मजदूरी अधिनियम 1948 के अन्तर्गत 74 अनुसूचित नियोजनों में देय परिवर्तनीय महगाई भत्ता</u>
>
> न्यूनतम मजदूरी अधिनियम, 1948 के अन्तर्गत राजाज्ञा संख्या–194/36–3–2014–07 (न्यू0 वे0)/4 दिनांक 28–1–2014 द्वारा 59 तथा अधिसूचना संख्या–850/36–03–2019–931 (न्यू0 वे0)/08 दिनांक: 30 सितम्बर 2019 द्वारा 15 अनुसूचित नियोजनों में नियोजित कर्मकारों हेतु मजदूरी की मूल दरों एवं परिवर्तनीय महगाई भत्ते का निर्धारण किया गया है। मजदूरी की जो दरें मासिक आधार पर निर्धारित की गयी है उनकी दैनिक दर, मूल मजदूरी और परिवर्तनीय महगाई भत्ते के 1/26 से कम तथा **प्रति घंटे दर दैनिक दर का 1/6 से कम न होगी**।
>
> उक्त के अनुक्रम में निम्नांकित 74 नियोजनों में नियोजित कर्मचारियों के लिये अखिल भारतीय उपभोक्ता मूल्य सूचकांक आधार वर्ष (2001= 100) माह जुलाई 2012 से दिसम्बर 2012 के औसत 216 अंको के ऊपर जनवरी 2022 से जून 2022 के औसत अंक 368 पर दिनांक 1–10–2022 से 31–3–2023 तक की अवधि हेतु परिवर्तनीय महंगाई भत्ता निम्नलिखित दृष्टान्त की भाँति गणना करके देय होगा–
>
> दृष्टान्त–रूपये 5750/– प्रतिमाह मजदूरी पाने वाले अकुशल श्रेणी के कर्मचारियों को औसत उपभोक्ता मूल्य सूचकांक 366 पर दिनांक: 1–10–2022 से दिनांक: 31–3–2023 तक की अवधि हेतु परिवर्तनीय महंगाई भत्ता निम्नलिखित होगा।
>
> (366–216)
> ––––––X5750= रू०–3993/– प्रतिमाह
>
> 216
>
> <u>विभिन्न श्रेणी के कर्मचारियों को देय प्रतिमाह मूल मजदूरी, परिवर्तनीय महंगाई भत्ता, की मासिक एवं दैनिक मजदूरी की दरें।</u>

क्रमाँक	श्रेणी	प्रतिमाह मूल मजदूरी रूपये में	दिनांक: 1.4.2022 से 30.9.2022 तक (कुल मजदूरी रू० में)	परिवर्तनीय महंगाई भत्ता रू० में	दिनांक: 1.10.2022 से 31.3.2023 तक

				दिनांक: 1.10.2022 से 31.3.2023 तक	कुल मजदूरी (रूपये में) (3+ 5)	दैनिक मजदूरी (रूपये में) (1/26)
1	2	3	4	5	6	7
1	**अकुशल**	**5750**	**9530**	**3993**	**9743**	**374.73**
2	अर्धकुशल	6325	10483	4392	10717	412.19
3	कुशल	7085	11743	4920	12005	461.73

(emphasis by Court)

21. The minimum wages have been revised by a notification dated 03.04.2023 and lastly on 28.03.2025. Now, the daily-wage for an unskilled worker per day is Rs.422.85. In the year 2022, when the petitioners were engaged, it was Rs.374.73 and in the year 2023, it was Rs.388/-. Applying the rate of hourly wages prescribed by these notifications to be not less than 1/6th of the daily-wage fixed, the petitioners' hourly minimum wage in the year 2022 would be Rs.62.45 per hour; in the year 2023, it would be Rs.64.60 per hour; and, in the year 2025, it would be Rs.70.47 per hour.

22. Accepting the respondents' case that the petitioners are part-timers, they are clearly entitled to receive minimum wages, fixed and revised from time to time under the Act of 1948, and not in accordance with the Government Order dated 09.03.2019. The Government Order dated 09.03.2019 is an executive order of the Government, revising wages for part-time sweepers, employed in police stations, *chowkis,* from Rs.600/- per month to Rs.1200/-. It has to give way to the minimum wages fixed by a notification issued by the State Government under the Act of 1948, in case of a scheduled employment. The rates fixed by the notification under the Act of 1948 is statutory in character and would, therefore, prevail over the Government Order dated 09.03.2019, a purely executive order.

23. A similar question arose in case of part-time sweepers, employed in the establishment of the Regional Ayurvedic/ Unani Officers, Behraich in **Amarjeet Yadav v. State of U.P. and**

others, 2022 (4) ADJ 540 (LB). In **Amarjeet Yadav** (*supra*), it was held:

> "**8.** From the above it becomes abundantly clear that since sweeping as an employment finds mention under the list of scheduled employment, therefore, the employment of the petitioner engaged by respondent No. 3 as a sweeper falls under the purview of Scheduled Employment.
>
> **9.** Next issue is whether the respondents as an employer are exempted from the application of the Act of 1948. Section 2(e) when read with Section 26 of the Act of 1948 makes it clear that unless there is an express exemption by the appropriate Government, employers of the scheduled employment will always be under the purview of this Act. Section 2(e) (ii) reads :
>
> > "(e) "employer" means any person who employs, whether directly or through another person, or whether on behalf of himself or any other person, one or more employees in any scheduled employment in respect of which minimum rates of wages have been fixed under this Act, and includes, except in sub-section (3) of Section 26,-
> >
> > .
> >
> > .
> >
> > (ii) in any scheduled employment under the control of any Government in India in respect of which minimum rates of wages have been fixed under this Act, the person or authority appointed by such Government for the supervision and control of employees or where no person or authority is so appointed, the head of the department;
> >
> > ...…"
>
> **11.** The Learned Standing Counsel has failed to place on record any notification issued under Section 26 of the Act of 1948 exempting the respondent department from the application of the Act of 1948. In view thereof, petitioner is entitled for the minimum wages under the Minimum Wages Act, 1948.
>
> **12.** Therefore, respondent No. 3 Regional Ayurvedic/ Unani Officer, Bahraich is directed to pay minimum wages to the petitioner as notified under the Minimum Wages Act, 1948 with regard to part-time sweepers within a period of two months from the date a certified copy of this order is placed before him."

24. In the overall conspectus of facts while holding that the petitioners are part-time wagers and working as such in the Police Stations Madanpur and Barrar Narahat, District Lalitpur, it is also held that they are entitled to be remunerated according to the minimum wages notified from time to time under the Act of 1948 and not in accordance with Government Order dated 09.03.2019.

25. In the circumstances, this writ petition succeeds and is **allowed in part**. A *mandamus* is issued to the Director General of Police, U.P., Lucknow, the Superintendent of Police, Lalitpur, the Station House Officers of Police Stations Madanpur and Barrar Narahat, District Lalitpur, to ensure amongst themselves remuneration to the petitioners in accordance with the Act of 1948, together with arrears from the date of engagement until payment of such arrears within a period of **six weeks** of the date of receipt of this order. It goes without saying that the current wages shall be paid in accordance with the Act of 1948, revised from time to time in terms of the notifications issued under the said Act.

26. There shall be no order as to costs.

27. Let a copy of this judgment be communicated to the Director General of Police, U.P., Lucknow, the Superintendent of Police, Lalitpur, the Station House Officers of Police Stations Madanpur and Barrar Narahat, District Lalitpur by the Registrar (Compliance).

(J.J. Munir,J.)

November 15, 2025
Anoop