

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

**CWP No.19985 of 2025
Date of Decision: 30.12.2025**

Devinder Kumar

.....Petitioner

Versus

State of Himachal Pradesh and Ors.

.....Respondents

Coram

**Hon'ble Mr. Justice Sandeep Sharma, Judge.
Whether approved for reporting?**

For the Petitioner: Mr. Parveen Chauhan, Advocate.

For the respondents: Mr. Anup Rattan, Advocate General, Mr. Rajan Kahol, Additional Advocate General and Mr. Ravi Chauhan, Deputy Advocate General.

Sandeep Sharma, J. *(Oral)*

Petitioner herein, who has retired as class-IV employee, is aggrieved of order dated 8.10.2025 (Annexure P-8), whereby his representation dated 15.12.2023 filed in terms of judgment dated 7.7.2025 passed by this Court in CWP No. 10676 of 2025 titled Devinder Kumar v. State of Himachal Pradesh and Ors., came to be rejected on the ground that department of Jal Shakti Vibhag, is contemplating to file curative petition in the Hon'ble Apex Court against the judgment passed by it in Civil Appeal No.4792 of 2022, decided on 18.7.2022, titled as **Balo Devi and Ors. v. State of Himachal Pradesh and Ors.**

2. Having regard to the nature of controversy coupled with the fact that facts otherwise pleaded on record by the petitioner stand admitted in the impugned order dated 8.10.2025, this Court sees no necessity to call for reply on behalf of the respondents, who are otherwise represented by Mr. Ravi Chauhan, learned Deputy Advocate General.

3. Petitioner herein was engaged as part time worker in the year 1999 in the Agricultural Department and his services were converted as daily wager w.e.f. 1.4.2009 as per judgment passed by this Court in CWP(T) No. 12548 of 2008 dated 26.2.2011. After his being converted from part time to daily wager, petitioner served the respondent department on daily wage basis with 240 days in each calendar year w.e.f. 1.4.2009 to 31.3.2016. His services were regularized in terms of policy of regularization framed by the Government of Himachal Pradesh on 22.4.2016 vide office order dated 30.6.2016. After the regularization, petitioner served the department till 30.11.2024, on which date, he was superannuated i.e. for 8 years, 4 months and 29 days.

4. Precisely, the grouse of the petitioner, as has been highlighted in the petition and further canvassed by learned counsel for the petitioner is that prior to filing of the petition at hand, he had approached this court by way of CWP No. 10676 of 2025, seeking therein direction to the respondents to consider and decide his case in

light of judgment passed by the Hon'ble Apex Court in Balo Devi's case, wherein it specifically came to be ruled that weightage of additional one year shall be given to daily wage employee for his having worked on daily wage basis for five years and in case, after adding afore one year in regular service, total regular service comes out to be more than eight years, same shall be reckoned as 10 years. This Court having taken note of the genuine prayer of the petitioner directed the respondents vide judgment dated 7.7.2025 to consider and decide case of the petitioner in light of **Balo Devi's** case. Though respondents vide order dated 8.10.2025, passed order on the representation of the petitioner, but rejected the same on altogether unsustainable grounds. No cogent and convincing reasoning has been assigned in the impugned order for not according the benefit of Balo Devi's case in favour of the petitioner, rather his representation has been rejected on the ground that department is contemplating to file curative petition in the Hon'ble Apex Court in **Balo Devi's** case.

5. Since it is not in dispute that judgment rendered in **Balo Devi's** case has been implemented in hundreds of cases, there is no occasion, if any, for the respondents to reject the claim of the petitioner. Once it is not in dispute that before regularization, petitioner had rendered daily wage service of 7 years and 3 months, he ought to have been given weightage of one year in lieu of the daily wage services. After adding one year in lieu of daily wage service,

regular service of the petitioner would be 9 years, 4 months and 29 days. In Balo Devi's case, Hon'ble Apex Court has categorically held that if after adding one year of weightage, if any, given in lieu of daily wage service, total regular service comes out to be more than 8 years, same shall be reckoned as 10 years.

6. In the instant case, petitioner has rendered regular service of 8 years, 4 months and 29 days and in case, he is given weightage of one year qua his having rendered for 7 years and 3 months daily wage service, his total service would be 9 years, 4 months and 29 days and in that situation, same is required to be reckoned as 10 years. Since on the basis of aforesaid analogy, total service of the petitioner comes out to be more than eight years, he is entitled to pension as has been prayed for.

7. Needless to say, till the time judgment passed by the Hon'ble Apex Court in **Balo Devi's** case is modified or varied, respondents are under obligation to implement the same in its letter and spirit, but certainly, genuine claim of the petitioner could not have been rejected on the ground that department is contemplating to file curative petition.

8. Consequently, in view of the above, present petition is allowed and impugned order dated 8.10.2025 (Annexure P-8) is quashed and set-aside and respondents are directed to extend the benefit of judgment passed by the Hon'ble Apex Court in **Balo Devi's**

case to the petitioner and thereafter, forward his case to the office of Accountant General for issuance of Pension Payment Order, expeditiously, preferably, within two months.

9. In the aforesaid terms, present petition is disposed of alongwith pending applications, if any.

December 30, 2025
(manjit)

(Sandeep Sharma),
Judge