

**IN THE HIGH COURT OF HIMACHAL PRADESH AT
SHIMLA**

CWP No.1909 of 2021

Decided on 16th July 2026

Shanta Devi

...Petitioner

Versus

State of Himachal Pradesh and others

...Respondents

Coram

Hon'ble Mr. Justice Ajay Mohan Goel, Judge

¹Whether approved for reporting?

For the petitioner: Mr. M.C. Jamwal, Advocate.

**For the respondents: Mr. Pushpinder Jaswal, Additional
Advocate General.**

Ajay Mohan Goel, Judge (Oral)

By way of this petition, the petitioner has, *inter alia*,
prayed for the following reliefs:-

"i) That writ in the nature of mandamus may kindly be issued, directing the respondent department to consider the case of husband of the petitioner from grant of work charge status/regularization w.e.f. 01.10.2003 when he has completed 8 years service with 240 days in each calendar in light of the 8 years policy of the Government as well as ratio laid down by this Hon'ble Court in case titled as Rakesh Kumar versus State of H.P. for work charge status regularization, since the husband of the petitioner was engaged as daily waged Beldar in the Respondent Department on 01.10.1995 and he was entitled to get the regularization on 01.10.2003, whereas, he was given regularization after a delay of 3 years & 3 months i.e. on 09.01.2007.

(ii). That writ in the nature of mandamus may kindly be issued, directing the respondents to consider the case of the husband of the petitioner for granting him all the consequential benefits flowing from the service rendered by him on daily waged basis beyond 8 years in light of 8 years policy of the State Government as well as judgment rendered by this Hon'ble High Court in Rakesh Kumar Vs. State of H.P. and release the same in favour of the petitioner being widow of Late Fulla Singh."

2. Brief facts necessary for the adjudication of this petition are that the husband of the petitioner was engaged as a Beldar on 01.10.1995. According to the petitioner, the services of her husband were regularized w.e.f. 09.01.2007 and thereafter he died in harness on 13.01.2011. The case of the petitioner is that the services of her husband ought to have been regularized w.e.f. 01.10.2003 or work charge status should have been conferred upon him w.e.f. 01.10.2003, when he completed 8 years of regular service and, accordingly, she is praying for issuance of a mandamus to this effect.

3. Learned counsel for the petitioner argued that if the relief, as is being prayed for by the petitioner is granted, then, late husband of the petitioner shall be entitled for pension and the non-conferment of work-charge status to the husband of the petitioner w.e.f. 01.10.2003 in the peculiar facts of the case is

not sustainable in the eyes of law.

4. On the other hand, learned Additional Advocate General has drawn the attention of the Court to the reply filed by the State as also documents appended therewith. He submitted that late husband of the petitioner was engaged on 01.10.1995. However, in the year 1995, he did not complete more than 240 days. Thereafter, he continued to serve as such and as from the month of January 1996, he completed 8 years of service with 240 days in each calendar year in the year 2004 and, accordingly, he was conferred work-charge status w.e.f. 01.01.2004. Learned Additional Advocate General further submitted that the services of late husband of the petitioner were regularized on 09.01.2007 and unfortunately he passed away on 13.01.2011. He argued that as from the date of his regularization, late husband of the petitioner had only put in 4 years of service. He further submitted that the work-charge service rendered by late husband of the petitioner is not to be added to the regular service so as to render him eligible for the grant of pension. He submitted that in terms of the law declared by this Court, the work-charge service is to be treated as

qualifying service for the purpose of qualifying pension, which obviously means that if a person is otherwise fulfilling the criteria for the grant of pension, then, the period of work-charge service will be given an additional benefit/bonus to the person to whom pension is to be given. Accordingly, he submitted that as there is no merit in the petition, the same be dismissed.

5. I have heard learned counsel for the parties and have also carefully gone through the pleadings as well as the record.

6. It is not in dispute that the late husband of the petitioner was initially engaged on daily wage basis on 01.10.1995. It is also a matter of record that work-charge status was conferred upon him w.e.f. 01.01.2004 and his services were regularized on 09.01.2007. As from the date of the regularization of his services till his unfortunate death, the late husband of the petitioner did not rake up the issue of wrong conferment of work-charge status or delay in the regularization of his services.

7. Be that as it may, herein, what the petitioner is praying is that it be ordered that her husband be regularized

post completion of 8 years of service on daily wage basis. This Court is of the considered view that no such relief, as is being prayed for, can be granted. As already observed hereinabove, after the services of late husband of the petitioner were regularized in the year 2007, nothing stopped the husband of the petitioner from raking up the issue with regard to his regularization from the month of October 2003, if he indeed felt that he was wrongly denied regularization from the month of October 2003. But the very fact that till his death in the year 2011, the late husband of the petitioner did not rake up this issue, demonstrates that he was satisfied with his regularization w.e.f. 09.01.2007.

8. Even otherwise, the law is well settled that if there is a Policy, in which a time frame is mentioned, which makes a person eligible for the purpose of promotion, then, it is not as if the workman has to be promoted immediately upon completion of the number of years mentioned in the Policy. All that the completion of number of years does is that it confers a right upon the incumbent to be regularized and obviously the regularization has to be done as and when the vacancies

become available. In order to safeguard the interest of such an incumbent as from the date when he completes the requisite number of years up to the time he or she is regularized, the status of work-charge is conferred upon such a person so that the sword of being terminated by issuance of a notice of one month as is provided under the provisions of Industrial Disputes Act does not hang over the head of such a person.

9. In the present case, the work-charge status was conferred upon the late husband of the petitioner upon completion of 8 years of service as a Daily Wager with 240 days in each calendar year. Thereafter, his services were regularized w.e.f. 09.01.2007. As unfortunately the late husband of the petitioner died on 13.01.2011, the regular service rendered by him with the respondent-department was not enough to render his family eligible for the receipt of pension etc. Even if for the sake of argument, the period as from the date when the late husband of the petitioner was conferred the work-charge status i.e., 01.01.2004 is added to the period which the husband of the petitioner served on regular basis, this also does not take the number of years for

which the late husband of the petitioner served the Department beyond 10 years.

10. Thus, as this Court does not find any merit in the present petition, nor this Court finds that the petitioner is entitled for the relief claimed for, the petition is, accordingly, dismissed.

11. Pending miscellaneous application(s), if any, also stand disposed of accordingly.

(Ajay Mohan Goel)
Judge

July 16, 2026
(*Vinod*)