

**IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA.**

**LPA No. 77 of 2022 a/w LPA No. 79  
of 2023**

**Date of decision: 20.06.2026**

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**LPA No. 77 of 2022**

State of H.P. & Ors. ...Appellants

Versus

Dev Raj & Ors. ...Respondents

**LPA No. 79 of 2022**

State of H. P. & Ors. ...Appellants

Versus

Dev Raj & Ors. ...Respondents.

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*Coram*

***The Hon'ble Mr. Justice G. S. Sandhawalia, Chief Justice.***

***The Hon'ble Mr. Justice Bipin C. Negi, Judge.***

*Whether approved for reporting?*

**For the Appellants:** Mr. Gobind Korla, Additional Advocate  
General.

**For the Respondents:** Mr. Nishant Khidta, Advocate.

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**G. S. Sandhawalia, Chief Justice (Oral)**

The present Letters Patent Appeals seek consideration of the order passed by the learned Single Judge, whereby while dismissing **CWP No. 2280 of 2016**, titled as **State of H.P. & Ors. vs. Dev Raj & Ors.**, on 16.09.2021, filed by the State, the award passed by the Industrial Tribunal-cum-Labour Court (for short '**the Tribunal**') dated 03.09.2015

(Annexure P-1), directing the reinstatement of the workmen as such was upheld.

2. **CWP No. 841 of 2017**, titled as **Dev Raj & Ors. vs. State of H.P. & Ors.**, was also filed by the workmen-claimants as such which was allowed to the extent that the back wages to the claimants were granted alongwith up to date interest from the date of their termination i.e. 07.08.2009 with seniority and continuity in service within a period of six weeks.

3. The State has filed two appeals against the common judgment passed on 16.09.2021 by the learned Single Judge.

4. A perusal of the Paper Book would go on to show that claim as such of the four workmen was that they were employed on daily wage basis in the month of March 1996, August, 2006 and 27.04.2008 with the Department of Horticulture. There was an issue regarding weekly rest. A representation had been made to the Labour Inspector on 28.05.2009 and a notice had also been served under Section 7A of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952. Apparently, the services of the workmen were terminated on 07.08.2009 on account of the fact that they were agitating for their statutory rights.

5. The workmen had filed **CWP No. 3000 of 2009**, titled as **Dev Raj & Anr. vs. State of H.P. & Ors.**, before this Court, in which interim directions were passed on 02.01.2010, whereby petitioners were directed to be re-engaged forthwith on account of the fact that they had got unemployed on account of raising their voice against their exploitation. The order dated 02.01.2010 passed by the learned Single Judge, reads as under:-

*"Petitioner No. 1 was appointed in the month of March, 1996, petitioner No. 2 was appointed in the month of August, 2006, petitioner No. 3 in the month of October, 2007 and petitioner No. 4 was appointed on 27.4.2008. Petitioners made representation to the Labour Inspector, Paonta Sahib vide application dated 28.05.2009 with regard to not providing them weekly rest. He issued notice to respondent No. 4 on 16.06.2009. The investigation of demand raised by the petitioners is pending with the Labour Inspector Paonta Sahib. Petitioners have also served upon the competent authority notice under Section 7-A of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952. Their services were terminated on 7.8.2009. It is apparent that the services of the petitioners have been terminated for raising demands for the redressal of their grievances. The workman has a right to get weekly off as per Section 13(1)(b) of the Minimum Wages Act, 1948 and Rules framed thereunder. The workmen have raised demand notice. The Labour Inspector-Cum-Conciliatio Officer, Paonta*

*Sahib has issued notice to respondent No. 4 and petitioners. The process of conciliation had been fixed for 13.10.2009. Petitioners have also submitted individual demand notices as per Section 2-A of the Industrial Disputes Act, 1947 to Labour Inspector Paonta Sahib.*

*The case of respondent No. 4, in nut-shell, is that petitioners are employees of Contractor, not of respondent No. 4. The larger issues raised by the petitioners are required to be decided by the statutory authorities constituted under the relevant provisions of Law. Petitioners are out of employment for raising their voice against the exploitation. They had been working as per the details given in the opening part of the order.*

*Consequently, respondent No. 4 is directed to re-engage the petitioners forthwith. However, re-engagement of the petitioners shall abide by the outcome of the proceedings initiated under the Industrial Disputes Act, 1947.*

*List after eight weeks."*

6. It is a matter of record and it would be clear from the order of the Tribunal that apparently the workmen as such were re-employed on 07.01.2010 in pursuance to the directions passed by this Court and thereafter the matter was also referred to the Tribunal. The Tribunal, while framing the issues i.e. whether the services of petitioners were terminated without complying with the mandatory provisions of the Industrial Disputes Act, 1947 (for short '**The Act**') and for

what service benefits, they were entitled in case of violation, came to the conclusion that the defence as such that they were employed as contractors was not tenable and rather they had been employed by the State to do the work.

7. Resultantly, it was found that there was violation of the provisions of Section 25-F of the Act. However, apparently on the Issue No. 2 regarding the issue of back wages, the learned Tribunal has erred as such while coming to the conclusion that the initial burden was on the workmen-employees that they were gainfully employed and they have to place material in this regard on record. It has also been recorded by the learned Tribunal that all the employees had stated that they were not gainfully employed between 07.08.2009 till re-instatement i.e. 07.01.2010 and it was not possible for them to state anything beyond that and, therefore, the denial of back wages as such was not justified.

8. Reference can also be made to the order of the learned Single Judge dated 02.01.2010, whereby apparently, the learned Single Judge came to the conclusion that there was exploitation as such and when they asked for their legal rights, their services had been terminated. The State had immediately re-instated the workmen thereafter and their re-instatement continued till the pendency of the proceedings of

the Labour Court, which eventually found in favour of the workmen on 03.09.2015.

9. It is also not disputed that they have continued to work till now and, therefore, there can be no plausible reason as such to interfere with the well reasoned order passed both by the Tribunal and duly upheld by the learned Single Judge regarding this aspect on account of the statutory violation of the provisions of the Industrial Disputes Act, 1947.

10. Resultantly, we do not find any plausible reason to interfere with the order passed by the learned Single Judge on that ground and for setting aside the award as such. On the issue of back wages, we find that it is only for a period of five months that the back wages had been awarded and the learned Single Judge has relied upon the celebrated judgment of the Apex Court in ***Deepali Gundu Surwase vs. Kranti Junior Adhyapak Mahavidyalaya (2013) 10 SCC 324***, wherein it is held that on account of indirectly punishing the employee and not permitting him to work, the employer cannot deny back wages.

11. In such circumstances, once this Court has also come to the said conclusion that the dis-engagement was without any basis and only on account of the fact that they were asking for statutory dues, their services were dispensed

with and they had been apparently working way back from March 1996, August 2006 and 27.04.2008 before their services were terminated, which was not in accordance with the statutory provisions of the Act, in such circumstances, the learned Single Judge has granted the benefits of the back wages for a period of five months, which cannot be faulted with in any manner in the peculiar facts and circumstances of the case.

12. Resultantly, both the appeals are dismissed, so also pending applications, if any.

**(G. S. Sandhawalia)**  
**Chief Justice**

**(Bipin C. Negi)**  
**Judge**

**20<sup>th</sup> June, 2026**  
(sanjeev)