

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA.

CWPOA No.5245 of 2020

Decided on: 29th September, 2026

Gopal Verma

....Petitioner

versus

State of H.P. and others

...Respondents

Coram

Hon'ble Mr.Justice Jiya Lal Bhardwaj, Judge.

Whether approved for reporting?¹

For the petitioner: Mr. Anshul Attri and Mr. Ankit Chandel, Advocates.

For the respondents: Mr. Balwinder Singh Ballu, Deputy Advocate General for respondents No.1 and 2-State.

Mr. Sarthak Mehta, Advocate for respondent No.3.

Jiya Lal Bhardwaj, Judge (Oral)

The petitioner by way of present petition has prayed for the following substantive relief:-

"a) *That the Applicant may very kindly be held entitled for the regularization as Chowkidar w.e.f. the date of completion of 5 years of daily waged services with all consequential benefits, in the interest of justice"*

2. The facts as emerged from the pleadings are that the petitioner was appointed as daily waged Chowkidar with the State Council for Science and Technology and Environment on

¹ *Whether the reporters of Local Papers may be allowed to see the judgment?*

01.09.2011. He has continuously and uninterruptedly discharged the duties on the said post with a minimum of 240 days in each calendar year. The petitioner has also placed on record the attendance register with effect from 01.10.2011 till 31.12.2017. It has also been averred that since the biometric attendance system was introduced in the Department with effect from 07.08.2013, his attendance was registered in the same with effect from 07.08.2013 to 31.12.2013. During this period, the petitioner used to enter the office at 05:30 p.m. and leaving office on the next morning at 09.02 a.m., i.e., after serving for 16 hours. As per the regularization policy dated 11.05.2018 (Annexure A-2) issued by the Government of Himachal Pradesh, a decision was taken to regularize the services of daily waged/contingent paid workers in all the Departments, who had completed five years of continuous service with a minimum of 240 days in a calendar year, except where specified otherwise for the tribal areas as on 31.03.2018 against vacant posts in the respective Departments. It has further been averred that the petitioner possesses requisite educational qualifications as per the R&P Rules for regularization and had completed six years and five months of uninterrupted service with 240 days in each calendar year on 31.03.2018, and despite making various requests to consider his claim for regularization as Chowkidar with the respondent-

Department, no response was received and the petitioner is facing undue hardships as well as it is causing substantial injustice to him, when his services have not been regularized by the respondent-Department. The action on the part of the respondents is alleged to be highly unjust, illegal, arbitrary and contrary to the principles of natural justice, inasmuch as the respondents have given discriminatory treatment to him and as such, prayed for regularizing his services with effect from the date of completion of five years of daily wage services.

3. The respondents had initially filed short reply and averred that the petitioner has been employed on monthly bill basis and his salary is released on submitting of the bills regarding duty performed by him as Chowkidar after 5:00 p.m., i.e. timing of closing of the office. The entire salary of the petitioner has already been released and lastly the petitioner's salary was released on 24.11.2018 and as such prayed for dismissal of the petition.

4. Subsequently, respondent No.2 again filed reply and in preliminary objections, it has been averred that the petition at the instance of petitioner is not maintainable against the respondents. Further, the petition is also not maintainable since the petitioner has not come to the Court with clean hands and the petition is bad for non-disclosure of better particulars. The particulars have been

purposely concealed with *malafide* intention with the sole object to prejudice the mind of the Court.

5. On merits, it has again been reiterated that the petitioner is providing his services on bill basis till date for which due payment is being made based on bills provided by him. Further, the regularization policy issued by the Department of Personnel, Government of Himachal Pradesh is not applicable in the instant matter, since he has been working on bill basis and the policy is only for contractual employment, and as such prayed for dismissal of the petition.

6. The petitioner filed rejoinder to the reply and controverted the averments made therein.

7. I have heard the learned counsel for the parties and also perused the record carefully.

8. It is apt to take note of the fact that during the pendency of the petition, the petitioner had filed an application seeking to place on record the information received by him under the Right to Information Act, which was allowed on 12.08.2024 and the information received by the petitioner was ordered to be taken on record.

9. Learned counsel representing the respondents has opposed the prayer made by the petitioner on the ground that the

petitioner has not been appointed on contract basis, but he is employed on monthly bill basis and further salary in this regard is released to him on submitting the bills regarding the duty performed as Chowkidar.

10. The respondents have though placed on record the office orders, whereby the petitioner has been paid the money, but none of the bills submitted by him have been placed on record, which show that the petitioner was not engaged on bill basis. Even if it is assumed that the petitioner was submitting the bills, the claim raised by the petitioner seeking regularization cannot be denied for the reason that the respondents are admitting that the petitioner is discharging his duties with them since 01.09.2011 on the post of Chowkidar. The respondents have not disputed the fact that the petitioner had completed 240 days in each calendar year till the year 2018.

11. It is not even the case of the respondents that they have not adopted the regularization policy dated 11.05.2018 (Annexure A-2) issued by the Government of Himachal Pradesh, rather while providing the information to the petitioner on 19.07.2024 (Annexure MR-1) (colly.) (page 247), it has candidly been admitted by them that they have adopted the regularization policy for daily waged/contingent employees issued by the

Government and further during the financial year 2023-24, six employees have been regularized under the policy. Once the respondents have admitted the fact that they have adopted the policy of the Government, they are under obligation to regularize the services of the petitioner, strictly in terms of the policy dated 11.05.2018 (Annexure A-2), especially when the petitioner was engaged on 01.09.2011.

12. Learned counsel representing respondent No.2 has vehemently argued that the petitioner cannot seek regularization as per the mandate of the law laid down by the Supreme Court in **Union of India and others** versus **Ilmo Devi and another**(2021) 20 SCC 290.No doubt, as per the decision rendered by the Supreme Court in aforementioned decision, it has been held that the part-time employees are not entitled to seek regularization, as they are not working against any sanctioned post and there can't be any permanent continuation of part-time, temporary employees as well. However, in the present case, the petitioner is not seeking regularization without there being any policy. The Government of Himachal Pradesh had formulated a policy for regularizing the services of the daily wages workers/contingent paid workers, who had completed requisite number of years and on the basis of the said policy, numerous employees have been regularized and

respondent-Council has also regularized the services, based on the said decision of the Government, which is evident from a perusal of the information supplied by it on 19.07.2024. Once the respondent-Council has regularized the services of other employees after adopting the regularization policy of the Government of Himachal Pradesh, the petitioner who is similarly situate cannot be denied the said benefit simply on the basis that he has been engaged on bill basis. No material has been placed on record by the respondents to buttress the submission that the petitioner was engaged on bill basis and hence, the said submission is rejected.

13. Learned counsel for the petitioner submits that since the petitioner had come to the Court immediately after the decision taken by the Government of Himachal Pradesh on 11.05.2018 to regularize the services of daily waged workers/contingent paid workers in the all Departments, who had completed five years of continuous service with a minimum of 240 days in a calendar year, except where specified otherwise for the tribal area, as on 31.03.2018, he may also be regularized immediately after completion of five years' service. However, the said contention cannot be accepted for the reason that the State Government had issued the instructions on 11.05.2018 and the petitioner who had completed five years, since he was serving with effect from

01.09.2011 is entitled for regularization only from 01.04.2018, when admittedly he had completed five years of service.

14. Learned counsel for the respondents has submitted that since the petitioner was not working on sanctioned post, he is not entitled for any relief. However, the said contention has not been raised in the reply that the petitioner was not working against the sanctioned post and thus, the said plea cannot be accepted and the plea taken is only that he is serving on bill basis which has not been proved by any cogent material.

15. It is not disputed by the respondents that the petitioner is continuously discharging his duties since 01.09.2011 till date. If there was no post, he could not have been permitted to discharge his duties on the post of Chowkidar and thus, the petitioner cannot be denied the relief seeking regularization on the plea that there was no sanctioned post or he is working on monthly bill basis. The said action on the part of the respondents is arbitrary, discriminatory and violative of Article 14 of the Constitution of India.

16. Consequently, the present petition is allowed and the respondents are directed to regularize the services of the petitioner on the post of Chowkidar with effect from 01.04.2018 with all consequential benefits such as seniority, increments, promotion and other service benefits. The respondents are further directed to pay

the arrears to the petitioner within six months from today and in case the same are not paid to him, the respondents shall pay interest, than at the rate of 6% per annum from today till actual payment to him. No order as to costs. Pending application(s), if any, shall also stand disposed of.

29th September, 2026
(naveen)

(Jiya Lal Bhardwaj)
Judge