

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA.

CWP No. 2552 of 2018

Decided on: 11.09.2026

Prakash Chand

..... petitioner

Versus

H.P. Gramin Bank and another

.....respondents

Coram:

Hon'ble Mr. Justice Bipin Chander Negi, Judge

Whether approved for reporting? ¹

For the petitioner : Mr. Neel Kamal Sharma,
Advocate.

For the respondents : Ms. Devyani Sharma, Sr. Advocate,
with Mr. Anirudh Sharma and Ms.
Srishti Negi, Advocates.

Bipin Chander Negi, Judge (oral)

By way of the present petition, the petitioner seeks regularization of services from the date when other alleged similarly situated persons were regularized. It is averred in the petition that the petitioner was engaged by the respondent-Bank as a daily wage sweeper on 01.09.1988. The fact that the petitioner was engaged as a casual worker/sweeper in the Bank and EPF was being deducted insofar as the petitioner is concerned is evident from Annexures P-1 to P-3 appended with the writ petition (pages 12 to 14 of the paper book). Further in the petition it is alleged that the petitioner was initially posted at Branch office Pounta Sarkaghat, District Mandi. According to the petitioner at the time of joining, the petitioner was a middle pass.

¹ *Whether the reporters of the local papers may be allowed to see the judgment?*

During his career it is averred that, the petitioner improved his qualifications and obtained a Matriculation degree. According to the petitioner, on occasions he worked simultaneously in two branches at Pounta and Bhambla.

2. Other than the aforesaid, in the petition, in para 7, four individuals have been named, namely Nanak Chand, Joginder Kumar, Uttam Chand and Amar Singh. It is the specific case of the petitioner that the aforesaid individuals had been recruited as daily wage sweepers and their services have subsequently been regularized. Parity is being sought by the petitioner with the aforesaid individuals.

3. The remuneration being paid w.e.f 01.03.1999 at the main branch, Pounta, is evident from Annexure P-3 appended along with the present petition (page 19 of the paper book), i.e., letter dated 26.04.1999, wherefrom it is evident that while working in the main branch, a casual worker was being paid Rupees 400/- per month and in the extension counter at Bhambla, a sum of Rupees 300/- per month was being paid to a casual. The periodic revision of the wage rate of the casual worker/petitioner is evident from page 24 of the paper-book.

4. Besides the aforesaid, it is submitted that other than doing the work of a casual worker, the petitioner was also engaged in daily collection work. In order to demonstrate the same, attention of the Court has been invited to Annexure appended along with the present petition at page 20 of the paper

book, i.e., letter dated 09.08.1999, written to the Senior Manager, Staff Section, Head Office at Mandi. Response to the same is appended along with the petition at page 22, i.e., letter dated 27.08.1999, wherefrom it is evident that the request for enhancement of wages of the petitioner had been declined, as in the response it has been categorically mentioned that two messengers have already been posted in the branch at Pounta. Other than the aforesaid, in the petition, it has been alleged that the work of a clerk was taken from the petitioner and in this respect, he was working from 9:00 A.M. till 7:00 P.M. in the evening.

5. In the aforesaid backdrop, representations made by the petitioner for being regularized in the last quarter of 2017 have been placed on record as Annexures P-4 and P-5.

6. Per contra, learned counsel appearing on behalf of the respondent-Bank has invited the attention of this Court to Annexure R-A (page 46 of the paper book), i.e. HRD Circular 28/2017. The same deals with the issue of absorption of casual workers (performing sweeping work) in the existing vacancies of messengers in the Bank. From a perusal of the same, it is evident that appointment of staff in Regional Rural Banks is governed by Regional Rural Bank (Appointment and Promotion of Officers and Employees) Rules, 2010. As per the same sweepers engaged on contract basis or manual labour on job basis or floor basis did not form a part of the personnel of the Regional Rural Banks and

besides the aforesaid, there exists no provision for regularization of part-time/daily/casual workers in the Regional Rural Banks.

7. Other than the aforesaid, attention of this Court has been invited to notification dated 28th September, 1988 i.e Regional Rural Bank (Appointment and Promotion of officers and Employees) Rules, 1988 (Annexure R-B, running page 48 of the paper book). Attention of this Court has further specifically been invited to the Second Schedule thereof. In the Second Schedule, post of messengers (full-time/part-time), posts of sweepers (full-time/part-time) have been specified alongwith the source of recruitment and the qualifications/eligibility required.

8. The engagement of the petitioner on 01.09.1988 is admitted. The engagement of the petitioner in bank on daily wage basis is denied. It has been categorically averred in the reply that there exist no regular vacancies of sweepers in the respondent bank. The petitioner is stated to be engaged on a casual/part time /hourly basis in the bank and that the petitioner was working for less than 6 hours per week. In order to demonstrate the same, attention of the Court has been invited to Annexure R-C at page 57 of the paper-book, i.e., Staff Circular No. 37/2015. A perusal thereof reflects the sweeping charges payable to an employee engaged for less than 6 hours per week depending upon the category of branch engaged in. Provident fund was stated to be deducted in pursuance to circular No 4 of 1989 dated 14.03.1989 (Annexure R-D) however the same was stopped in accordance

with circular No 16 of 1991 dated 31.07.1991 (Annexure R-E). It has been categorically denied that neither the petitioner was doing any other work other than sweeping nor was the petitioner working in two places simultaneously i.e Pounta and Bhambla.

9. Other than the aforesaid, attention has been invited to staff circular No. 37/2015 dated 11.08.2015 (Annexure R-C page 57) whereby existing sweeping charges for less than six hours a week in vogue since October 2010 were revised w.e.f 01.01.2015. As per the same, in a Board meeting held on 03.08.2015, it had been decided that sweeping/cleaning and maintenance services shall be outsourced in future for all Head Office and Branch Offices in terms of Government of India instructions.

10. It is categorically stated that in the notification dated 20.9.1988, i.e. Annexure R-B, though the post of sweeper, daily-wager/part-time, had been included in the schedule appended thereto, however, in the Gramin Bank, State of Himachal Pradesh, no post of sweeper existed in the recruitment and promotion rules and sweeping services were being provided on a part time hourly basis. To demonstrate the same, attention of this Court has been invited to the staff strength as approved by the Board of Directors. Attention is specifically invited to page 123 of the paper book to demonstrate the staff strength for the year 1988, page 128 of the paper book to show the manpower for the years 1989-90, page 139/144 to demonstrate the staff strength for

the year 1990-1991, page 148 to depict the staff strength for the year 1992, and page 153 to show the staff strength for the year 1993. Conspicuous by absence therein is the post of a sweeper (full-time/part-time).

11. Other than the aforesaid, reference is made to Annexure R-L at page 196, i.e. Regional Rural Bank (Appointment and Promotion of Officers and Employees) Rules, 2010. The category of posts specified in Rule 3 primarily consists of group-A, group-B, group-C, and the Schedule thereto is appended at page 243 of the paper book. In the same, there exists no post of sweeper. Insofar as wages paid to casual workers/sweepers are concerned, qua the same, relevant Staff Circulars have been appended at pages 256 to 258. With respect to outsourcing of such workers, attention has been invited to Annexure R-P, page 276, relevant portion whereof is at page 281, i.e. Item 4.19 Serial No.15 thereof.

12. Insofar as the four individuals, namely Nanak Chand, Joginder Kumar, Uttam Chand and Amar Singh, alongwith the reply, their appointment and the subsequent promotion letters have been placed on record as Annexure R-F to R-J pages 61 to 92 of the paper book. From a perusal of the aforesaid annexures, it is evident that all of them were appointed as part-time messengers. In this respect, attention has been invited to the provisions of Annexure R-B, i.e. Notification dated 20.9.1988, i.e. Appointment and Promotion of Officers and Other Employees

Rules, 1988, wherein Schedule B, post of messenger, part-time and full-time, did exist. Their appointments were initially on a part-time basis.

13. Subsequent thereto, the aforesaid individuals were approved as full-time messengers. Subsequent thereto promoted as office attendants and thereafter promoted as office assistants. Attention of this Court has also been invited to R-Q to show that the services for sweeping the Bank premises were sought to be outsourced and, in furtherance thereof, tender notice has been issued (page 287 dated 17.01.2019). In pursuance thereof, in certain branches wherein services were sought to be outsourced, individuals had approached this Court, vide interim order dated 29.03.2018, passed in CWP No. 613 of 2019, status-quo had been ordered. Insofar as the representation made by the petitioner was concerned, in response thereto, attention of this Court has been invited to Annexure R-T, page 299, wherein the issue of regularization of casual/daily-wage basis employees has been discussed at length with all stakeholders. It has been held that there is no provision for regularization. Besides in the reply filed to the writ petition, it has been categorically averred that the representations in the case at hand have been filed with the sole intent of filing the present petition as the same have been filed just prior to the filing of the present petition.

14. In rebuttal in order to demonstrate that the deposits were made by the petitioner on behalf of the respondent-Bank,

Annexure A-5 colly, i.e. the statement of account from the Punjab National Bank of the M/s Himachal Gramin Bank, Bhamla Branch of the respondent, has been placed on record (page 330 of the paper-book). Suffice it to state that the same has not been duly certified under the Bankers Books of Evidence.

15. Other than the aforesaid, an isolated certificate from the Branch Manager, dated 7.11.2008, has been placed on record as Annexure-A-3, (page 326-27 of the paper-book) wherein it was stated that the some collection had been made by the petitioner as its official representative. However, no official correspondence assigning such work to the petitioner has been placed on record.

16. Learned counsel appearing on behalf of the respondent submits that the documents A-3 and A-5 have no relevance to the controversy in the case at hand. Other than the aforesaid, it is contended on behalf of the respondent-Bank that the same raise highly disputed questions of fact which cannot be decided in a writ petition.

17. Other than the aforesaid, it is submitted that work of collection/deposit, if any, was done by the petitioner of his own free will/volition in order to help his other colleagues working in the Bank and for the same the Bank cannot be fastened with liability to pay. Moreover, for doing the same, there is no legal, valid, authorization of any official in the concerned Bank. Further

it is pointed out that the recommendation made at page 323 is qua enhancement of wage, paid to casual workers.

18. Heard counsel for the parties and perused the pleadings.

19. As per the settled preposition of law, the regularisation can be only as per the regularisation policy declared by the employer/respondent-Bank in the case at hand and nobody can claim regularisation as a matter of right dehors a regularisation policy. (see ***Union of India v. Ilmo Devi, (2021) 20 SCC 290, at page 302***) Admittedly in the case at hand there is no policy for regularisation on the basis of which the petitioner in the case at hand can sustain a claim/right for regularisation. The issue of regularization of casual/daily-wage employees in the case at hand has been discussed at length with all stakeholders in Annexure R-T, page 299 wherein it has been held that there is no provision for regularization. The same is also evident from Annexure R-A (page 46 of the paper book), i.e. HRD Circular 28/2017.

20. Nanak Chand, Joginder Kumar, Uttam Chand and Amar Singh, were appointed as part-time messengers (Annexure R-F to R-J pages 61 to 92 of the paper book) against posts mentioned in Appointment and Promotion of Officers and Other Employees Rules, 1988, Schedule B therein which provided for post of messenger, part-time and full-time (Annexure R-B, i.e. Notification dated 20.9.1988). Subsequent thereto, the aforesaid

individuals were approved as full-time messengers (page 78 of the paper-book), subsequent thereto promoted as office attendants and thereafter promoted as office assistants.

21. From the staff strength as approved by the Board of Directors details whereof have been given in paragraph 10 supra, it is evident that in the respondent bank there were no sanctioned post of sweeper in the year 1988 when the services of the petitioner were engaged on a part time hourly basis. Record in this respect has been placed till 1993. This is despite the fact that in notification dated 28th September, 1988 i.e Regional Rural Bank (Appointment and Promotion of Officers and Employees) Rules, 1988 (Annexure R-B, running page 48 of the paper book) Second Schedule thereof provides for posts of sweepers (full-time/part-time) with the source of recruitment and the qualifications/eligibility required. Nothing has been placed on record to show that thereafter (1993) posts of sweeper had been created/sanctioned in the respondent bank. Rather to the contrary in the subsequent Regional Rural Bank (Appointment and Promotion of Officers and Employees) Rules, 2010 (Annexure R-L at page 197), there exist no post of sweeper. Staff Circulars qua wages paid to casual workers/sweepers at pages 256 to 258 are relevant as they provide a vital insight into the number of hours the petitioner works in a week.

22. In ***Union of India v. Ilmo Devi, (2021) 20 SCC 290***, the apex court has held that regularisation of employees working

on temporary status and/or casual labourers is a policy decision. The High Court, in exercise of the powers under Article 226 of the Constitution, cannot direct the respondent herein to formulate a particular regularisation policy. Besides status of permanency cannot be granted when there is no post. Regularisation of a part time worker cannot be granted as he is not working against a sanctioned post. Relevant extract whereof reads as under;

13......The High Court cannot, in exercise of the power under Article 226, issue a mandamus to direct the Department to sanction and create the posts. The High Court, in exercise of the powers under Article 226 of the Constitution, also cannot direct the Government and/or the Department to formulate a particular regularisation policy. Framing of any scheme is no function of the Court and is the sole prerogative of the Government. Even the creation and/or sanction of the posts is also the sole prerogative of the Government and the High Court, in exercise of the power under Article 226 of the Constitution, cannot issue mandamus and/or direct to create and sanction the posts.

14. Even the regularisation policy to regularise the services of the employees working on temporary status and/or casual labourers is a policy decision and in judicial review the Court cannot issue mandamus and/or issue mandatory directions to do so. In *R.S. Bhonde 2005(6) SCC 751*, it is observed and held by this Court that the status of permanency cannot be granted when there is no post. It is further observed that mere continuance every year of seasonal work during the period when work was available does not constitute a permanent status unless there exists a post and regularisation is done.

15. In *Daya Lal 2011(2) SCC 429* in para 12, it is observed and held as under : (SCC pp. 435-36)

“12. We may at the outset refer to the following well-settled principles relating to regularisation and parity in pay, relevant in the context of these appeals:

(i) The High Courts, in exercising power under Article 226 of the Constitution will not issue directions for regularisation, absorption or permanent continuance, unless the employees claiming regularisation had been appointed in pursuance of a regular recruitment in accordance with relevant rules in an open competitive process, against sanctioned vacant posts. The equality

clause contained in Articles 14 and 16 should be scrupulously followed and Courts should not issue a direction for regularisation of services of an employee which would be violative of the constitutional scheme. While something that is irregular for want of compliance with one of the elements in the process of selection which does not go to the root of the process, can be regularised, back door entries, appointments contrary to the constitutional scheme and/or appointment of ineligible candidates cannot be regularised.

(ii) Mere continuation of service by a temporary or ad hoc or daily-wage employee, under cover of some interim orders of the court, would not confer upon him any right to be absorbed into service, as such service would be "litigious employment". Even temporary, ad hoc or daily-wage service for a long number of years, let alone service for one or two years, will not entitle such employee to claim regularisation, if he is not working against a sanctioned post. Sympathy and sentiment cannot be grounds for passing any order of regularisation in the absence of a legal right.

(iii) Even where a scheme is formulated for regularisation with a cut-off date (that is a scheme providing that persons who had put in a specified number of years of service and continuing in employment as on the cut-off date), it is not possible to others who were appointed subsequent to the cut-off date, to claim or contend that the scheme should be applied to them by extending the cut-off date or seek a direction for framing of fresh schemes providing for successive cut-off dates.

(iv) Part-time employees are not entitled to seek regularisation as they are not working against any sanctioned posts. There cannot be a direction for absorption, regularisation or permanent continuance of part-time temporary employees.

(v) Part-time temporary employees in Government-run institutions cannot claim parity in salary with regular employees of the Government on the principle of equal pay for equal work. Nor can employees in private employment, even if serving full time, seek parity in salary with government employees. The right to claim a particular salary against the State must arise under a contract or under a statute.

[See *State of Karnataka v. Umadevi* (3) 2006(4) SCC1, *M. Raja v. CEERI Educational Society* 2006(12) SCC 636, *S.C. Chandra v. State of Jharkhand* 2007(8) SCC 279, *Kurukshetra Central Coop. Bank Ltd. v. Mehar*

Chand 2007(15) SCC 680 and Official Liquidator v. Dayanand 2008(10) SCC1.]”

16. Thus, as per the law laid down by this Court in the aforesaid decisions part-time employees are not entitled to seek regularisation as they are not working against any sanctioned post and there cannot be any permanent continuance of part-time temporary employees as held. Part-time temporary employees in a Government run institution cannot claim parity in salary with regular employees of the Government on the principle of equal pay for equal work.

23. Once when the petitioner in the case at hand has been held to be working as a part time worker on hourly basis not against any sanctioned post, than in the aforesaid legal matrix (***Union of India v. Ilmo Devi***) the petitioner in the case at hand on this count also cannot claim regularisation. Once the essence of the employment in the case at hand has been considered to be purely “part time” on an hourly basis reliance placed on judgement titled ***Jaggo vs Union Of India and others dated 20.12.2024 SLP(C) 5588 of 2024*** would be of no avail as the nomenclature “part time” used to describe the nature of employment of the petitioner in the case at hand is valid, legal and has a basis/is justifiable(reason based) .

24. There is an exception to the general principles against “regularisation” enunciated in ***Umadevi (3) 2006(4) SCC1***, i.e appointment of an employee should not be illegal example, where the appointment is not made or continued against sanctioned post, than the appointment would be illegal. In this respect reference can be made to ***State of Karnataka v.***

M.L. Kesari, (2010) 9 SCC 247, relevant extract whereof reads as under;

(i) The employee concerned should have worked for 10 years or more in duly sanctioned post without the benefit or protection of the interim order of any court or tribunal. In other words, the State Government or its instrumentality should have employed the employee and continued him in service voluntarily and continuously for more than ten years.

(ii) The appointment of such employee should not be illegal, even if irregular. Where the appointments are not made or continued against sanctioned posts or where the persons appointed do not possess the prescribed minimum qualifications, the appointments will be considered to be illegal. But where the person employed possessed the prescribed qualifications and was working against sanctioned posts, but had been selected without undergoing the process of open competitive selection, such appointments are considered to be irregular.

25. In the case at hand as has already been stated supra, the continuance of the petitioner is not against a sanctioned post. Hence the appointment of the petitioner cannot be termed to be irregular warranting regularisation.

26. The four individuals, namely Nanak Chand, Joginder Kumar, Uttam Chand and Amar Singh, with whom the petitioner was seeking parity were initially appointed as part-time messengers subsequently approved as full-time messengers (page 48 of the paper-book) a post both part time/full time provided for in the Notification dated 20.9.1988, i.e. Appointment and Promotion of Officers and Other Employees Rules, 1988, Schedule B therein and even provided for in the sanctioned strength of the respondent-bank, whereas the petitioner was engaged as a part time sweeper, hence parity claimed by the

petitioner is mis-placed. For necessary details see paragraphs 12 and 13 supra.

27. Claims made by the petitioner with respect to additional work done is a highly disputed question of fact which cannot be examined in a proceedings under Article 226 of the Constitution of India. In this respect reference can be made to ***U.P. State Bridge Corpn. Ltd. v. U.P. Rajya Setu Nigam S. Karamchari Sangh, (2004) 4 SCC 268*** wherein the nature of the employment of the workmen was in dispute and hence the apex court was of the view that the extraordinary jurisdiction under Article 226 should not have been exercised by the High Court . Relevant extract whereof reads as under;

14. Finally, it is an established practice that the Court exercising extraordinary jurisdiction under Article 226 should have refused to do so where there are disputed questions of fact. In the present case, the nature of the employment of the workmen was in dispute. According to the appellant, the workmen had been appointed in connection with a particular project and there was no question of absorbing them or their continuing in service once the project was completed. Admittedly, when the matter was pending before the High Court, there were 29 such projects under execution or awarded. According to the respondent workmen, they were appointed as regular employees and they cited orders by which some of them were transferred to various projects at various places. In answer to this the appellants said that although the appellant Corporation tried to accommodate as many daily-wagers as they could in any new project, they were always under compulsion to engage local people of the locality where work was awarded. There was as such no question of transfer of any workman from one project to another. This was an issue which should have been resolved on the basis of evidence led. The Division Bench erred in rejecting the appellant's submission summarily as also in placing the onus on the appellant to produce the appointment letters of the respondent workmen.

For the aforesaid reasons the petition being devoid of merit is dismissed, so also pending applications if any.

(Bipin Chander Negi)
Judge

11th September, 2026
Tarun Singh