

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

CWP No.3037 of 2019

Decided on 20th June, 2026

Raj Kumar and another

...Petitioners

Versus

State of Himachal Pradesh and others

...Respondents

Coram

Hon'ble Mr. Justice Ajay Mohan Goel, Judge

¹Whether approved for reporting? Yes

For the petitioners: Mr. Devender Kumar, Advocate.

**For the respondents: Mr. Pushpinder Jaswal, Additional
Advocate General, for respondents
No.1 to 3.**

**Mr. Arun Kumar, Advocate, vice Mr.
Lokender Paul Thakur, Senior Panel
Counsel for respondent No.4.**

Ajay Mohan Goel, Judge (Oral)

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

"i) That Annexure P-4 dated 13.05.2019 may kindly be quashed and set aside. The respondent may kindly be directed include the name of the petitioners for allotment of GPF number and after allotment of GPF numbers the case of the petitioners may ordered to be considered for grant of pension and other pensionary benefits such as death-cum-retirement gratuity and leave encashment.

ii) That the instruction if any issued by Finance Department in his regard may kindly be declared as null and void against the law.”

2. The petitioners are aggrieved by order dated 13.05.2019, Annexure P-4, in terms whereof, their request for being considered as eligible under the CCS (Pension) Rules, 1972 for the grant of pension and other benefits has been rejected on the ground that the benefits of the 1972 Rules and General Provident Fund Rules were inapplicable to all the appointments made in the Government Departments on or after 15.05.2003.

3. Learned counsel for the petitioners submitted that the impugned order is not sustainable in the eyes of law. He submitted that the petitioners were engaged as Daily Wage Forest Workers in the year 1993 and 1991 respectively. He further submitted that though their services were regularized as Forest Workers w.e.f. 09.10.2007 and 31.03.2007 respectively, but, they were conferred work charge status w.e.f. 01.02.2003 and 01.04.2001. Learned counsel submitted that in the backdrop of this fact that the status of the petitioners was converted to work charge before 15.05.2003, the findings

returned by the Authority in the impugned order that, because, the petitioners were regularized after 15.05.2003, therefore, they are not covered under the 1972 Pension Rules or the General Provident Fund Rules, is not sustainable in law. He has drawn the attention of the Court to the judgment of the Hon'ble Coordinate Bench in CWP No.193 of 2024, titled Narender Kumar versus State of Himachal Pradesh and others, decided on 04.08.2026 and submitted that in this judgment the Hon'ble Coordinate Bench by placing reliance on one other judgment of the Hon'ble Coordinate Bench in CWP No.5323 of 2019, titled Viyas Dev versus State of Himachal Pradesh and others, decided on 14.12.2022 as also the judgment of the Hon'ble Supreme Court of India in Prem Singh versus State of Himachal Pradesh and others, (2019) 10 Supreme Court Cases, 516, has been pleased to hold that once work charge employment of a person is held liable to be counted for the grant of pensionary benefits as a natural corollary, such a person would be governed under the CCS Pension Rules, 1972 and Contributory Pension Scheme will not be applicable to him. He submits that in the light of the fact that

the work charge status stood conferred upon the petitioners w.e.f. 01.02.2003 and 01.04.2001 i.e. much before the cut of date of 15.05.2003, they have a right to be governed under the CCS Pension Rules, 1972. Accordingly, he prayed that the present petition be allowed by quashing the impugned order and by directing the respondents to treat the petitioners eligible to receive pension under the 1972 Pension Rules.

4. On the other hand, learned Additional Advocate General submitted that in the present case as the services of the petitioners were regularized after the cut of date of 15.05.2003 in the year 2007, therefore, the Authority rightly rejected their representations. He submitted that the petitioners became employees of the State Government only once their services were regularized and as the regularization was after 15.05.2003, therefore, they are not covered under the 1972 Pension Rules. Thus, he argued that as there is not merit in the petition, the same be dismissed.

5. Having heard learned counsel for the parties and having perused the pleadings as well as documents on record as also the judgment of the Hon'ble Coordinate Bench in

Narender Kumar versus State of Himachal Pradesh and others (supra), this Court is of the considered view that the present petition deserves to be allowed.

6. The impugned order has been passed by the Authority by holding the petitioners to be disentitled to be covered under the 1972 Pension Rules on the analogy that, because, their services were regularized after 15.05.2003, therefore, as anyone engaged after 15.05.2003 was not to be covered under the 1972 Rules, the petitioners were not entitled to be covered under the said Rules.

7. In the light of the fact that there are pronouncements of this Court to the effect that as work charge employment of a person is to be counted for the grant of pensionary benefits and further that in such a situation an incumbent shall be governed by the CCS Pension Rules, 1972, the impugned order is not sustainable.

8. This Court would like to clarify that in order to be covered under the CCS Pension Rules, 1972 what has to be demonstrated is that the work charge status stood conferred upon an employee before 15.05.2003. This according to this

Court would be prudent construction of the judgment being relied upon by learned counsel for the petitioners.

9. It is not the case of the respondents that the work charge status was conferred upon the petitioners after 15.05.2003. Admittedly, the work charge status was conferred upon the petitioners on 01.02.2003 and 01.04.2001 i.e. before 15.05.2003 that is the cut of date. That being so, because, this period from 01.02.2003 and 01.04.2001, respectively has to be counted for the grant of pensionary benefits by combining it with the regular service rendered by the petitioners, therefore, as the period which has to be taken into consideration for the purpose of grant of pension now precedes the cut of date of 15.05.2003 as it become 01.02.2003 in the case of petitioner No.1 and 01.04.2001 in the case of petitioner No.2, the impugned order is not sustainable.

10. Had the situation been otherwise, that is to say, had work charge status been conferred upon the petitioner after 15.05.2003, then, the things might have been different. However, at the cost of repetition, this Court states that because, the work charge status was conferred before

15.05.2003, therefore, the petitioners cannot be denied the benefit of the 1972 Pension Rules as well as other benefits, which accrue to those covered under the said Rules.

11. Accordingly, in the light of the above discussion, this petition is allowed. Annexure P-4, dated 13.05.2019 is quashed and set aside and the respondents are directed to treat the petitioners as eligible under the CCS Pension Rules, 1972 for the grant of pension and other benefits.

12. Pending miscellaneous applications, if any, also stand disposed of.

(Ajay Mohan Goel)
Judge

June 20, 2026
(*Vinod*)