

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CWPOA No.518 of 2019
Decided on: 29.09.2026

Roop Lal (since deceased) through his LRs Nand Lal and others

...Petitioners

Versus

State of Himachal Pradesh and others

...Respondents

Coram

Hon'ble Mr. Justice Jiya Lal Bhardwaj, Judge

*Whether approved for reporting?*¹

For the petitioners: Mr. Rupesh Kumar and Mr. Shekhar Badola, Advocates.

For the respondents: Mr. R.P. Singh, Deputy Advocate General.

Jiya Lal Bhardwaj, Judge (Oral)

The original petitioner by way of present petition had prayed for the following substantive reliefs:-

- "i. That the office order dated 27-03-2014 at Annexure P-10 may kindly be quashed and set-aside, in the interest of justice.*
- ii. That the Petitioner may also kindly be held entitled for the regularisation as clerk/typist w.e.f. the date of completion of 10 years of daily waged services with all consequential benefits, in the interest of justice.*
- iii That the Petitioner may also kindly be held entitled for the difference in the wages of Forest Worker and typist from 05-08-1982 to 07-01-*

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

1989 against which he has actually worked, but was deprived of the wages of typist.”

2. The parties while adjudicating the claim are referred as they had originally instituted the petition.

3. The facts as borne out from the pleadings are that the petitioner was initially engaged as daily waged Typist/Clerk in Suket Forest Division, District Mandi (H.P.) on 05.08.1982 with the respondents-Department. Despite continuously and uninterruptedly working with the respondents, when his services were not regularized, he had approached the erstwhile Himachal Pradesh Administrative Tribunal (in short ‘the Tribunal’) by way of O.A. No. 1152 of 1992, wherein he had submitted that he is ready and willing to work as daily rated Typist in Forest Division Suket or Forest Circle Mandi, wherever, the job/work may be available. The original application preferred by him was disposed of on 28.09.1992 with a direction to the respondents not to terminate his services and permit him to continue as daily rated Typist in Suket Forest Division or Forest Mandi Circle, wherever the work may be available. After the decision passed by the Tribunal, respondent No.2 had passed an order on 05.10.1994 (Annexure P-3) and the

petitioner was allowed to draw wages as daily rated Typist/Worker since 05.08.1982 from time to time on the analogy of similar case decided by the Tribunal. The petitioner thereafter had made the representation to regularize his services as a Clerk, however, when no decision was taken, the petitioner had approached this Court by way of CWP No.8771 of 2013-H, titled, **Roop Lal vs. State of Himachal Pradesh and others** which was disposed of on 20.11.2013 as not pressed, but a prayer was made to make a representation to the competent authority to bring out his grievances, which shall be decided in accordance with law. This Court had directed that in case any request is made by the petitioner and received by the appropriate authority, the same shall be considered on merits in accordance with law, within a period of four weeks from the date of receipt thereof.

4. After the decision passed by this Court, the petitioner had made the representation dated 16.12.2013 claiming his regularization as Clerk with effect from the date of completion of 10 years of daily wage service with all consequential benefits. Respondent No.2 as per communication dated 07.02.2014 had written to respondent

No.1 to consider the representation made by the petitioner at Government level and suitable direction/decision be conveyed. After receipt of directions from respondent No.1, respondent No.2 has rejected the claim of the petitioner vide order dated 27.03.2014 (Annexure P-10) on the ground that respondent No.1 has intimated that the matter has been examined and observed that there is no merit in the case.

5. The petitioner feeling aggrieved by the rejection of his claim to regularize his services as Clerk has approached this Court *inter alia* on the ground that despite recommendation made by respondent No.2 for regularizing his services as Clerk/Typist w.e.f. 01.01.2004, respondent No.1 has arbitrarily rejected his claim, which is highly arbitrary and unsustainable in the eyes of law. It has also been averred in the petition that nine counterparts of the petitioner were regularized as Clerk from the year 1995, but the petitioner has arbitrarily been ignored for regularization as Clerk/Typist. It has also been averred that the respondents have given discriminatory treatment to the petitioner, which is violative of the mandate enshrined in Part-III of the Constitution of India. There is also utter violation of principles of service jurisprudence and thus

prayed that the office order dated 27.03.2014 (Annexure P-10) passed by respondent No.2 be quashed and set aside and the claim of the petitioner for regularization as Clerk/Typist with effect from the date of completion of 10 years of daily waged service with all consequential benefits be granted in his favour.

6. The respondents filed reply to the petition and in preliminary submissions averred that the petitioner was engaged as an unskilled daily wage worker w.e.f. 05.08.1982 and worked continuously till his regularization in January, 1998. He was not engaged as a daily waged Typist/Clerk in the respondents-Department. The wages admissible to the petitioner as fixed by the Government from time to time stand paid to him. The case of the petitioner was recommended by respondent No.3 vide memo dated 23.03.1987 to the Conservator of Forests, Mandi for considering him for regularization as Clerk, but the same was rejected on the ground that the selection to the post of Clerk does not fall within the competency of Conservator of Forests, Mandi. The case of the petitioner was sent to the Government by respondent No.2 vide letter dated 08.12.1995 for regularization as a Typist, but the approval

was not conveyed. The Government had conveyed its approval for regularization of services as daily waged workers who had completed 10 years or more of continuous service with minimum 240 days in each calendar year upto 1997. The services of the petitioner along with other eligible daily waged workers were considered for regularization by the Department and he was offered appointment as Forest Worker on regular basis, which he accepted without any protest. The petitioner has been granted the work charge status w.e.f. 01.01.1994 and accordingly the pay fixation benefit has also been given to him with effect from 01.01.1994. The petitioner had expired on 08.09.2014 and keeping in view the above facts the petition be dismissed.

7. On merits, it has been admitted that the petitioner was matriculate and 50% handicapped. It has not been denied that the petitioner had earlier filed original application before the Tribunal and thereafter the writ petition was transferred to this Court. It has also been mentioned that the petitioner had filed CWP No.411 of 1989 for grant of increased wages or daily wage regularization of services, which was decided on 29.11.1994, wherein it was ordered to grant him the increased wages of daily waged

Clerk as fixed by the Government from time to time, which stands paid to him from 01.08.1989 i.e. from the date of filing of the petition till his regularization after obtaining the approval of respondent No.2 on the analogy of similar case OA No. 892 of 1995, titled, **Parvati Rana vs. State of H.P.** decided by the Tribunal. The case of the petitioner was sent to Government for regularization as a Typist, but the approval for regularizing him against the post of Typist was not received. In the meantime, the Government had conveyed its approval for regularization of services of daily waged workers during December, 1997, who had completed 10 years or more continuous service with minimum 240 days in each calendar year upto 1997. The services of the petitioner along with other eligible daily waged workers were considered for regularization and he was offered appointment as Forest Worker on regular basis. The petitioner has been paid the wages of Typist/Clerk. The petitioner had previously filed CWP No.8771 of 2013, titled, **Roop Lal vs. State of HP and others** in this Court for the same benefit, as claimed in the present petition. The petitioner was granted work charge status with effect from 01.01.1994. The order dated 27.03.2014 passed by

respondent No.2 is based on facts and may not be quashed and set aside and thus, prayed for dismissal of the writ petition.

8. The petitioner after institution of the writ petition had died on 08.09.2014 and his mother was ordered to be substituted in his place. Unfortunately, she also died during the pendency of the petition and now her LRs have been brought on record who are the brothers and sisters of the petitioner.

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

10. Respondent No.2 before passing the impugned order dated 27.03.2014 (Annexure P-10) had written to respondent No.1 vide letter dated 07.02.2014 (Annexure P-9), wherein it was specifically mentioned that as per record available with the office, the case of the petitioner for regularization was sent to Administrative Department vide office letter dated 08.12.1995. There seems no document in the file which may speak as to why the petitioner was given the offer of Forest Worker instead of Typist/Clerk. Despite the said fact, the claim raised by the petitioner has been rejected by respondent No.2 as per the opinion expressed by

respondent No.1. Once respondent No.2 had specifically mentioned that the name of the petitioner was sent for regularizing him as a Typist/Clerk and the approval for regularization against the post was not received, the claim raised by the petitioner could not have been rejected by respondent No.2, simply on the basis of the advice received from respondent No.1. The case of the petitioner for regularization as Typist/Clerk was sent since he was discharging the duties as Typist/Clerk

11. The respondents even while filing reply to the petition have not disputed the fact that the petitioner had been paid the wages of the post of Typist/Clerk. It has also not been disputed that the petitioner had earlier approached the Tribunal by way of original application in the year 1992, when a direction was given not to terminate his services and permit him to continue as daily rated Typist in Forest Division Suket or Forest Circle Mandi in view of the fact that he was working as daily rated Typist since 05.08.1982 for the last more than 10 years. Once the said order passed by the Tribunal was not challenged by the respondents and further, he was allowed to continue as daily rated Typist, there was no occasion for the respondents to regularize his

services, subsequently as a Forest Worker on 12.01.1998.

12. The petitioner had earlier approached this Court even during the year 2013 seeking direction for regularizing his services as Clerk w.e.f. the date of completion of 10 years of daily wage services with all consequential benefits. It is not the case of the respondents that petitioner did not perform the duties on the post of Typist/Clerk, rather the respondents have admitted even in reply that in the year 1995, the claim of the petitioner was forwarded to the Government by respondent No.2 for regularizing his services as a Typist/Clerk, but the approval was not conveyed. The plea taken by the respondents in reply that the selection to the post of Clerk does not fall within the competency of Conservator of Forests, rather it is made by Himachal Pradesh Public Service Commission cannot be accepted, especially when the Tribunal had directed the respondents to not terminate his services and permit him to continue as daily rated Typist, which fact has not been denied by the respondents.

13. Respondent No.2 has not applied his independent mind while rejecting the claim of the petitioner and it has been based on the opinion expressed by respondent No.1

conveyed vide letter dated 07.02.2014, when it was intimated that the matter was examined and it was observed that there is absolutely no merit in the case of the petitioner, and the same was rejected. Respondents have not disputed the fact that the petitioner had been working on the post of Typist/Clerk and in such circumstances, the petitioner is entitled for regularization of his services on the post of Clerk/Typist w.e.f. 12.01.1998 when he was appointed as Forest Worker, with all consequential benefits.

14. The plea taken by respondent No.2 while rejecting the claim of the petitioner that the petitioner accepted his appointment as Forest Worker without any protest and joined his duties as Forest Worker on 12.01.1998 is of no relevance for the reason that the petitioner whose services were not being regularized had no option except to join the post as a Forest Worker, though admittedly he was discharging the duties on the post of Typist/Clerk, which fact has neither been denied by the respondents while rejecting the claim of the petitioner nor while filing reply to the petition. It is also settled law that the employee who is seeking appointment or regularization has no bargaining power and the respondents cannot take advantage of the

fact that once the petitioner accepted the post as Forest Worker without any protest, he is not entitled to the relief claimed in the petition.

15. This Court has though held that the petitioner is entitled for regularizing his service w.e.f. 12.01.1998, but since the claim came to be rejected only on 27.03.2014 and he had instituted the instant petition in the year 2014, he is held entitled to the arrears only from three years prior to the institution of the present petition in view of the judgment passed by the Hon'ble Supreme Court in ***Union of India and others vs. Tarsem Singh***, (2008) 8 SCC 648. The relevant para of the judgment reads as under:-

"7. To summarise, normally, a belated service related claim will be rejected on the ground of delay and laches (where remedy is sought by filing a writ petition) or limitation (where remedy is sought by an application to the Administrative Tribunal). One of the exceptions to the said rule is cases relating to a continuing wrong. Where a service related claim is based on a continuing wrong, relief can be granted even if there is a long delay in seeking remedy, with reference to the date on which the continuing wrong commenced, if such continuing wrong creates a continuing source of injury. But there is an exception to the exception. If the grievance is in respect of any order or administrative decision which related to or affected several others also, and if the reopening of the issue would affect the settled rights of third parties, then the claim will not be entertained. For example, if the issue relates to payment or refixation of pay or pension, relief may be granted in spite of delay

as it does not affect the rights of third parties. But if the claim involved issues relating to seniority or promotion, etc., affecting others, delay would render the claim stale and doctrine of laches/limitation will be applied. Insofar as the consequential relief of recovery of arrears for a past period is concerned, the principles relating to recurring/successive wrongs will apply. As a consequence, the High Courts will restrict the consequential relief relating to arrears normally to a period of three years prior to the date of filing of the writ petition."

16. Consequently, the present petition is allowed and the order dated 27.03.2014 (Annexure P-10) is quashed and set aside and the respondents are directed to regularize the services of the petitioner as Clerk/Typist w.e.f. 12.01.1998 with all consequential benefits, except monetary benefits which shall be paid to him only from three years prior to the date of filing the present petition. Since the original petitioner had died, the respondents are directed to release the benefits in favour of the legal representatives of the petitioner who have been substituted in his place, who are the brothers and sisters of the petitioner. In case the arrears after regularization are not paid to the legal representatives of the petitioner within six months from today, the respondents shall also pay interest thereon @6% per annum from today till actual payment. No order as to costs. Pending

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

29th September, 2026

(Anurag)

**(Jiya Lal Bhardwaj)
Judge**