

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

CWPOA No.820 of 2019
Decided on: 15.09.2026

Lok Raj

.....Petitioner

Versus

State of Himachal Pradesh and others

....Respondents

Coram

Hon'ble Mr. Justice Ranjan Sharma, Judge

¹ *Whether approved for reporting?*

For the petitioner: Mr. Chandranarayana Singh; Mr. Jagat Narayana Singh; and Mr. Anshul Gandhi, Advocates.

For the respondents: Mr. Vishav Deep Sharma, Additional Advocate General.

Ranjan Sharma, Judge

Petitioner-Lok Raj, filed CWP No.2844 of 2012, before this Court, which on establishment of Himachal Pradesh Administrative Tribunal stood transferred to the said Tribunal and thereafter on abolition of Tribunal, the matter stood transferred to this Court as CWPOA No.820 of 2019, seeking the following reliefs:-

- “10 (i) Issue writ of mandamus for direction to the respondent-department to consider the case of the petitioner for grant of work charge status after completion of 10 years of regular daily wage service w.e.f. 1.1.2001 in term of law laid down by Hon'ble Apex Court in Mool Raj Uppadhaya Case (1994 Supp. (2) SCC 316) with all consequential benefits.

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

- (ii) Issue a writ of mandamus for direction to respondents department to consider the case of petitioner for regularization after completion of 10 years of regular daily age service on the post of Beldar/Chowkidar.”

FACTUAL MATRIX:

2. Case set up by Learned Counsel is that the petitioner was engaged as daily wage *Beldar* in 1991 in Himachal Pradesh Public Works Department at Division Karsog in District Mandi and as per *Man-days Chart*, the petitioner has rendered continuous service with 240 days in each calendar year from 1991 till 2006. It is averred that the petitioner was regularized on 31.12.2006. Claim of the petitioner is that in terms of the mandate of the Hon’ble Supreme Court in the case of ***Mool Raj Upadhyaya Versus State of H.P. and others, 1994 Supp (2) SCC 316***, the petitioner is entitled for conferment of work charge status from the date of completion of 10 years of continuous daily wage service, with the prayer to direct the respondents to grant said work charge status with all consequential benefits.

3. Upon issuance of notice on 03.05.2012, respondents were directed to file Reply-Affidavit. Thereafter, the matter was listed on 10.07.2020 and upon listing of the matter, today, no reply has been filed, as yet.

4. Heard, Mr. Chandranarayana Singh; Mr. Jagat Narayana Singh; and Mr. Anshul Gandhi, Advocates, for the petitioner and Mr. Vishav Deep Sharma, Learned Additional Advocate General, for the respondents.

ANALYSIS:

5. Keeping in view the nature of relief/claim of the petitioner for work charge status, which is no longer *res integra*, the same is accepted, *for the following reasons:-*

5(i). For appreciating the claim, reference is made to the judgment passed by the Hon'ble Supreme Court in the case of ***Mool Raj Upadhyaya [supra]***, entitling the daily wagers for work charge status [who were engaged prior to 31.12.1993 or had completed continuous service "with 240 days during the year 1993 i.e. prior to 31.12.1993" for work charge status from the date they complete 10 years of continuous daily wage service, *in the following terms:-*

"4. Taking into consideration the facts and circumstances of the case, we modify the said scheme by substituting paragraphs 1 to 4 of the same by the following paragraphs:

"(1) Daily-wage/muster-roll workers, whether skilled or unskilled, who have completed 10 years or more of continuous service with a minimum of 240 days in a calendar year on 31-12-1993, shall be appointed as

work-charged employees with effect from 1-1-1994 and shall be put in the time-scale of pay applicable to the corresponding lowest grade in the Government;

- (2) daily-wage/muster-roll workers, whether skilled or unskilled, who have not completed 10 years of continuous service with a minimum of 240 days in a calendar year on 31-12-1993, **shall be appointed as work-charged employees with effect from the date they complete the said period of 10 years of service** and on such appointment they shall be put in the time-scale of pay applicable to the lowest grade in the Government;
- (3) daily-wage/muster-roll workers, whether skilled or unskilled who have not completed 10 years of service with a minimum of 240 days in a calendar year on 31-12-1993, shall be paid daily wages at the rates prescribed by the Government of Himachal Pradesh from time to time for daily-wage employees falling in Class III and Class IV till they are appointed as work-charged employees in accordance with paragraph 2;
- (4) daily-wage/muster-roll workers shall be regularised in a phased manner on the basis of seniority-cum-suitability including physical fitness. On regularisation they shall be put in the minimum of the time-scale payable to the corresponding lowest grade applicable to the Government and

would be entitled to all other benefits available to regular government servants of the corresponding grade."

5(ii). The above principle has also been followed by this Court in the case of ***Gauri Dutt & ors. Versus State of H.P., Latest HLJ 2008 (HP) 366***, entitling the daily wagers who were engaged and had rendered continuous service with 240 days, prior to 31.12.1993 for work charge status from the date they completed 10 years of continuous daily wage service, *in the following terms:-*

"By this judgment we are disposing of the aforesaid batch of writ petitions since the following common questions of law arise for decision in these petitions.

1. Whether the scheme of putting the workers on work charged basis as approved by the Apex Court in Mool Raj Upadhyaya's case is applicable to those daily waged employees who had not completed minimum of 240 days of service in a calendar year as on 31st December, 1993 ?
2. If the answer to the first question is in the negative, what will be the process of regularization of services of those employees who had not completed 240 days of service in a calendar year as on 31st December,

1993 or had joined service after 1st January, 1994 ?

3. Whether the scheme, as approved by the Apex Court, in Mool Raj Upadhaya's case, is only applicable to the employees of the Irrigation and Public Health Department and Public Works Department of the State of Himachal Pradesh or is applicable to all the daily rated employees working under the Government of H.P. ?
 4. Where if an employee has rendered service on daily waged basis on 2 separate posts in lower and higher scales, can the employee be given benefit of the service rendered by him in the lower scale and be regularized in the higher scale by combining the two services after 10 years ?
13. We have considered both the schemes and find that the dispute before the Apex Court was in respect of the employees who had joined services much before 31.12.1993. None of the schemes dealt with employees engaged thereafter, except that under para 4 of the scheme as amended general directions were issued for regularization of all daily waged muster roll workers in a phased manner. Para 1 of the approved scheme deals only with employees who had completed 10 years of service as on 31.12.1993. **Para 2 of the scheme deals**

with employees who had not completed 10 years of service as on 31.12.1993. However, we are of the firm opinion that para 2 relates only to employees who had at least served for one year prior to 31.12.1993. This scheme was a one time scheme dealing with employees who had rendered sufficient service upto 31.12.1993. We are not in agreement with the learned counsel for the employees that this scheme applies to daily waged employees engaged thereafter. The only portion of the scheme which may relate to such employees is para 4 which relates to regularization of all daily waged/muster roll workers. Paras 1 & 2 of the scheme relate to the workers specified in those paragraphs.

15. The scheme does not deal with future contingencies. We cannot read into the judgment of the Supreme Court or in the scheme as approved by the Supreme Court anything more than what is stated in it. As per our reading of the scheme the same only applies to employees who had either completed 10 years of continuous service as on 31.12.1993 or the employees who had rendered one or more years' of service, but had not completed 10 years of service as on 31.12.1993. This scheme does not apply to those employees who had not completed even one year of service as on 31.12.1993 or who were employed

thereafter. The first question is answered accordingly.

16. **Under para 4 of the scheme the State was under an obligation to regularize all daily waged/muster roll workers whether they had joined prior to 31.12.1993 or thereafter.** The State has framed a scheme in this behalf on 6th May, 2000. In our opinion those employees who are not governed by the direction given in Mool Raj Upadhyaya's case as set out by us above, shall be governed by the scheme of 2000. The second question is answered accordingly."

6. Based on the *Man-days Chart [Annexure P-1]*, which, in the absence of Reply, remains uncontroverted, this Court is of the considered view, that the case of the petitioner for conferment of work charge status is squarely covered by the judgment of Hon'ble Supreme Court in the case of **Mool Raj Upadhyaya [supra]** followed by this Court in the case of **Gauri Dutt [supra]** entitling the daily wage workers who have rendered continuous service with 240 days during the year 1993 on or before 13.12.1993 for work charge status from the date they complete 10 years of continuous daily wage service. Moreover, by applying the ratio, as outlined by the

Hon'ble Supreme Court in the case of ***Mool Raj Upadhyaya [supra]*** and followed by the Hon'ble Division Bench of this Court in the case of ***Gauri Dutt [supra]***, the petitioner is held entitled for conferment of work charge status from the date he completed 10 years of continuous service w.e.f. 01.01.2001.

6(i). *Notably*, since the petitioner is held entitled for work charge status, w.e.f. 01.01.2001, but he has filed the instant petition on 13.04.2012, therefore, in these circumstances, the entitlement for work charge status flowing from the mandate of law in the case of ***Mool Raj Upadhyaya [supra]***, cannot be denied, but actual monetary benefits can certainly be restricted or curtailed in view of the principle as laid down by the Hon'ble Supreme Court in ***Union of India versus Tarsem Singh, (2008) 8 SCC 648; Shiv Dass versus Union of India and Others (2007) 9 SCC 274; State of Madhya Pradesh and Others versus Yogendra Shrivastava, (2010) 12 SCC 538, Asger Ibrahim Amin Versus Life Insurance Corporation of India, (2016) 13 SCC 797; followed in Rushibhai Jagdish Chandra Pathak versus Bhavnagar Municipal Corporation, [2022 SCC Online SC 641].***

Resultantly, the petitioner shall be entitled for work charge status from the date he completed 10 years of continuous daily wage service w.e.f. 01.01.2001 “*notionally*”, but actual monetary benefits shall accrue to the petitioner for three years preceding the filing of the present writ petition on 13.04.2012, [w.e.f. 12.04.2009 and thereafter].

DIRECTIONS:

7. In view of above discussion and for the reasons recorded hereinabove, the instant petition is ***allowed, in the following terms:-***

- (i) State Authorities shall grant work charge status to the petitioner as *Beldar/Chowkidar [Class-IV]* from the date he completes 10 years of continuous service w.e.f. 01.01.2001 “*notionally*” with all consequential benefits;
- (ii) Upon grant of work charge status w.e.f. 01.01.2001 actual monetary benefits shall accrue to the petitioner w.e.f. 12.04.2009 [three years preceding the filing of instant petition on 13.04.2012] with all consequential benefits;
- (iii) Sequel to Directions (i) and (ii) above, benefits shall be released to the petitioner on or before **20.11.2026**; and
- (iv) Parties to bear their own costs.

In the aforesaid terms, the instant petition stands disposed alongwith all pending miscellaneous application(s), if any.

(Ranjan Sharma)
Judge

September 15, 2026
[Bhardwaj]