

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CWPOA No.1260 of 2019

Decided on: 17th September, 2026

Ramesh Chand

...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. Parav Sharma, Mr. Shekhar Badola and Ms. Srishti Ramesh, Advocates.

For the respondents:

Mr. Amandeep Sharma, Additional Advocate General, for respondents No.1 to 3-State.

Mr. Sparsh Bhushan, Advocate vice Mr. Rajesh Kumar, Advocate, for respondent No.4

Jiya Lal Bhardwaj, Judge (Oral)

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

"i. That the Respondents may very kindly be directed to grant whole time/daily waged status to the Petitioner as water carrier w.e.f. the date the Respondent No. 4, junior to the Petitioner, has been granted whole time/daily wager status i.e. August, 2012, with all consequential benefits, in the interest of justice.

ii. That the Respondents may further be directed to pay the difference in wages, as applicable from time to

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

time to his counterparts, w.e.f. 01/01/2008 onwards; whereby from 01/01/2008 till 29/02/2009 he has been paid Rs. 750 instead of Rs. 900; from 01/03/2009 to October, 2011 he was paid Rs. 1000 instead of Rs. 1450/- till July, 2010, Rs. 1680/- till April, 2011 and Rs. 1900/- till August, 2012; from November, 2011 to March, 2012 he was paid Rs. 1200/- instead of Rs. 1900; and from April, 2012 Rs. 1300 instead of Rs. 2400/-; alongwith arrears with penal interest, with all consequential benefits."

2. Shorn of unnecessary details, the key facts of the case are that the petitioner was initially appointed as Part Time Water Carrier (in short "PTWC") in the month of January, 1996, in Government Primary School, Ghaloan, Education Block Nadaun, District Hamirpur, H.P., through the Parents Teachers Association (in short "PTA"). In the year 1999, one Smt. Kesro Devi was appointed against his place and was relieved of his duties. Being aggrieved, the petitioner approached the Himachal Pradesh Administrative Tribunal (in short "the Tribunal") by way of O.A. No.2 of 1999, which was ordered to be treated as a representation to the respondents-State. The same came to be decided by respondent No.3 and the petitioner was offered the appointment as PTWC, vide office order dated 12.05.2005 and he joined his duties w.e.f. 16.05.2005. Thereafter, the petitioner filed another petition for regularizing his services

by taking into account his services from due date with all consequential benefits and for payment of salary as paid to Class-IV employees. The said petition was registered as CWP(T) No.13614 of 2008, titled, ***Ramesh Chand versus The State of Himachal Pradesh and others***, which was disposed of on 27.04.2010 with a direction to the respondents to consider the case of the petitioner for conversion of his appointment as PTWC into the one on Daily Wages, if otherwise found eligible, in accordance with the scheme. Further, it is directed that the petitioner shall also be paid the difference of wages, if any, to which, he is found entitled for the period w.e.f. 01.01.2008 onwards, in case he has not been paid full wages during that period along with interest @6% per annum.

3. In sequel to the directions given by this Court, respondent No.2 had passed an office order (Annexure P-2) holding that before appointment of the petitioner as PTWC on contract basis, vide office order dated 12.05.2005, under Rule 12 of the policy on fixed monthly honorarium of Rs.1,000/- per month, he had been serving as PTWC through PTA Committee, which was not competent to offer appointment as PTWC in GPS

as per the provisions of the policy of the Government for such appointments. Hence, the question of conversion of his appointment as PTWC into the one on daily wages does not arise at all, as there is no such provision in the policy under which he has initially been appointed. Moreover, his due honorarium of Rs.1,000/- per month is being paid to him as per the policy and there is no accrual of any arrears and interest thereupon, as per the provisions of the policy.

4. The petitioner has not challenged the said order passed by respondent No.2. However, his grievance in the present petition is that as per the tentative seniority list of PTWC, circulated vide letter dated 24.06.2011 (Annexure P-3), he was placed at Sr. No.288, whereas respondent No.4, was placed at Sr. No.418. Respondent No.4, who was junior to him, was made a Whole Time Water Carrier (in short "WTWC"), ignoring his preferential claim being senior and thus, he has been subjected to discriminatory treatment. It has further been averred that the respondents-State have adopted "pick and choose" policy for granting whole time status and the petitioner has been deprived of his due and legitimate claim, which

smacks of legal malafides and thus sought directions to the respondents to grant him whole time/daily wage status as Water Carrier w.e.f. the date respondent No.4, who was junior to him has been granted with all consequential benefits.

5. The respondents filed reply to the petition and averred that the petitioner is not entitled for any financial or other benefits as granted to respondent No.4 as he was appointed as PTWC on contract basis as per Scheme-2001, framed for the appointment of PTWC in the Elementary Education Department, whereas respondent No.4 was appointed under the policy of the Higher Education Department framed for the appointment of PTWC. The representation made by the petitioner has rightly been rejected vide Annexure P-2. As per the directions given by the Tribunal, the petitioner was appointed as PTWC on contract basis in Government Primary School, Chillian, Block Nadaun, District Hamirpur on 12.05.2005 under Rule-12 of the policy for appointment of PTWC on fixed monthly honorarium basis and he accepted his appointment by entering into contract with the Pradhan, Gram Panchayat concerned. Before his appointment as PTWC, he was serving through PTA, as such the PTA was not

competent to offer him the appointment as PTWC. Hence, the question of conversion of his appointment as PTWC into one on daily wages does not arise at all and further, the petitioner has been granted the due and admissible honorarium from time to time as per the policy and as such, a prayer has been made to dismiss the petition preferred by the petitioner.

6. The petitioner filed rejoinder to the reply filed by the respondents and placed on record the office order dated 30.08.2012, passed by respondent No.3, whereby respondent No. 4 was promoted to the post of Whole Time Contingent Paid (in short "WTCP") Class-IV employee on the recommendation of the Departmental Promotion Committee in the pay scale of Rs.2520/-+1260/-=Rs.3780/- + other usual allowances as admissible from time to time along with the other officials. The petitioner had also placed on record the final seniority list of PTWC employees up to 31.10.2012 and as per this seniority list, the petitioner was at Sr. No.221 and one Smt. Sunita Devi is at Sr. No.222. By virtue of the office order dated 30.08.2012, she was also promoted to the post as WTWC as per office order dated 30.08.2012.

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

8. This Court, vide order dated 15.10.2025, had directed the respondents to file a supplementary affidavit after taking note of the fact that respondent No.4, who was appointed after the petitioner, was promoted as WTCP, whereas the petitioner was denied the promotion.

9. In sequel to the directions given by this Court, the respondent-State has filed a supplementary affidavit and has not denied the fact that respondent No.4 was promoted as per office order dated 30.08.2012. The plea, which has been taken by the respondents in the supplementary affidavit is that respondent No.4 was appointed under the 1996 Scheme common for the Education Department (i.e. Primary and Secondary) in the year 2008 and thereafter he was governed by the 1996 Scheme and the subsequent directions issued by the Government applicable to the said scheme from time to time. The respondents have also taken a plea in the supplementary affidavit that the petitioner has not yet challenged the order,

whereby his claim was rejected vide Annexure P-2.

10. To adjudicate the dispute in the present lis, it is necessary to take note of the fact that the petitioner was offered the appointment as PTWC, vide office order dated 12.05.2005, and respondent No.4 was appointed to the same post on 18.03.2008, but in Higher Education of respondent No.1-State, which was subsequent to the petitioner. The plea taken by the respondents-State that since the petitioner and respondent No.4 were appointed under different schemes, the petitioner is not entitled to the relief, cannot be countenanced for the simple reason that both the petitioner and respondent No.4 had been working with the same Department of the respondents-State, may be in different wings of the Education Department, i.e. Elementary and Higher Education.

11. Learned Additional Advocate General for the respondents has vehemently argued that since respondent No.4 was appointed under a different scheme, he has rightly been promoted to the post of WTCP, cannot be accepted for the reason that admittedly the petitioner was appointed prior to

respondent No.4. In the tentative seniority list of PTCP as on 31.12.2010 (Annexure P-3), no doubt the petitioner has not placed on record the relevant page, where his position has been shown at Sr. No.288, but it has not been denied by the respondents that respondent No.4 was at Sr. No.418. Once the respondents had issued the common tentative seniority list of PTCP in District Hamirpur as on 31.12.2010 of both Elementary & Higher Departments of Education, the plea taken by the respondents-State that the petitioner was appointed in the Elementary Wing of the Education Department and is covered under a different policy, cannot be accepted. If it is accepted, it will amount to discrimination of similarly situate employees.

12. Not only this, even as per the combined final seniority list of PTWC of District Hamirpur as circulated vide letter dated 24.12.2012, as on 31.10.2012 (Annexure PR-2), one Smt. Sunita Devi has been shown at Sr. No.222, and the petitioner at Sr. No.221. However, the said lady was also promoted as WTCP Class-IV employee, as per office order dated 30.08.2012 (Annexure PR-1), which clearly shows that the

respondents have meted out discrimination against the petitioner and the respondents-State being a model employer has to treat its employees equally and cannot apply different yardsticks.

13. Learned Additional Advocate General vehemently argued that since the petitioner has not challenged the rejection order, whereby his claim was rejected for conversion of his status to that of a daily wager, he is not entitled to any relief. However, the said contention also deserves rejection for the reason that the petitioner is not claiming the conversion of his status to that of a daily wager, but seeking his promotion as a WTCP Class-IV employee, especially, when the junior to him has been promoted, as per office order dated 30.08.2012.

14. Learned counsel for the petitioner has submitted that the petitioner has not been paid the emoluments, as granted to other employees, but he could not substantiate the said submission either orally or through documentary evidence placed on record and, therefore, the said submission is rejected. However, the petitioner is held entitled to promotion to the post

of WTCP Class-IV employee from the date when respondent No.4 has been promoted to the said post as per office order dated 30.08.2012 (Annexure PR-1).

15. Learned counsel for respondent No.4 argued that since there is no fault on the part of respondent No.4, his benefits may not be disturbed. The said submission deserves to be accepted, but at the same time, once the petitioner was senior to respondent No.4, he is held entitled to the seniority above him.

16. Consequently, the present petition is allowed and the respondents are directed to promote the petitioner as Whole Time Contingent Paid Class-IV employee w.e.f. 30.08.2012, with all consequential benefits, such as seniority, increments, promotions and other service benefits and seniority be assigned to him above respondent No.4. The respondents are directed to pay the arrears to the petitioner within a period of six months from today and in case, the same are not paid within the aforesaid period, the petitioner shall be paid the same along with interest @6% per annum from today till actual

payment to him.

17. The petition is accordingly disposed of. No order as to costs. Pending application(s), if any, shall also stand disposed of.

17th September, 2026

(ankit)

**(Jiya Lal Bhardwaj)
Judge**