

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

**CWPOA No.1159 of 2019**  
**Decided on: 18.07.2026**

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Ganga Ram

...Petitioner

Versus

State of Himachal Pradesh and others

...Respondents

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*Coram*

**Hon'ble Mr. Justice Jiya Lal Bhardwaj, Judge**

*Whether approved for reporting?*<sup>1</sup>

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For the petitioner: Mr. B.K. Thakur, Advocate.

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

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**Jiya Lal Bhardwaj, Judge** (Oral)

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

- "a. Issue a writ of certiorari or any other appropriate writ or directionsto quash and set aside the impugned**Annexures P-7, P-8, P-9 and P-10.**
- b. That writ in the nature of mandamus may kindly be issued and the respondents may kindly be directed to consider the date of birth of the petitioner as per parivar register Nakali.e. 1.1.1949 and the Petitioner be orderedto retire accordingly."

2. The facts as emerge from the pleadings are that  
the petitioner was engaged on Daily Wage in the year 1980

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<sup>1</sup> Whether reporters of Local Papers may be allowed to see the judgment?

and thereafter, his services were regularized as Forest Worker, vide office order dated 03.02.1998 (Annexure P-1), w.e.f. 09.01.1998. At the time of regularization of his services, he had submitted his date of birth certificate as per Nakal Parivar Register issued by the Gram Panchayat, Bari Gumanu, showing his date of birth as 42 years in the year 1990 and on the basis of the said certificate, his date was determined as 01.01.1949, which was recorded in the service record. One Sh. Jagpal Thakur, son of Sh. Chet Ram Thakur, resident of village Dibhlu, P.O. Tarnoh, District Mandi, H.P., made a complaint on 31.12.2004 (Annexure P-2) to respondent No. 1, stating therein that the petitioner, who is working as a Chowkidar, in the Forest Check Post, Brindabani (Sauli Khad) Mandi Town, District Mandi, H.P., is born on 22.03.1942, as per the date of birth recorded in the school certificate issued by the Centre Head Teacher, Government Primary School, Saigaloo, Sub-Tehsil Kotli, District Mandi, H.P. and he should have retired from service on 22.03.2002. He further stated that the petitioner had given false affidavit regarding his date of birth in the Department, who is still continuing in service by playing fraud and misrepresentation. The copy of date of birth

certificate dated 25.08.2004, was also attached. On receipt of the complaint, a preliminary inquiry was conducted and thereafter, the petitioner was directed to explain his position, as per communication dated 18.01.2005 (Annexure P-4) and on receipt of the communication, the petitioner replied to the same stating that the complainant has wrongly mentioned his date of birth as 22.03.1942, on account of enmity and strained relations with him, because there is civil and criminal litigation with the brothers of his wife S/Shri Khem Singh and Hem Singh, regarding which, he can submit the documents. As per the entries in the Nakal Parivar Register, which the petitioner had already submitted, his date of birth has been mentioned as 1947. Not satisfied with the explanation furnished by the petitioner, a show cause notice dated 04.04.2005 (Annexure P-6), was issued to him as to why he should not be removed from service. The petitioner replied the said show cause notice on 16.04.2005. However, being dissatisfied with the reply, the memo of charges was issued to the petitioner on 23.04.2005 (Annexure P-7), along with articles of charge, and thereafter a regular enquiry was conducted and after receipt of the enquiry report, the petitioner was supplied

with the same and thereafter vide order dated 04.02.2006 (Annexure P-9), respondent No.4 dismissed the petitioner from service.

3. The petitioner aggrieved by the order of dismissal from service, preferred a statutory appeal, which came to be dismissed on 01.03.2007 by respondent No.3. Thereafter, he availed remedy of revision before respondent No.2, who vide order dated 10.06.2009 dismissed the same. The petitioner again preferred the appeal against the penalty of dismissal before respondent No.1 (Annexure P-12), who directed respondent No.4 to deal with the case of the petitioner in accordance with Rules 10 and 11 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965 (in short 'CCS (CCA) Rules'). Thereafter in supersession of earlier order dated 04.02.2006, respondent No.4 passed an order on 01.12.2010 (page No. 84), imposing penalty of dismissal from service on the petitioner w.e.f. 04.02.2006.

4. It is worth mentioning here that the petitioner instead of assailing the orders passed by the authorities, whereby he was dismissed from service, as evident from order dated 01.12.2010 passed by respondent No.4 (page

No.84), approached this Court by way of CWP No.7460 of 2011, titled, **Haru Ram and others vs. State of H.P.**, seeking conferment of work charge status on completion of 10 years of continuous service in terms of the judgment of the Hon'ble Supreme Court in **Mool Raj Upadhyaya vs. State of HP and others**, 1994 supp. (2) SCC 316, which petition was disposed of on 06.09.2011, with a direction to respondent No.2 that in case the petitioners file appropriate representation(s), he will look into the matter, verify the facts and pass appropriate orders thereon in accordance with law. After the direction issued by this Court on 06.09.2011, respondent No.2 passed an order on 14.11.2014 (Annexure P-13), whereby the petitioner was conferred the work charge status w.e.f. 01.01.1994.

5. After the conferment of the work charge status, the petitioner has instituted the present petition before this Court, laying challenge to the initial orders of penalty imposed upon him and not challenged order dated 01.12.2010. It has been averred in the petition that the allegations leveled against him that he produced a false certificate at the time of regularizing his services is wrong, because false documents have no legal sanctity, whereas

the petitioner submitted the copy of nakal parivar register nakal at the time of regularization of his services. The entry made in the school record regarding date of birth is not authenticated unless it is made in accordance with birth/death register or parivar register nakal, whereas the school leaving certificate submitted by the complainant is not based on any record. It has further been averred that as per school leaving certificate, the village of the petitioner has been mentioned as Bhalyatar whereas he is a resident of village Dibhlu and he did not furnish any documentary evidence that he was earlier resident of Bhalyatar village. It has also been averred that the Panchayat Secretary of Barigumanu Panchayat as third witness has stated that he has issued the nakal parivar register to the petitioner and same was entered in parivar register at Serial No.31 and thus prayed for quashing the impugned orders.

6. The respondents filed reply to the petition and did not dispute the fact that the petitioner was engaged as Daily Wage Mazdoor in Mandi Forest Division. It has also not been disputed that his services were regularized as Forest Worker w.e.f. 09.01.1998. It has been stated that the complaint was made against the petitioner and thereafter a

show cause notice was issued to him and after receipt of the reply, which was found unsatisfactory, the petitioner was charge sheeted vide memorandum dated 23.04.2005 and after receipt of reply to the charge sheet, an Enquiry Officer was appointed, who submitted his report. Keeping in view the enquiry report, the services of the petitioner were dismissed vide order dated 04.02.2006. The petitioner had filed the appeal, which was dismissed on 01.03.2007. The revision petition preferred by him was dismissed on 10.06.2009. Thereafter, the petitioner had filed an appeal before respondent No.1, who had directed respondent No.4 to deal with the case of the petitioner under Rule 10 and 11 of CCS (CCA) Rules, 1965 and thereafter the petitioner was dismissed from service, vide order dated 01.12.2010. It has also been averred that the petitioner had filed the writ petition mentioned above and direction given by the Court, was complied with and the petitioner was granted the work charge status w.e.f. 01.01.1994, but due to dismissal from service by DFO Mandi w.e.f. 04.02.2006, he is not entitled for any arrear.

7. The petitioner filed rejoinder to the reply and not disputed the order dated 01.12.2010 passed by respondent

No.4.

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

9. The petitioner has laid challenge to the order dated 04.02.2006, whereby he was dismissed from service by imposing major penalty. Against the said order, he preferred the statutory appeal which came to be dismissed on 01.03.2007 and revision petition filed by him was dismissed on 10.06.2009. Thereafter, he preferred an appeal against the penalty of dismissal from service before respondent No.1 on 21.06.2009, who had directed respondent No.4 to deal with the case of the petitioner as per Rules 10 and 11 of the CCS (CCA) Rules, 1965. Respondent No.4 thereafter passed an order on 01.12.2010 (page-84) taking note of the fact that the petitioner has been convicted in a criminal case for furnishing false certificate of his date of birth at the time of regularization of his daily waged services as Forest Worker and he had also concealed the facts/information mentioned in the offer issued by the appointing authority vide office memo No.7890 dated 08.01.1998 and after examining the case, the earlier order of dismissal of the petitioner on

04.02.2006 was amended and in exercise of the powers conferred by Rule 10 and 11 of the CCS (CCA) Rules, 1965, his services were dismissed from Government service by imposing major penalty w.e.f. 04.02.2006.

10. The petitioner after passing the order on 01.12.2010, did not approach this Court, rather he filed a writ petition seeking conferment of work charge status upon him and after the direction given by this Court, his claim was accepted vide order dated 14.11.2014. The petitioner, if aggrieved by the order dated 01.12.2010, whereby he was dismissed from service ought to have approached this Court within a reasonable time. It is not the case of the petitioner that he was not aware about the impugned order dated 01.12.2010, rather he has placed on record this order. Not only this, the petitioner in the present petition has also concealed the material facts regarding his conviction by the Court on the criminal charge of furnishing false certificate of date of birth certificate. Besides this, the petitioner has not challenged the order dated 01.12.2010, which was passed in supersession of earlier order dated 04.02.2006. Since the petitioner has not challenged the order dated 01.12.2010 passed by respondent No.4, no relief can be granted to him

in this petition.

11. Learned counsel for the petitioner has vehemently argued that since the petitioner has placed on record the said order, the Court can take cognizance of the same and to advance substantial justice can also quash the said order, as the orders under challenge passed by the Appellate Authority and Revisional Authority are without any reasons. However, the said contention cannot be accepted for the reason that this Court while exercising the extraordinary and equitable jurisdiction under Article 226 of the Constitution of India, is also under duty to firstly see that the order which is not challenged cannot be quashed by the Court at its own. Further the petitioner has concealed the material facts that he was convicted by the criminal Court. The litigant, who comes to the Court has to approach the Court with clean hands. Furthermore, the present petition has been instituted on 24.12.2014 and there is no explanation in the entire petition that why did he not approach the Court within a reasonable time.

12. The Hon'ble Supreme Court in ***Chennai Metropolitan Water Supply and Sewerage Board and others vs. T.T. Murali Babu***, (2014) 4 SCC 108, has held

that the Court at the time of adjudicating the claim cannot brush aside the delay in filing the petition.

13. As already observed above, firstly the petitioner did not come to the Court within a reasonable time; secondly, he has not laid challenge to the order dated 01.12.2010 passed by respondent No.4 who had imposed the penalty of dismissal of services of the petitioner; and thirdly, he has not approached the Court with clean hands since he did not disclose regarding his conviction by the criminal Court.

14. Consequently, in view of the above, the petition is dismissed on the ground of concealment of material facts and also on delay and laches. However, there shall be no order as to costs. Pending applications, if any, also stand disposed of.

**18<sup>th</sup> July, 2026**  
(Anurag)

**(Jiya Lal Bhardwaj)**  
**Judge**