

IN THE HIGH COURT OF HIMACHAL PRADESH
SHIMLA

CWPOA No: 1694 of 2019
Date of Decision: 21.09.2026

Kartar Singh

...Petitioner

Versus

State of Himachal Pradesh & others

...Respondents

Coram:
The Hon’ble Mr. Justice Ranjan Sharma, Judge.
Whether approved for reporting?¹ Yes.

For the petitioner : Mr. Ravinder Thakur, Advocate.

For the respondents : Mr. Sumit Sharma, Deputy
Advocate General.

Ranjan Sharma, Judge

Petitioner, Kartar Singh, had initially filed a CWP No. 7934 of 2013 and upon establishment of State Administrative Tribunal, the matter was transferred to the Tribunal; and upon its abolition, the same has been retransferred to this Court as CWPOA No. 1694 of 2019, seeking the following reliefs:

“That the respondents may be ordered to grant work charge status to the petitioner w.e.f. 01.01.1996 with all the benefits incidental thereof as has been

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

done in the case of other workmen and Annexure P-2 may be quashed/set aside.”

FACTUAL MATRIX:

2. Case as set-up, by Learned Counsel is that the petitioner was engaged in Sub Divisional Soil conservation Officer, Ghumarwin, District Bilaspur in Agriculture Department as a daily wager in 1985 and was regularized on 07.02.1998. It is averred that he filed a writ petition claiming work charge status from the date of completion of ten years of continuous service as daily wagers and this petition was disposed of on 23.08.2012 [Annexure P-1]. It is averred that pursuant to the above directions, claim of the petitioner for grant of work charge status was rejected on 06.12.2016 [Annexure P-2], on the ground, that, the Agriculture Department does not have a work charge establishment, whereas, the State Authorities have conferred the work charge status to daily wagers in other Government Departments from the date of completion of ten years of continuous daily wage service, whereas, the petitioner has been singled out and denied the benefit of work charge status from

the date of completion of ten years of continuous daily wage service with all consequential benefits.

STAND OF STATE AUTHORITIES:

3. Pursuant to the issuance of notice on 17.10.2013, State Authorities have filed the Reply Affidavit dated 20.11.2013, of Conservator of Director of Agriculture, Himachal Pradesh.

3 (i). Perusal of Reply Affidavit indicates that the petitioner has rendered daily wage service with 240 days in each calendar year from 21.08.1985 and he stands regularized on 07.02.1998 but the primary objection taken by State Authorities in not granting the work charge status to the petitioner is that the Agriculture Department does not have a work charge establishment and, therefore, the benefit of work charge status from the date of completion of ten years of continuous service w.e.f. 01.01.1996, cannot be granted to the petitioner coupled with the fact that the present writ petition was filed after thirteen years. In this backdrop, the claim was opposed.

4. Heard Mr. Ravinder Thakur, Advocate, for the petitioner and Mr. Sumit Sharma, Learned Deputy Advocate General, for the respondents.

**MANDATE OF LAW ON WORK CHARGED STATUS IN
TERMS OF MOOL RAJ UPADHAYAYA:**

5. Considering the above, Learned Counsel for the petitioner as well as State Counsel are *ad-idem* that relief claimed in instant petition, is no longer *res-integra*, in view of the mandate of the Hon'ble Supreme Court, entitling the daily wagers for work charge status from the date of completion of ten years of continuous daily waged service, in the case of **Mool Raj Upadhyaya vs. State of Himachal Pradesh 1994 Suppl. (2) SCC 316**, reads as under:-

"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 regularized in a phased manner** on the basis of seniority-cum-suitability including physical fitness. On regularization 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."

Right and entitlement of daily wagers who were engaged and had not rendered ten years of continuous service of 240 days as on 31.12.1993 but had rendered ten years of daily waged service on or after 01.01.1994 were to be granted the work charge status from the completion of ten years of continuous daily wage service, in terms of the mandate of the Hon'ble Supreme Court in the case of **Mool Raj Upadhyaya** [supra], as clarified by the Hon'ble Division Bench of this Court in the case of **Gauri Dutt & others vs. State of Himachal Pradesh**, 2008 (1) Latest HLJ 368, in following terms:-

12. The Apex Court did not accept the scheme as proposed by the State of Himachal Pradesh and modified it. Under Clause (1) of the scheme, as modified, all the employees who had completed 10 or more years of continuous service with a minimum of 240 days in a calendar year as on 31.12.1993 were to be appointed as work charged employees w.e.f. 1.1.1994. **Para 2 of the scheme, as approved by the Apex Court, provides that those who had not completed 10 years of continuous service as on 31.12.1993 shall be appointed as work charged on completion of said period of 10 years.** It is apparent from a reading of para 2 that para 2 contemplates that an employee to be covered under para 2 must

have completed at least one year i.e. 240 days of service prior to 31.12.1993. Para 3 of the scheme relates to the payment of wages with which we are not concerned. **Para 4 of the scheme, as modified by the Apex Court,** provides that regularization of daily paid/Muster Roll workers shall be done in a phased manner on the basis of seniority-cum-suitability. No further direction was issued by the Apex Court for granting work charged status to any other employees.

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."

ANALYSIS:

6. Considering the mandate of Hon'ble Supreme Court in the case of **Mool Raj Upadhyaya** [supra], which was followed and clarified by the Division Bench of this Court in the case of **Gauri Dutt** [supra], this Court, in facts of instance case is of the considered view, that once the petitioner had rendered continuous daily wage service with 240 days w.e.f. 21.08.1985/01.01.1986 and had completed ten years of continuous daily wage service as on 31.12.1995, then, in terms of the declared law, the petitioner was entitled to be considered and granted the work charge status from the date of completion of ten years of continuous daily wage service in terms of Para-4 (2) of the judgment in the case of **Mool Raj Upadhyaya**, which was followed and reiterated in the case of **Gauri Dutt** [supra]. Conferment of work charged status, in respect of daily wagers working in all the Government Departments was in recognition of their prolonged daily wage continuous service in terms of the Scheme for Betterment of Daily Wagers framed by the State, which was approved by the Hon'ble Supreme Court in the case of **Mool Raj Upadhyaya**,

entitling the daily wagers of all Departments for work charge status from the date of completion of ten years of continuous service, in applicable time scale, in the post /category.

6(i). In the instant case, though, the petitioner had completed ten years of continuous daily waged service as on 31.12.1995 and had become eligible for grant of work charge status in the applicable time scale w.e.f. 01.01.1996 but the said benefit was denied to the petitioner. Feeling aggrieved against the denial of work charge status, the petitioner filed Writ Petition No 6893 of 2012, was decided by the Division Bench of this Court on 23.08.2012 [Annexure P-1], directing the respondents to consider the case of the petitioner in accordance with applicable rules/norms and the law. After passing of directions on 23.08.2012 [Annexure P-1], the petitioner represented the case again for grant of work charge status as per law declared in the case of **Mool Raj Upadhyaya** [supra] but the State-Authorities rejected the claim on 06.12.2012 [Annexure P-2], on the ground, that Respondent Agriculture Department did not have a work charge status cadre. Denial of

work charge status on the basis of an artificial distinction was untenable, when, work charge status was to be granted to all daily wagers in Respondent State upon completion of requisite period of service irrespective, as to whether work charge establishment or work charge cadre existed in a department or not. Concept of work charge status in the Respondent-State was neither dependent nor relatable to a Cadre or Establishment but the same was conferment of better status with better service benefits in time scale, as was admissible to the corresponding post/category under the State Government. The rejection order dated 06.12.2012 [Annexure P-2] amounts to negating and defeating the mandate of the Hon'ble Supreme Court in the case of **Mool Raj Upadhyaya** and therefore, the rejection order cannot sustain on facts as well in law. Resultantly, this Court upholds the right as well as entitlement of the petitioner for work charge status in applicable time-scale for the post/ category of Beldar / Labour/Laboratory Attendant (Class-IV) from the date of completion of ten years of continuous daily

wage service w.e.f. 01.01.1996 with all consequential benefits.

CONTENTION OF STATE AUTHORITIES:

7. Learned State Counsel contends that instead of giving consequential benefits [actual monetary benefits], benefits may be given notionally, in view of the judgment in the case of **State of Himachal Pradesh vs. Surajmani** [Civil Appeal No. 1595 of 2025 decided on 06.02.2025].

The above contention of Learned State Counsel cannot sustain, for the reason, *firstly*, the case of the petitioner is governed by the mandate of the Hon'ble Supreme Court in the case of **Mool Raj Upadhyaya** (supra) entitling the daily wagers for work charge status from the date of completion of ten years of continuous daily wage service and *secondly*, once the petitioner had completed ten years of continuous daily wage service as on 31.12.1995 and he became eligible and entitled for work charge status w.e.f. 01.01.1996 in applicable time scale of Class-IV post but benefit of work charge status due in accordance with the law declared by the Hon'ble Supreme Court in case of **Mool Raj Upadhyaya** (supra) but his benefit was denied and delayed by the

Respondents for one reason or other, resulting in depriving the petitioner of the higher rank status, in the applicable time scale w.e.f. 01.01.1996; and thirdly, due to inaction of State Authorities, the petitioner was forced to file Civil Writ Petition No. 6893 of 2012 to remedy the wrongs done by the State Authorities by granting him benefit of work charge status in terms of the law declared by the Hon'ble Supreme Court in the case of **Mool Raj Upadhyaya**, and fourthly, the mandate of the Hon'ble Supreme Court in the case of **Surajmani** (supra) governs the entitlement of daily wagers for work charge status from the date of completion of eight years of continuous daily waged service; and the aforesaid judgment does not deal with the right and entitlement of daily wagers for work charged status from the date of completion of ten years of continuous daily waged service in terms of the mandate of the Hon'ble Supreme Court in case of **Mool Raj Upadhyaya** (supra). Even the Division Bench of this Court in the case of **Rakesh Kumar vs State of Himachal Pradesh & others** [CWP No. 2735 of 2010], decided on 18.07.2010, has rendered a finding in Para-7 that delay in itself cannot be a ground for deny the benefits

altogether but in view of the delay, the rights and interests of the parties [i.e. petitioner as well as the State Authorities] can be appropriately adjusted, by restricting the actual monetary benefits, in facts of each case; and *fifthly*, the claim of an in-service employee for work charged status, involves pay fixation from the due date [01.01.1996] and then in revised scale w.e.f. 01.01.2006 and even thereafter is a continuing cause, which was sought to be remedied by filing the Writ Petition in the year 2012, leading to passing of rejection order on 06.12.2012 [Annexure P-2] and the denial of benefit higher pay fixation in applicable time-scale shall effect his right for higher pension.

In these circumstances, this Court carves a balance between the rights of petitioner and interests of State Authorities, upholding the right and entitlement of the petitioner for work charge status from the date of completion of ten years of continuous daily waged service w.e.f. 01.01.1996 notionally and actual monetary benefits shall be accrued from the date of decision of Civil Writ Petition No. 6893 of 2012 on 23.08.2012 [Annexure P-1] and thereafter. Accepting the contention of Learned State

Counsel shall amount to penalizing the petitioner for the fault of the State Authorities and that too in utter disregard of the law declared in the case of **Mool Raj Upadhyaya** (supra) which this Court is bound to implement but the State Authorities have delayed or denied benefits on flimsy grounds with intent to defeat the law and such an action cannot be permitted to operate and is accordingly interdicted.

CONCLUSION:

8. Since the stand of the State Authorities in the rejection order is de hors the broader principle outlined by the Hon'ble Supreme Court in the case of **Mool Raj Upadhyaya** [supra], therefore, the rejection order dated 06.12.2012 [Annexure P-2], being contrary to the established law is declared inoperative; with direction to the State Authorities, to consider the claim of the petitioner for conferment of work charge status from the date of completion of ten years of continuous daily wage service, in terms of the mandate of the Hon'ble Supreme Court in the case of **Mool Raj Upadhyaya** [supra] subject to verification of Mandays; and upon consideration, in case, the petitioner is found eligible

and entitled for work charge status then, the *benefits* accruing from grant of work charge status shall be granted w.e.f. 01.01.1996 notionally, and actual monetary benefits shall accrue to the petitioner from the date of decision of the writ petition on 23.08.2012, which led to passing of the rejection order on 06.12.2012, which is hereby quashed and set-aside, being in defiance of law, in the case of **Mool Raj Upadhyaya** [supra].

9. No other point was raised/argued.

DIRECTIONS:

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

- i) Rejection order passed by the State Authorities on 06.12.2012 [Annexure P-2], denying work charge status in applicable time scale to the petitioner, is quashed and set aside;
- ii) State Authorities are directed to consider and upon consideration, to extend benefit of work charge status to the petitioner from the date of completion of ten years of continuous daily waged service in terms of the mandate of the Hon'ble Supreme Court in the case of **Mool Raj**

Upadhyaya (supra), reiterated by the Honble Division Bench of this Court in the case of **Gauri Dutt** (supra) w.e.f. 01.01.1996 *notionally* till disposal of CWP No 6893 of 2012 on 23.08.2012 [Annexure P-1] with benefit of such service for higher pay fixation, alongwith arrears w.e.f. 23.08.2012 and thereafter with all consequential benefits, within six months from today;

iii) Parties to bear their respective costs.

In aforesaid terms, the instant petition and the pending applications, if any, shall accordingly stand disposed of.

(Ranjan Sharma)
Judge

September 21, 2026.
(kck)