

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CWP No.5782 of 2020
Decided on: 19.08.2026

Ramesh Kumar

...Petitioner

Versus

State of Himachal Pradesh and others

...Respondents

Coram

Hon'ble Mr. Justice Jiya Lal Bhardwaj, Judge

*Whether approved for reporting?*¹

For the petitioner : Mr. R.S. Chandel, Advocate.

For the respondents: Mr. Amandeep Sharma, Additional
Advocate General.

Jiya Lal Bhardwaj, Judge (Oral)

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

- "A. *That the decision taken by the respondents for regularization of the respondent department Annexure P-1 & P-2, the petitioner may very kindly be granted regularization and other entire consequential benefits since 2001 after completing the period of 9 years service as part time water career.*
- B. *In the view of facts and specific circumstances as grounds taken supra the petitioner is entitled for regularization, seniority, gratuity and other consequential benefits for which the petitioner has completed 9 years of service as part time water career in July, 2011 as per the notification issued by the state government (Annexure P-1) & (Annexure P-2).*

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

- C. *Further with a prayer to direct the Respondents that the difference of 4 years since July 2014 may kindly be considered as regularization of service and therefore Respondents are directed to order the regularization of the petitioner retrospectively w.e.f. July, 2014 alongwith all consequential benefits and upto date interest @12% per annum."*

2. The facts as emerge from the pleadings are that the petitioner was appointed as Part Time Water Carrier (in short 'PTWC') in Govt Primary School (in short 'GPS') Chrain, Education Block Deha, Tehsil Theog, District Shimla, H.P., on 22.07.2002. It has been averred that the petitioner was given extra work in the said school, while he was working as a part time worker. It has further been averred that the services of the petitioner were not converted as a whole time servant, whereas, other similarly situate persons were converted as whole time employees. It has also been averred that in the month of December, 2012, after a long time, services of the petitioner were converted as daily wager. Thereafter his services were regularized on 03.05.2017 after rendering a long period of 15 years.

3. It has further been averred that the petitioner had made requests to the respondents orally as well as in writing to regularize his services, but the Department was sleeping over the same. The petitioner is entitled for his

seniority, back wages and other consequential benefits from the date he had completed nine years of service as PTWC. The petitioner had made a representation to the respondents-Department in the year 2014, seeking his regularization as Water Carrier-cum-Peon, but the said representation has not been considered and as such prayed that the respondents be directed to regularize his services since 2001, after completing nine years' service as PTWC.

4. Respondents No.1 & 2 filed reply to the petition and raised preliminary submissions that neither any legal and fundamental right of the petitioner has ever been infringed in any manner nor any cause of action accrues to him to file and maintain the present petition. It has further been averred that earlier the respondents-Department on the basis of combined seniority in the District cadre used to govern the category of PTWC/Part Time Sweeper for the purpose of granting whole time contingent paid status and thereafter as Regular Class-IV status, which was also subject to availability of post, meaning thereby that regularization is not automatic in nature. As such, various part time workers filed the writ petition before this Court and vide common judgment dated 12.12.2011 passed in CWP No.3310 of

2011, following directions were issued:

“i) All those Part Time Water Carrier, who have completed 10 years of service as such, shall be converted to the status of Whole Time Contingent Employee on daily waged basis.

ii) Such an employee in continuous service of 8 years with 240 days in a year as daily wager after 10 years of Part Time Service shall be appointed on regular as Class-IV Employee.

iii) However, it is made clear that in the case of any petitioner, who has completed 10 years of part time service, on conferment of daily wager status, shall not be entitled to any retrospective wages. The entitlement shall only be counting 240 days in the year concerned for the purpose of appointment as a regular Class - IV Employee.

iv) The Director (Education) shall also look into the grievance of the petitioners that they have been paid lesser wages than those appointed under the 1996 policy and required steps shall be taken for redressal of such grievances.

The needful action, in the light of the above judgment shall be taken by the competent authority, within a period of four months from the date of production of a copy this judgment by the petitioner concerned before the Director, Elementary Education. Pending applications, if any, also stand disposed of.”

5. After passing the aforesaid judgment, the matter was examined by the State Government and the Department of Education framed a policy and conveyed the same vide letter dated 22.08.2012 to regulate the service of

PTWCs of Education Department. As per the decision, the PTWCs of the Department were to be converted as Water Carrier-cum-Peon on daily wage basis after completion of 10 years of continuous service as per policy/guidelines of Department of Personnel issued from time to time for all other State Government Departments. As per policy decision circulated, the petitioner and other similarly situate employees who had completed 9 years of regular service as PTWC have been converted as Water Carrier-cum-Peon on daily wage basis vide office order dated 06.12.2012 by the Deputy Director of Higher Education, Shimla, being the appointing authority of the category of the petitioner. Subsequently, vide letter dated 03.10.2016, as per the approval granted by the State Government, the PTWC and Water Carrier-cum-Peon on daily wages basis working in Higher/ Elementary Education appointed under 1996 policy prior to 27.07.2001, who had rendered 14 years continuous service as PTWC and Water Carrier-cum-Peon on daily wage basis (combined) till 30.09.2016, were to be regularized as Peon (Class-IV) against the available vacancies of Peon (Class-IV) in Education Department, prospectively. As such, the petitioner and other incumbents, who had rendered 14

years continuous service as PTWC and Water Carrier-cum-Peon on daily wagger basis (combined) till 30.09.2016, were made regular vide order dated 18.04.2017 (Annexure P-2) and thus the petitioner has no cause of action to file and maintain the present petition and the same deserves to be dismissed in the interest of justice.

6. Respondent No.3 filed separate reply and averred that he has no role regarding conversion of the petitioner from PTWC to daily wagger and detailed reply has been filed by the Director of Higher Education, being the competent authority.

7. The petitioner filed rejoinder to the reply filed by respondents No.1 and 2 and controverted the averments made therein.

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

9. It is not in dispute that the petitioner was appointed as PTWC on 22.07.2002. As per the policy decision taken by the State Government, the services of the petitioner were initially converted as Water Carrier-cum-Peon on daily wage basis with immediate effect as per office order dated 20.12.2012 and thereafter, as per the

communication dated 28.06.2014 based on the decision taken by the State Government, the services of PTWCs, who had completed eight years continuous service as on 31.03.2014 were to be converted to daily wager. As per order dated 18.04.2017 (Annexure P-2) issued by the Deputy Director of Higher Education, Distt. Shimla, the services of the petitioner along with other employees, who were working on daily wage basis, were regularized as regular Class-IV employees (Peon-cum-Chowkidar) in the pay scale of Rs.4900-10680+1300 grade pay+usual allowances, allowances. The petitioner did not come to the Court when initially his services were converted from PTWC as Water Carrier-cum-Peon on daily wage basis, vide office order dated 20.12.2012 and thereafter to daily wager. Even when his services were regularized as per office order dated 18.04.2017, he did not come to the Court laying challenge that his services ought to have been regularized from earlier date. He came to the Court only in the month of November, 2020, staking claim that he may be granted regularization and other consequential benefits w.e.f. 2001 after completing the period of nine years service as PTWC. Once the petitioner was appointed as PTWC on 22.07.2002,

the relief claimed by him from the year 2001 is misconceived and the same cannot be granted to him. Not only this, once the petitioner has not laid challenge to the policy decision of the State Government, whereby it was decided to regularize the services of the PTWC and Water Carrier-cum-Peon on daily wage basis prospectively, the relief claimed by him cannot be granted and as such there is no merit in the present petition.

10. Consequently, I do not find any merit in the present petition and the same is accordingly dismissed. No order as to costs. Pending applications, if any, also stand disposed of.

19th August, 2026

(Anurag)

**(Jiya Lal Bhardwaj)
Judge**