

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA.

CWPOA No.3718 of 2019

Decided on: 31st August, 2026

Parkash Singh ...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. Karan Singh Parmar, Advocate.

For the respondents: Mr. R.P. Singh, Deputy Advocate General for respondents No.1 and 2-State.

Respondent No.3 *ex-parte*.

Jiya Lal Bhardwaj, Judge (Oral)

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

"i) *That the petitioner has completed eight years of service on 31.3.2006, therefore, the respondents may be directed to consider the case of the petitioner for regularization from due date with all consequential benefits."*

2. The facts as emerge from the pleadings are that the petitioner was appointed as Class IV employee in the year 1997.

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

However, his services came to be disengaged without taking to the recourse available under the Industrial Disputes Act, 1947. The petitioner feeling aggrieved by the action on the part of the respondents, whereby his services were illegally disengaged w.e.f. 21.04.1998, had approached the Himachal Pradesh Administrative Tribunal (in short 'Tribunal') by way of O.A. No.1107 of 1998, titled, Prakash Singh Versus State of Himachal Pradesh & Others, and the Tribunal, vide order dated 31.12.1998, held his disengagement to be illegal. The respondents were directed to re-engage him in the same place or in the vicinity, on the same terms and conditions as on April 21, 1998 with a further rider that his services shall not be terminated except in accordance with law and on the principle of 'last come first go'. After passing the aforesaid order, the petitioner continued serving with the respondents till 2003, when his services were again terminated.

3. The petitioner feeling aggrieved by the action on the part of the respondents had raised the issue before the State Government, who had referred the matter to the Industrial Tribunal-cum-Labour Court for adjudication of the reference. When the matter was pending adjudication before the H.P. Industrial Tribunal-cum-Labour Court, Dharamshala, the matter was compromised between the respondents and the petitioner, and as per order dated

16.03.2012 (Annexure P-2) retrenchment of the petitioner by the respondents with effect from 01.12.2003 was set aside and the petitioner was held entitled to continuity in service and seniority, except back wages. Thereafter, the petitioner had approached this Court by filing CWP No.8363 of 2013, in which, the petitioner has prayed for regularization of his services. The respondents had contested the petition on the ground that the petitioner does not complete 240 days in each calendar year, and therefore is not entitled for the benefit of regularization. However, the said writ petition was withdrawn on the ground that, as a matter of fact, the matter had been compromised between the parties.

4. The claim of the petitioner for regularization was rejected vide order dated 06.08.2013 on the ground that he had not completed 240 days in each calendar year. The petitioner has also placed on record the copy of communication dated 31.08.2013 (Annexure P-6) which has been addressed by respondent No.3 to respondent No.2, wherein it was mentioned that as per the order passed by the H.P. Industrial Tribunal-cum-Labour Court, Dharamshala, the petitioner had been granted the benefit of seniority, according to which, he had completed 240 days in each calendar year. The petitioner has also placed on record the instructions dated 18.06.2007 (Annexure P-5), whereby it was

decided that daily wage/contingent paid workers in all Departments including Public Works, who had completed eight years of continuous service with a minimum of 240 days in each calendar year, except where specified, as on 31.03.2006, may be regularized against vacant posts in various Departments and, therefore, prayed that his services may be regularized from the date when he had completed eight years of continuous service with 240 days in each calendar year.

5. Respondents No.1 and 2 filed reply to the petition and raised preliminarily submissions that the petitioner was engaged as a daily wage beldar in Panchayat Samiti, Jhandutta in the year 1997 and his services were terminated by the Executive Officer, Panchayat Samiti, Jhandutta, i.e. respondent No.3 on 21.04.1998, and he remained disengaged upto 31.12.1998. Thereafter, he had preferred Original Application, which came to be allowed on 31.12.1998. Subsequently, respondent No.2, again vide order dated 29.10.2003 terminated his services informing him that a Resolution had been passed by the Panchayat Samiti, Jhandutta that due to the paucity of funds and non-availability of work, his services were no more required and same shall be treated as terminated with effect from 30.11.2003.

6. The petitioner feeling aggrieved by the aforesaid office order had filed an OA No.3224 of 2003 before the Tribunal. However, thereafter, he had approached the Conciliation Officer-cum-District Employment Officer, Bilaspur, and the Labour Commissioner vide Notification dated 01.04.2008 had made reference to the Industrial Tribunal-cum-Labour Court, Dharamshala. It has also been averred that the Panchayat Samiti, Jhandutta had passed a Resolution No.9 dated 18.08.2005 to appoint the petitioner, but due to lack of funds, he was not appointed. So far as the services of the petitioner having been re-engaged by respondent No.3 on 01.10.2011 is concerned, it is not in the knowledge of the respondents that why the petitioner was re-engaged on 1.10.2011 by respondent No.3 when the case was decided by H.P. Industrial Tribunal-cum-Labour Court, Dharamshala on 16.03.2012. It has further been averred that prior approval of the respondents was not sought, before respondent No.3 had entered into compromise with the petitioner, without going into financial and legal implications of compromise, and as such, has prayed for dismissal of the petition.

7. Respondent No.3 has not filed its reply and the said respondent has been proceeded ex parte on 06.10.2020.

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

9. It is not in dispute that the petitioner was initially engaged on daily wage basis in the year 1997. It is also not in dispute that the services of the petitioner were disengaged on 21.04.1998 and the Tribunal had passed the order on 31.12.1998 (Annexure P-1), when the said disengagement of the petitioner was quashed and set aside with a further direction to the respondents to re-engage him in the same place or in the vicinity on the same terms and conditions as on 21.04.1998. It is also not in dispute that thereafter again the services of the petitioner were terminated vide office order dated 29.10.2003 w.e.f. 30.11.2003 and the petitioner had preferred the Original Application before the learned Tribunal. However, thereafter, he had approached the Conciliation Officer-cum-District Employment Officer, Bilaspur, and when the matter was not resolved, the Labour Commissioner vide Notification dated 01.04.2008 had made reference to the Industrial Tribunal-cum-Labour Court, Dharamshala and before the learned Labour Court, a compromise was entered into between respondent No.3 and the petitioner and the retrenchment of the petitioner by respondent No.3 with effect from 01.12.2003 was set aside and quashed and

further the petitioner was held entitled to continuity of service and seniority, except back wages.

10. The petitioner after compromise had approached this Court by filing a writ petition, seeking regularization, but in view of the settlement arrived at between respondent No.3 and the petitioner, the said writ petition was not pressed. The respondents have not disputed the compromise arrived at between respondent No.3 and the petitioner. The only plea taken by respondents No.1 and 2 is that respondent No.3 was not competent to enter into the compromise. Once the petitioner was engaged by the said respondent and he is an officer of respondents No.1 and 2, he was competent to enter into a compromise and in case respondents No.1 and 2 were aggrieved by the said compromise, they could have taken steps to get the same annulled or set aside. Not only this, nothing has come forward from respondents No.1 and 2 that what action has been taken by them against respondent No.3, who had entered into a compromise with the petitioner. Even otherwise, so far as the compromise, which has been entered into between the parties is concerned, since the petitioner has been denied back wages and the appointment was made in accordance with the earlier order passed by the Tribunal, no illegality can be said to have been committed by respondent No.3, while compromising the

matter with the petitioner and as such, the petitioner, who has been held entitled to continuity of service and seniority except back wages, is entitled to all service benefits with effect from 01.01.1998.

11. As per instructions dated 18.06.2007 (Annexure P-5), the petitioner was entitled to regularization of his services after completion of eight years of service with 240 days in each calendar year as on 31.03.2006. Since the petitioner has been considered to be an appointee of 01.01.1998, he had completed eight years of continuous service with 240 days in each calendar year, in view of the order dated 16.03.2012 passed by the Labour Court, wherein it was categorically admitted by respondent No.3 that the petitioner shall be entitled to continuity of service and seniority from the initial date of appointment. It is relevant to mention that despite writing a communication dated 31.08.2013 (Annexure P-6), wherein even the reference of the order passed by the Labour Court was made by respondent No.3, no action was taken by respondent No.2, who had earlier rejected the claim of the petitioner for regularization only on the ground that he had not completed 240 days in each calendar year, which was against the mandate of the compromise entered into between respondent No.3 and the petitioner. Once respondent No.3 had admitted before the Labour Court that the petitioner shall be given the benefit of seniority and continuity of service, the

petitioner is entitled for regularization in terms of the instructions dated 09.06.2006 and dated 18.06.2007 (Annexure P-5).

12. Consequently, the present petition is allowed and the respondents are directed to regularize the services of the petitioner after completion of eight years, taking the date from 01.01.1998 with effect from 01.04.2006 with all consequential benefits such as seniority, increments, and promotion, etc. The respondents are directed to grant the arrears to the petitioner within three months from today and in case the arrears are not paid to him within three months from today, he shall be entitled to interest on the arrears @6% per annum from today till actual payment.

13. The writ petition is disposed of in the aforesaid terms. No order as to costs. Pending applications, if any, also stand disposed of.

31st August, 2026
(naveen)

(Jiya Lal Bhardwaj)
Judge