

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CWPOA No.4702 of 2019

Decided on: 07.09.2026

Bir Singh

...Petitioner

Versus

State of H.P. and another

...Respondents

Coram

Hon'ble Mr. Justice Jiya Lal Bhardwaj, Judge

*Whether approved for reporting?*¹

For the petitioner: Mr. Nishant Khidtta, Advocate.

For the respondents: Mr. R. P. Singh, Deputy Advocate General.

Jiya Lal Bhardwaj, Judge (Oral)

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

“(i) *That writ in the nature of mandamus may kindly be issued directing the respondents to give work-charged status to the petitioner after taking into consideration the employment of the petitioner with effect from 1986 and if any frictional breaks are given in between 1986 and July, 2000, the same may kindly be ordered to be condoned and thereafter, may be allowed the benefit of work-charged status and other consequential benefits.*

(ii) *That the respondents may kindly be directed to give the benefit of regularisation as per the*

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

policy of the Government from time to time taking into consideration the continuity of service of the petitioner from the year 1986, with all the consequential benefits including seniority, promotion, pension etc.

(iii) *That the respondents may kindly be directed to pay salary with effect from 1.4.2012 till date with 12% interest."*

2. Shorn of unnecessary details, the key facts of the case are that the petitioner was initially engaged as Beldar with the respondents in the year 1986 and worked till 31.07.2000. However, his services were terminated with effect from August, 2000 orally without complying with the mandatory provisions of the Industrial Disputes Act, 1947. It has been averred that neither any notice was served upon the petitioner nor any retrenchment compensation was paid to him, though he had completed more than 240 days prior to the order of retrenchment.

3. The petitioner had submitted a demand notice to the Labour-cum-Conciliation Officer, Nahan, for redressal of his grievances. However, the same did not mature and failure report was submitted to the Labour Commissioner, Shimla, who had made the reference vide Notification dated 18.10.2004 to the learned Labour Court. Learned Presiding Judge, Industrial Tribunal-cum-Labour Court, Shimla Camp at

Nahan, had answered the reference in affirmative vide Award dated 26.03.2009. The petitioner was ordered to be reinstated in service forthwith with seniority and continuity in service, but he was denied the back wages as he had not placed any material on record to substantiate that he was not gainfully employed after his retrenchment.

4. It has further been averred that the petitioner has not been given the benefit of work charge status after completion of 10 years of service as well as regularization as per the policy of the Government. It has also been averred that the petitioner has not been paid salary w.e.f. 01.04.2012 till date for the reason best known to the respondents and as such prayed for a direction to the respondents to confer the work charge status upon him after taking into consideration the employment of the petitioner with effect from 1986, besides other reliefs, as quoted above.

5. The respondents filed reply to the petition and averred that the petitioner was engaged for seasonal forestry works during the year 1986 in Shillai Range of the division and worked with the Department up to 2000 and thereafter left the work on his own will and also filed the case Reference No.140 of 2004 and the learned Presiding

Judge, Industrial Tribunal-cum-Labour Court Shimla, had decided the matter on 26.03.2009 when a direction was given to re-engage the petitioner, giving him seniority without back wages. The orders so passed have been complied with in letter and spirit. The petitioner was given the benefit of completing 240 days in each calendar year from 2001 to 2008 in compliance with the said order. He was not eligible to be regularized till the year 2008 as per the policy of the Government. He was assigned seniority in the year 2009 on completing 8 years' service and he could not be considered for regularization in the year 2008. The case of the petitioner for regularization will be considered as per the latest policy of the Government subject to satisfying all criteria and conditions laid down in the policy and availability of vacancy in accordance with Recruitment and Promotion Rules. The petitioner is still on work with the Department as seasonal forestry worker. The wages of the petitioner could not be paid with effect from 01.04.2012 as there have been constraints in work and budget of Sh. Renuka Ji Forest Division. However, the budget was received during the month of April, 2012 to January, 2013, after which all the pending wages of the petitioner has already been paid to him in the month of February, 2013. It has

further been averred that the petitioner had earlier filed CWP No. 4698 of 2009 on similar grounds before this Court and the reply to the same has already been filed and as such prayer for dismissal of the petition.

6. The petitioner filed rejoinder to the reply filed by the respondents and controverted the averments made therein. It has been averred that the respondents have not disputed the award passed by the Labour Court, wherein, direction was given to the respondents to re-engage the petitioner with seniority, but without back wages. It was specifically denied that the petitioner had completed 240 days in each calendar year from 2001. The petitioner did not dispute the factum that he has been paid the wages from April, 2012 to January, 2013. However, he claimed that the interest be given to him. So far as the plea taken by the respondents that the petitioner had earlier filed a writ petition is concerned, it has been averred that he had filed a writ petition on the similar grounds before this Court, but since he was not made aware by the concerned counsel regarding filing of CWP and its result despite repeated meeting and telephonic conversation, he had no option except to file the present petition for redressal of his grievances.

7. Learned counsel for the petitioner has stated that after filing the rejoinder, the earlier writ petition filed by the petitioner was withdrawn on 01.05.2013, in view of the application filed by the petitioner seeking permission to withdraw the writ petition and this Court had granted the permission to withdraw the writ petition and as such prayed that the relief claimed in the present petition may be granted to the petitioner.

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

9. It is not in dispute that as per the award dated 26.03.2009, passed by the learned Presiding Judge, Industrial Tribunal-cum-Labour Court, Shimla, Camp at Nahan, the petitioner was ordered to be reinstated in service forthwith with seniority and continuity in service. As per the observations made in the award, the petitioner had completed more than 240 days of service i.e. 269 days in the year 1987 and thereafter 265 days in the year 1999. In between, the petitioner did not complete 240 days in each calendar year. The Labour Court, while ordering reinstatement of the petitioner in service, had specifically directed that the same would be with seniority and continuity in service. The relevant para of the award is

reproduced herein below:-

“ As a sequel to my above discussion and findings on issue no.1 to 4, the claim of the petitioner succeeds and is hereby allowed and as such the reference is answered in affirmative and the petitioner is ordered to be reinstated in service forthwith with seniority and continuity in service. However, the petitioner is not entitled to back wages as he has not placed any material on record to substantiate that he was not gainfully employed after his retrenchment. Let a copy of this award be sent to the appropriate government for publication in official gazette. File, after completion, be consigned to records.”

10. Once the Labour Court had specifically observed that the petitioner would be reinstated in service forthwith with seniority and continuity in service, he is entitled for counting the service at least from the year 1999, when he had completed more than 240 days during that year and not from the year 2001. As per the reply filed by the respondents, they have admitted that the petitioner was engaged in the year 1986, but as per the award passed by the Labour Court, the petitioner had only completed more than 240 days in the year 1987 and thereafter in the year 1999 and thus he is entitled to get the benefit of conferment of work charge status after completion of 8 years' service from the year 1999 onwards instead from the year 2001 as done by the respondents in view of the judgment passed by the Hon'ble Supreme Court in Civil

Appeal No. 1595 of 2025, titled, ***State of Himachal Pradesh vs. Surajmani.***

11. The respondents in the reply have stated that the petitioner was given the benefit of completing 240 days in each calendar year from 2001 to 2008 in compliance with the order dated 26.03.2009, but it cannot be counted from the year 2001, more specifically in the award passed by the Labour Court, it has specifically been observed that in the year 1987 the petitioner has completed 269 days and thereafter in the year 1999 also, he had completed 265 days. His services came to be terminated only in the month of August, 2000. Since the petitioner had been continuously working from the year 1999 and completed more than 240 days in the said year, he cannot be denied the benefit of conferment of work charge status considering the period from 1999 and not from the year 2001, as done by the respondents while implementing the order.

12. The petitioner has also been denied regularization in the year 2008 for the reason that he did not complete 8 years service with 240 days in each calendar year from the year 2001, whereas his period has to be counted from the year 1999. Since the petitioner had completed 8 years' service with 240 days in each calendar

year as on 31.03.2008, he is entitled to regularization.

13. Consequently, the present petition is disposed of with a direction to the respondents to confer the work charge status on the petitioner considering the period from 1999 after completion of 8 years of service and also regularize his services considering the period from 1999 as per the policy, which was prevalent at that time with all consequential benefits, except monetary benefits, which shall be paid from three years prior to filing the present petition. The consequential benefits flowing out of regularization shall be paid to the petitioner within six months from today, failing which the respondents shall pay interest @ 6% per annum from today till actual payment. No order as to costs. Pending applications, if any, also stand disposed of.

07.09.2026

(Anurag)

**(Jiya Lal Bhardwaj)
Judge**