

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CWP No.1123 of 2020

Decided on: 15th July, 2026

Sher Mohammad (deceased) through his LRs **...Petitioners**

Versus

State of H.P. and others **...Respondents**

Coram

Hon'ble Mr. Justice Jiya Lal Bhardwaj, Judge

Whether approved for reporting?¹

For the petitioners: Ms. Archana Dutt, Advocate.

For the respondents: Mr. Amit Kumar Chaudhary, Deputy
Advocate General, for respondents
No.1 & 3-State.

None for respondent No.2.

Mr. Bharat Bhushan, Senior Panel
Counsel, for respondent No.4.

Jiya Lal Bhardwaj, Judge (Oral)

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

"(i) That the respondents may kindly be directed to grant work charge status w.e.f. 01.01.202 by implementing the judgment passed in CWP No.3983 of 2010 contained in Annexure P-3 and further granted the benefit of judgment passed in Sukru Ram's case by counting work charge period

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

towards pension and pensionary benefit.

(ii) That the respondent No.4, Accountant General may kindly be directed to issue GPF number and start deducting GPF from the salary of the petitioner."

2. During the pendency of the petition, the original petitioner has died and his wife and daughter have been transposed as the petitioners. However, for the purpose of adjudicating the claim, the facts as mentioned at the time of institution of the writ petition are taken for the decision of the petition.

3. The facts as emerge from the pleadings are that the petitioner was appointed as Plant Helper in the year 1991. In the year 1997, a break was given to him, but later on a settlement was arrived at between the petitioner and respondent No.2 and it was agreed that the seniority to the petitioner will be given from the date of his joining as per settlement dated 17.03.1998 (Annexure P-1).

4. Despite completion of 16 years of service with 240 days in each calendar year, the petitioner was not conferred the work charge status. However, later on as per office order

dated 24.03.2007 (Annexure P-2), pursuant to the decision taken by the State Government, the services of the petitioner, who was earlier working with respondent-2, were absorbed with respondent No.3. Since, the petitioner was not conferred the work charge status, he had approached this Court by way of CWP No.3983 of 2010, titled, ***Sher Mohd. vs. State of H.P. and Ors.***, and the said petition was disposed of on 27.07.2010 alongwith CWP No.3858 of 2010, titled, ***Amba Dutt vs. State of H.P. and Ors.***, with a direction to the respondents to consider his claim in light of the decision passed in CWP(T) No.4161 of 2008, titled, ***Jagdish Chand and others vs. State of H.P. and another***, making it clear that the conferment shall be subject to the outcome of the LPA.

5. It has been averred in the petition that the judgment passed by this Court has not been implemented and had the petitioner conferred the work charge status on 01.01.2002, he would have become eligible for pension by counting the work charge period towards pensionary benefits. The petitioner has also placed on record the

mandays chart (Annexure P-5). As per the mandays chart, the petitioner had completed more than 240 days in each calendar year since 1992 till 2006, except in the year 1997. During the year 1997, he had completed only 154.5 days.

6. It has further been pleaded that even as per the judgment passed by this Court in CWP No.6167 of 2012, titled, ***Sukru Ram vs. The State of H.P. and others***, it has been held that the services rendered by an employee as work-charged employee, are to be counted for the purpose of qualifying service and for calculating the pension payable to such employee.

7. Respondent No.3 filed reply to the petition and raised preliminary submissions that the petition is not maintainable being barred under Section 11 and Order 2 Rule 2 of the Code of Civil Procedure (in short "CPC") since the petitioner had earlier filed the writ petition on the same cause of action, which was decided on 27.07.2010. In compliance with the directions, the petitioner was regularized w.e.f. 01.01.2008 instead of 26.03.2010 and he never challenged his

regularization order. The order has attained finality and thus the petitioner has no cause of action and locus standi to file the present petition.

8. It has further been averred that the petitioner was initially appointed in the year 1991 as a Plant Helper on daily wage basis in the establishment of respondent No.2 and worked there upto 24.03.2007. Thereafter, he was appointed with respondent No.3, as daily wage Peon, as per the approval accorded by the State Government, vide letter dated 14.03.2007, and joined the Department on 26.03.2007. It has also been averred that the petitioner was absorbed and regularized in relaxation of his age and educational qualification with respondent No.3 in accordance with instructions of Finance Department.

9. As per the mandays chart annexed with the petition, there is a break in service of the petitioner in the year 1997 and, therefore, number of 8 years of service in respect of petitioner was to be counted w.e.f. 01.01.1998. As per instructions of the Finance Department dated 07.09.2007

and Department of Personnel dated 18.06.2007, the services of petitioner were to be regularized after completion of codal formalities. The services of the petitioner were regularized w.e.f. 26.03.2010 after relaxation of qualification and age. The claim of the petitioner to seek status of work charge w.e.f. 01.01.2002 is not tenable in the eyes of law, because system of work charged employee is not prevalent in the Department of respondent No.3. Moreover, the petitioner joined respondent No.3 on 26.03.2007 and, therefore, respondent No.3 is not in a position to grant him the status of regularization w.e.f. 01.01.2002 i.e. from the date on which he was not working in the Department of respondent No.3. These facts have been mentioned in the order dated 30.05.2011 (Annexure R-II).

10. The petitioner has not filed rejoinder to reply.

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

12. Learned counsel for the petitioner has argued that in view of the settlement arrived at between the petitioner

and respondent No.2, the break in service was condoned and seniority of the petitioner was to be considered from the date of his initial appointment and this aspect has not been dealt with by respondent No.3 while filing reply to the petition.

13. The petitioner when earlier approached this Court, had sought relief that the respondents be directed to grant him work charge status w.e.f. 2001 with all consequential benefits. The said petition was disposed of on 27.07.2010. Respondent No.3 passed an office order on 30.05.2011 (Annexure R-II), whereby the claim of the petitioner came to be rejected on the grounds that, firstly, there is break in service in the year 1997, as the petitioner had completed only 154 days of service, which was attributable to the petitioner and, secondly, that the status of a work-charge employee is not recognized in the Department of Labour & Employment, H.P..

14. The petitioner has not assailed the order dated 30.05.2011, passed by respondent No.3. Further, the petitioner has sought relief to implement the judgment dated

27.07.2010, passed in CWP No.3983 of 2010, titled, ***Sher Mohd. vs. State of H.P. and Ors.*** Once respondent No.3 has passed the order on 30.05.2011, the mandate contained in the judgment has been complied with and, the petitioner, if aggrieved had to assail the aforesaid order passed by respondent No.3, which he has not done.

15. Resultantly, I do not find any merit in the present petition and the same is dismissed. However, in view of the law laid down by the Hon'ble Supreme Court in Civil Appeal No.1595 of 2025, titled, ***The State of Himachal Pradesh and others vs. Surajmani and another,*** the petitioner may avail the remedy if any, in accordance with law.

16. The petition is accordingly disposed of. No order as to costs. Pending application(s), if any, shall also stand disposed of.

15th July, 2026
(ankit)

(Jiya Lal Bhardwaj)
Judge