

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CWPOA No.5990 of 2019

Decided on: 29th July, 2026

Ram Chand (deceased) through his LRs Amri Devi
and others

...Petitioners

Versus

Engineer-in-Chief, HPPWD and others

...Respondents

Coram

Hon'ble Mr. Justice Jiya Lal Bhardwaj, Judge

Whether approved for reporting?¹

For the petitioners: Ms. Ritta Goswami, Senior Advocate
with Ms. Komal Chaudhary,
Advocate.

For the respondents: Mr. Hemant Kumar Verma, Deputy
Advocate General.

Jiya Lal Bhardwaj, Judge (Oral)

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

"1. That the petitioner is entitle for the grant of work-charge status from 01.01.2005 the day when the applicant has completed 8 years with 240 days of his regular/continuous services in terms of the judgment rendered by the this Hon'ble court in C.W.P. No.2735/2010 (Rakesh Kumar' case) decided on 28.07.2010 from the day when he has completed 8(eight) years in continuous services i.e. 01.01.2005 with all consequential benefits along with interest thereof.

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

2. That the seniority and all other reliefs for which the petitioner is entitle may also be granted in his favor so that the applicant became entitled for the said benefits for his pensionary benefits."

2. During the pendency of the petition, the original petitioner had died and his legal representatives have been brought on record as per order dated 27.07.2023. For the purpose of adjudicating the claim in the present petition, the parties are referred to as they were originally arrayed in the petition.

3. The facts which emerge from the petition are that the petitioner was engaged as a Daily Waged Worker on 01.11.1993 in the respondent-Department, who did not complete 240 days till the year 1996. It has been averred that he continuously worked for 240 days in each calendar year from the year 1997. Thereafter his services came to be disengaged on 31.07.1998, in violation of the Industrial Disputes Act, 1947. The petitioner had approached the erstwhile Himachal Pradesh Administrative Tribunal (in short "Tribunal") by way of O.A.(M) No.262 of 1998 and the Tribunal

had passed the order on 10.11.1998, to re-engage the petitioner by holding that the petitioner had been disengaged without issuing him any statutory notice as required under Section 25-F of the Industrial Disputes Act, 1947. Thereafter, the petition was listed before the Tribunal on 04.05.1999, when the same was disposed of with the direction to the respondents not to terminate his services, except in accordance with law. The intervening period shall be counted towards seniority. However, he shall not be entitled to any back wages.

4. It has further been averred that the petitioner was not conferred the work charge status despite having been borne on a work charge establishment and completed the requisite number of years of service as per the policy of the State Government.

5. The petitioner, feeling aggrieved by the inaction on the part of the respondents in not conferring the work charge status upon him after completion of eight years of continuous service, has approached this Court *inter alia* on

the grounds that the action on the part of the respondents is illegal, arbitrary and against the scheme formulated by the respondents.

6. The respondents filed reply to the petition and averred that neither legal nor fundamental rights of the petitioner have ever been infringed in any manner and hence the petition is not legally maintainable. The petitioner has claimed a relief that the work charge status be conferred upon him w.e.f. 01.01.2005 since he had completed eight years of service with 240 days in each year in terms of the judgment rendered by this Court in CWP No.2735 of 2010, titled, ***Rakesh Kumar vs. State of Himachal Pradesh and others***, decided on 28.07.2010.

7. It has further been averred that after passing the order by the Tribunal, the intervening period from the date of alleged disengagement i.e. March 1998 and re-engagement was taken into account and the petitioner having completed eight years of continuous service with minimum 240 days in each calendar year w.e.f. 1998 till 31.03.2006, his case was

covered under the regularization policy dated 18.06.2007, cut-off date for completion of eight years of continuous service of which was as on 31.03.2006 and hence, the services of the petitioner were regularized vide order dated 26.07.2007. The petitioner in pursuance of the regularization order dated 26.07.2007 (Annexure R-3), joined his duties as regular Mate without any protest and has now approached this Court at this belated stage seeking conferment of work charge status upon completion of eight years of daily wage service after a period of eight years from the actual date of cause of action i.e. 26.07.2007 and thus prayed for dismissal of the petition.

8. The petitioner filed rejoinder to the reply and controverted the averments made therein.

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

10. The plea taken by the respondents that the petitioner has come to the Court after a period of eight years from the actual date of cause of action, is rejected for the

reason that once the respondents were aware of the policy regarding conferment of work charge status, it was the duty cast upon them to grant the said benefit to the petitioner. Another plea, which has been taken by the respondents while filing reply to the petition is that the intervening period from the date of alleged disengagement i.e. March 1998 and re-engagement was taken into account and the petitioner having completed eight years of continuous service with minimum 240 days in each calendar year w.e.f. the year 1998 to 31.03.2006, his services were regularized, cannot be accepted for the reason that in the earlier round of litigation, the petitioner had approached the Tribunal, who had passed the interim order in favour of the petitioner on 10.11.1998 and thereafter while disposing of the original application on 04.05.1999, a specific direction was given that the intervening period shall be counted towards seniority, also taking note of the fact that as per the copies of the muster roll placed on record by the petitioner from September 1997 to July 1998, he had completed 241 days as against 236 days shown in the

mandays chart (Annexure R-1). The order dated 04.05.1999, passed by the learned Tribunal is reproduced as hereunder:-

"The learned counsel for the applicant has filed the rejoinder today in the court alongwith the copies of Muster Roll from September 1997 to July 1998 which be taken on record. The Attendance Register show that the applicant had completed 241 days as against 236 days shown in the mandays chart Annexure R-1. The difference pertain to the months of February, 1998, March 1998 and June 1998 in any of months the applicant has worked for one day more. In view of the Attendance Register does not contest the working days of the applicant. Since the applicant has been disengaged with effect from July 31, 1998 without issuing him any statutory notice as required under Section 25 F of the Industrial Disputes Act, 1947. The applicant is already re-engaged by the respondents vide interim orders of this Tribunal dated November 10, 1998. The respondents are directed not to terminate the services of the applicant except in accordance with law. The intervening period shall be counted towards seniority. However, he shall not be entitled to any back wages. The application stands disposed of finally."

11. A perusal of the aforesaid order clearly reveals that the petitioner had completed 241 days during the period from September 1997 till July 1998, when his services came to be terminated. The respondents-State did not challenge the order passed by the Tribunal and once the order had attained finality, the action on the part of the respondents in counting

the period of service for the purpose of regularizing his services from March 1998, is against the import of the order passed by the Tribunal.

12. Learned Deputy Advocate General has vehemently argued that since the services of the petitioner had already been regularized and he did not approach the Court within a reasonable time, the relief claimed deserved be rejected. However, the said contention is rejected for the reason that, as per the judgment passed 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***, it has been held that the employee has to be conferred the work charge status after completion of eight years of service.

13. Learned counsel for the petitioner vehemently argued that since the Tribunal had already taken note of the fact that the petitioner had completed 241 days, starting from the date of his engagement i.e. September 1997, the petitioner is at least entitled to be conferred work charge status by reckoning his qualifying service from September

1997, though the petitioner had initially been engaged earlier by the respondents. There is force in the said contention for the reason that the Tribunal had already adjudicated the claim regarding the date of appointment of the petitioner and thus, he is entitled to be conferred work charge status reckoning his service from September, 1997. The petitioner had completed eight years of continuous service with 240 days in each calendar year as on 01.01.2006, even if the date is taken from 01.01.1998 and thus, he was entitled to work charge status w.e.f. 01.01.2006.

14. Consequently, the present petition is allowed and the respondents are directed to confer the work charge status on the original petitioner, Ram Chand, w.e.f. 01.01.2006, strictly in terms of the judgment passed by the Hon'ble Supreme Court in ***Surajmani's*** case (supra) and thereafter grant the consequential benefits in favour of his legal representatives, who have been brought on record. The respondents are directed to grant the consequential benefits within a period of three months from today. In case, the

arrears, if any, are not released in favour of the petitioners within a period of three months from today, they shall be entitled to interest on the arrears @6% per annum from today till actual payment.

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

29th July, 2026
(*ankit*)

(Jiya Lal Bhardwaj)
Judge