

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CWPOA No.6263 of 2019
Decided on: 29.07.2026

Prem Lal

...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:

Ms. Ritta Goswami, Senior
Advocate, with Ms. Komal
Chaudhary, 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:-

- “1. That the services of the applicant may kindly be regularized from the day when the applicant has completed six years of his services under the respondents department as per the letter dated 09.05.2013, and further as per the direction dated 19.10.2015 in which the similar situated persons already regularized by the respondents.
2. That the impugned annexure A-4 dated 10.11.2014 may kindly be quashed and set-aside as the same has been passed by the respondent-2 illegally, arbitrarily and without application of mind.

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

3. *That as the respondent is superannuated from his services during the pending proceedings, the respondents may kindly be directed to also grant the pension and all the pensionary benefits along with all the consequential benefits."*

2. Before filing the present petition, the petitioner had approached this Court by way of **CWP No.4616 of 2014**, titled, **Prem Lal versus State of H.P. & others**, stating therein that his case is covered by the judgment passed by this Court in CWP No.1102 of 2011, titled, **Sanjay & others vs State of H.P. & others**, and analogous matters decided on 28.05.2014. This Court had disposed of the petition preferred by the petitioner on 26.08.2014 with a direction to the respondent-State to consider his case strictly in view of the decision referred to above.

3. Respondent No.2 in sequel to the directions given by this Court in the writ petition preferred by the petitioner, passed a detailed order on 10.11.2014 (Annexure A-4), whereby the claim of the petitioner came to be rejected on the ground that the petitioner, before filing the writ petition, had filed the **Original Application No. (M) 60 of 2003**, before the erstwhile Himachal Pradesh Administrative Tribunal (in short 'Tribunal'), Bench at Mandi, for the same cause of action i.e. for regularization of his

services, which was dismissed on 07.11.2006. Further, it was observed that the case of the petitioner is not same and similar to the facts of the case in **Sanjay's** case (supra).

4. The petitioner feeling aggrieved by the order dated 10.11.2014 passed by respondent No. 2, has approached this Court on the grounds, *inter alia*, that the petitioner was appointed as Mali by the Senior Medical Officer, Sundernagar, vide office order dated 13.03.1986, who continued on the said post till 31.05.1991; thereafter he was posted as a cook on 01.06.1991. In the year 2002, Rogi Kalyan Samiti was constituted by the respondent-State and his services were taken over by respondent No.4. The petitioner has rendered uninterrupted services in the respondent-Department for the last 23 years and now the petitioner has superannuated on 10.11.2014. Respondent No.2 while rejecting the claim of the petitioner, has wrongly construed that the case of the petitioner is not similar to that of **Sanjay's** case (supra), inasmuch as respondent No.2 has passed the order without application of mind and as such has prayed for direction to the respondents to regularize his services after completion of six years of

service, as per the Department letter dated 09.05.2013.

5. The respondents filed reply to the petition and raised preliminary submissions that the petitioner has not brought the complete material information and factual position on record and as such is guilty of suppressio veri. The petitioner was initially engaged through the then Hospital Management Society on 13.03.1986 as Class-IV (Mali) for a period of three months on daily wages basis. At no point of time, his services had ever remained under the Government, as neither he had ever been engaged by the respondent-State, nor he had ever been paid from the State funds of the Government. It has also been averred in the reply that the petitioner had earlier filed the Original Application, which came to be dismissed on 07.11.2006 and as such, once the claim raised by the petitioner between the same parties and for the same cause of action has been dismissed, the petition is barred by the principle of res-judicata. It has further been averred that the petitioner, after a gap of about eight years of dismissal of his claim had filed CWP No.4616 of 2014 seeking regularization on the basis of the judgment rendered by this Court in CWP No. 1119 of 2011, on 28.05.2014, which was disposed of on

26.08.2014. After the direction given by the Court, the matter was thoroughly examined and the same was rejected by a detailed speaking order on 10.11.2014 (Annexure A-4), which is legal and valid and deserves to be upheld. The plea taken by the petitioner that his case for regularization of his services was time and again recommended by the respondent-Department, is not sustainable, in view of the earlier order dated 07.11.2006 passed by the Tribunal.

6. The respondents have also placed on record the copy of order dated 07.11.2006, passed in the original application preferred by the petitioner.

7. The petitioner has filed rejoinder to the reply and controverted the facts.

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

9. A perusal of the writ petition does not show that the petitioner had earlier approached the Tribunal, by filing an Original Application seeking the relief of regularization, which was dismissed on 07.11.2006. The petitioner cannot even take the plea that he was not aware about the said fact, especially when while rejecting the claim of the

petitioner, vide order dated 10.11.2014, respondent No.2 had specifically observed in the order that the petitioner had earlier filed an Original Application No. (M) 60 of 2003 before the Tribunal, Bench at Mandi, for the same cause of action, which came to be dismissed on 07.11.2006. Once the petition preferred by the petitioner, came to be rejected, vide order dated 07.11.2006, the only course available to him was to lay challenge to the said order, but the petitioner remained mum for about eight years and even when earlier he had instituted the petition seeking the relief on the analogy of the judgment passed in **Sanjay's** case (supra), he did not disclose this fact to the Court that his claim was earlier rejected by the Tribunal. Had this fact been brought to the notice of the Court, the Court may not have passed the order on 26.08.2014, directing the respondent-State to consider his claim on the analogy of the decision rendered in **Sanjay's** case (supra). As already noticed above, once respondent No.2 after the direction given by this Court had clearly mentioned in the order that the petitioner had earlier approached the learned Tribunal by way of Original Application, which came to be dismissed on 07.11.2006, the least which was expected of the

petitioner was to mention the said fact in the writ petition. Even if the said fact is not mentioned, the petitioner is not entitled for any relief for the reason that the claim raised in the present petition had already been adjudicated by the learned Tribunal and the Original Application instituted by him came to be rejected on 07.11.2006.

10. Though this Court was of the considered view that the petitioner should be saddled with exemplary costs, but keeping in view the that he has now retired, the Court is refraining from imposing any costs.

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

29th July, 2026

(Anurag)

**(Jiya Lal Bhardwaj)
Judge**