

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CMP(M) No.1565 of 2026 &
LPA No.551 of 2026
Date of Decision : 25.09.2026

State of Himachal Pradesh and Others

..... Appellants

Versus

Uttam Sain and another

..... Respondents

Coram:

The Hon'ble Mr. Justice G.S. Sandhawalia, Chief Justice

The Hon'ble Mr. Justice Bipin Chander Negi, Judge

Whether approved for reporting?¹

For the Appellants : Mr. Anup Rattan, Advocate General with
Mr. Varun Chandel, Additional Advocate General.

G.S. Sandhawalia, Chief Justice (Oral)

CMP(M) No.1565 of 2026

Delay of 332 days in filing the present appeal is condoned in view of the averments made in the application duly supported by an affidavit of the official. The application stands disposed of.

LPA No.551 of 2026

2. The present appeal is filed against the judgment of learned Single Judge, passed in ***Civil Writ Petition No.4341 of 2024***, titled ***Uttam Sain vs. State of Himachal Pradesh & others***, decided on 03.07.2025, whereby directions have been issued to the appellants-respondents that the petitioner be deemed to have retired at the age of 60 years on

30.09.2013 and thereafter be paid pension and retiral benefits considering his retirement age to be 60 years.

3. The date of retirement of the petitioner was extended by two years on account of the judgment rendered by a Full Bench of this Court in **CWP No. 2711 of 2017**, titled **Baldev Singh & others vs. State of H.P. and others**, along with connected matters, on 22.02.2022, wherein it was held that Class-IV employees who were engaged prior to 10.05.2001 were entitled to be continued or deemed to have retired on attaining the age of 60 years.

4. Learned Single Judge accordingly noticed that the petitioner was initially appointed as a Beldar in the respondent-Department in the year 1995 and subsequently, his services were regularized in the year, 2006 after completion of more than 12 years of continuous daily wage service and had been granted work-charge status w.e.f. 01.01.2003, and he, thus, retired on 30.09.2011 upon attaining the age of superannuation, i.e., 58 years.

5. Not having the requisite 10 years of qualifying service at the time of retirement, the petitioner had approached this Court by way of filing a petition being **CWP No. 2956 of 2019**, titled **Uttam Sain vs. State of Himachal Pradesh**, which was finally decided on 13.07.2021, along-with another connected matter, whereby he had sought a direction to the respondents to grant him the benefit of judgment passed by the Apex Court, in **Civil Appeal No.6309 of 2017** titled **Sunder Singh vs. The State of Himachal Pradesh and others**, wherein it was held that five

years of daily-wage service of an employee was required to be counted as one year complete service for the purpose of pension, in which, the date of entitlement had been fixed as 01.01.2018.

6. The present writ petition thereafter came to be filed on the strength of the decision of **Baldev Singh's case** (supra). Prior to that, legal notice dated 05.01.2024 (Annexure P-2) was sent by the petitioner to the respondents claiming that the retirement age of the petitioner is deemed to be 60 years, i.e., 30.09.2013 and the prayer was made for re-fixation of pay by granting all retiral benefits. It was specifically pleaded in the writ petition that the respondents have taken a policy decision that the retirement age of the Class-IV employees who were engaged prior to 10th May, 2001, though regularized subsequently, is required to be treated 60 years for all intents and purposes.

7. The State, as such, in the reply to the writ petition has admitted that after decision of **Baldev Singh's case** (supra) and thereupon, as per instructions dated 28.04.2023, the petitioner was deemed to be retired at the age of 60 years vide order dated 30.09.2013. Thus, the plea taken was that the pay of the petitioner was re-fixed on notional basis vide order dated 07.12.2023 and all due and admissible claim of the petitioner had been decided. The plea was also taken that the petition suffered from delay and latches. It was also mentioned that the case of the petitioner stood already considered and he was deemed to be retired at the age of 60 years and as per communication dated 07.12.2023 (Annexure R-I), his revised pay has been notionally re-fixed.

8. In the replication filed by the respondent/writ petitioner to the reply filed to the writ petition, it was specifically pleaded that on account of the re-fixation of the pay, retiral benefits, such as gratuity, pension, leave encashment etc. were required to be released w.e.f. 01.10.2013 and the arrears on account of such re-fixation have to be released in favour of the petitioner along-with interest for delayed payment. It was in such circumstances, the learned Single Judge had allowed the writ petition, as such, by granting the benefit of two years additional service to the petitioner on account of the retirement being pushed by two years and accordingly, the service period had been extended after the resultant benefits. The retirement benefits would necessarily have to be recalculated thereafter.

9. In such circumstances, we do not find any error, as such, on account of the directions issued by the learned Single Judge. Accordingly, the present appeal, being devoid of merits, is dismissed. Pending miscellaneous application(s), if any, shall also stand dismissed.

(G.S. Sandhawalia)
Chief Justice

September 25, 2026 (KS)

(Bipin Chander Negi)
Judge