IN THE HIGH COURT OF HIMACHAL PRADESH AT SHIMLA

CWPOA No.908 of 2019
Decided on : 29.10.2025

Ramesh Singh .....Petitioner

Versus

State of Himachal Pradesh and others ....Respondents

Coram

Hon'ble Mr. Justice Ranjan Sharma, Judge

[1] *Whether approved for reporting?*

For the petitioner: Ms. Disha Pal, Advocate vice Mr. Sanjay Jaswal, Advocate.

For the respondents: Mr. Sumit Sharma, Deputy Advocate General.

Ranjan Sharma, Judge

Petitioner, Ramesh Singh, has come up before this Court, seeking the following reliefs:-

> "(i) A writ of mandamus may very kindly be issued thereby directing the respondents to grant work charge status to the petitioner from the date of completion of ten years continuous daily wage service i.e. with effect from January, 1996, with all consequential benefits such as seniority, full back wages and pay fixation etc.
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> (ii) Respondents may further be directed to consider the medical period of 170 days as medical leave period and counted with 90 working days for the purpose of completing requisite days i.e. 240 days in the year 1993."

FACTUAL MATRIX:

2. Grievance of the petitioner is that he joined service in January, 1986 in the Office of

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

Agriculture Seed Grading Farm, Shahpur, District Kangra, Himachal Pradesh, under the Respondents. It is averred that petitioner, on account of his medical incapacitation, had undergone surgery and where-after post-surgery care, during the period from 20.01.1993 to 31.03.1993 *[Annexure P-1]* and the aforesaid period is sought to be counted towards the actual service of 90 days rendered during the year 1993 as per *Mandays Chart [Annexure P-2].* It is further averred that petitioner stands regularized by the State Authorities on 17.08.2006 *[as per Annexure R-1 with the Reply-Affidavit].* In this backdrop, it is contended that petitioner may be regularized after completion of 10 years of continuous daily wage service by taking into account the period of absence on account of medical incapacitation/surgery as *Annexure P-1* and to count the said period towards actual service rendered for 90 days in the year 1993 and then, the grant of benefit of work charge status after 10 years of continuous service w.e.f. 01.01.1996 in terms of the judgment of Hon'ble Supreme Court in the case of ***Mool Raj Upadhyaya Versus State of H.P. and***

others, 1994 Supp (2) SCC 316.

STAND OF RESPONDENTS IN REPLY-AFFIDAVIT:

3. Pursuant to issuance of notice, State Authorities have filed *Reply-Affidavit,* stating therein that as per *Mandays Chart [Annexure P-2],* petitioner was engaged on daily wage basis in 1986 and had rendered continuous service with 240 days in 1992. It is further averred in *Reply-Affidavit* that petitioner had rendered actual service of 90 days from the year 1993 and even if the period of medical incapacitation on account of surgery from 20.01.1993 to 31.03.1993 *[as in Mandays Chart Annexure P-1]* is taken into account, then also, petitioner does not complete 240 days continuous daily wage service during the year 1993. It is further averred that even after giving benefit of period of absence on account of medical incapacitation, coupled with the fact that petitioner does not complete continuous daily wage service with 240 days from 1993, then, petitioner cannot be extended the benefit of work charge status in terms of the mandate of law in the case of ***Mool Raj Upadhyaya [supra],*** on completion of 10 years of continuous daily wage service w.e.f. 01.01.1996.

4. At this stage, Learned Counsel appearing for the petitioner, *on Instructions,* submits that petitioner shall be satisfied, in case, petitioner is granted work charge status on the basis of continuous service of 8 years rendered from 1994 till 31.12.2001 as per *Mandays Chart [Annexure P-2]* and is granted work charge status w.e.f. 01.01.2002.

5. Heard, Ms. Disha Pal, Learned Counsel, appearing as Vice Counsel on behalf of Mr. Sanjay Jaswal, Learned Counsel, for the petitioner and Mr. Sumit Sharma, Learned Deputy Advocate General, for the respondents.

ANALYSIS:

6. Taking into account the entirety of facts and circumstances and the material on record, this Court is of the considered view, that claim of the petitioner for conferring work charge status on completion of 10 years of continuous daily wage service in terms of mandate of the Hon'ble Supreme Court in the case of ***Mool Raj Upadhyaya [supra],*** on the basis of daily wage service rendered from 1986 to 31.12.1995, is not tenable, as the petitioner does not complete 240 days of continuous daily wage

service even by including period of absence on account of medical incapacitation/surgery, as in *Annexure P-1*. In these circumstances, petitioner being ineligible for want of completion of continuous daily waged service of 10 years, is not entitled for conferment of work charge status from the date of completion of 10 years of daily wage service and, therefore, the contention of Learned Counsel for the petitioner, is not accepted and is accordingly turned down.

7. *During the course of hearing,* Learned Counsel for the petitioner, submits that as per *Mandays Chart,* petitioner has rendered 8 years continuous daily wage service from 1994 till 31.12.2001 and, therefore, in terms of the mandate of Hon'ble Supreme Court in the case of ***State of Himachal Pradesh & Others versus Surajmani and Another [Civil Appeal No.1595 of 2025 and other connected matters,*** decided on 06.02.2025, the petitioner is entitled for conferment of work charge status, he completes 8 years of continuous daily wage service, notwithstanding, the fact that petitioner stands regularized on 07.08.2006 *[Annexure R-1].*

7(i). *Per contra,* Learned State Counsel submits that since the aforesaid contention has been raised by the petitioner, for the first time, *during the course of hearing,* the State Authorities may be permitted to verify the factual aspect to examine the case of the petitioner in the light of the mandate of the Hon'ble Supreme Court in the case of ***Surajmani [supra].*** Stand of Learned State Counsel appears to be genuine, *for the reason,* that the Authorities are bound to extend the benefit of said judgment to all similarly placed incumbents and the modified claim for lesser benefits in terms of the judgment in the case of ***Surajmani [supra]*** being a judgment in *rem* entitles a daily wager for grant of work charge status from the date he completes 8 years of continuous daily wage service, by limiting the relief to **"notional benefits"** and the therefore, the claim of the petitioner needs to be considered. Operative part of the judgment in the case of ***Surajmani [supra],*** reads as under:-

> "5. The workers who had been regularised in service in the Public Health Department under various schemes announced by the State Government from time to time but had not been granted the status of "work-charged" had

approached the High Court of Himachal Pradesh in CWP No. 2735 of 2010 titled as ***Rakesh Kumar and Ors. Vs. State of Himachal Pradesh and Ors***. which came to be disposed of on 28.07.2010 by opining as under:

> "6. The simple question is whether the delay defeats justice? In analyzing the above issue, it has to be borne in mind that the petitioners are only class-IV workers (Beldars). The schemes announced by the Government clearly provided that the department concerned should consider the workmen concerned for bringing them on the work charged category. So, there is an obligation cast on the department to consider the cases of the daily waged workmen for conferment of the work-charged status, being on a work-charged establishment, on completion of the required number of years in terms of the policy. At the best, the petitioners can only be denied the interest on the eligible benefits and not the benefits as such, which accrued on them as per the policy and under which policy, the department was bound to confer the status, subject to the workmen satisfying the required conditions.
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> 7. In the above circumstances, these Writ Petitions are disposed of directing the respondents to consider the case(s) of the petitioners herein for conferment of workcharged status, subject to their eligibility in terms of the policy dated 3.4.2000 and as explained in 6.5.2000 policy, as extracted above. Needful in this regard shall be done within a period of three months from the date of production of the copy of this judgment by the respective petitioners. Needless to say that the question of conferment of work charged status does not arise in case the establishment ceases to be a work charged establishment and hence, the conferment of the status will not arise after the abolition of the work-charged status of the establishment."

6. The aforesaid order came to be affirmed by this Court in Special leave Petition (Civil) No. 33570 of 2010 and all connected matters were disposed of on 15.01.2015. Later, certain workers who had been engaged on daily wage basis in Public Works Department of Himachal Pradesh, after having completed eight years of continuous service prayed for conferment of work-charged status by filing O.A. No. 412 of 2016 before the H.P. State Administrative Tribunal. Their prayer was allowed by the Tribunal vide order dated 30.06.2016. Upon challenging the same by the State in Civil Writ Petition No. 3111 of 2016 titled as ***State of H.P. and Ors. Vs. Sh. Ashwani Kumar*** the High Court, relying upon its judgment in Civil Writ Petition No. 4489 of 2009 titled as ***Ravi Kumar Vs. State of H.P. and Ors***., decided on 14.12.2009, maintained the order of the Tribunal. The order of the High Court in Ashwani Kumar (Supra) has also been affirmed by this Court in Civil Appeal No. 5753 of 2019 titled as ***State of H.P. and Ors. Vs. Ashwani Kumar*** by order dated 22.07.2019, wherein this Court observed as under:

> "3. We are not disturbing the finding of the Tribunal, which was affirmed by the High Court, with respect to the conferral of the status of the work charge from 01.01.2003. However, as regularization has been made only in the year 2006, obviously, **notional benefit could have to be granted** as the petition was initially filed in the year 2013.
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> 4. Thus, we make the modification that the respondent would be entitled only for notional benefits of the order passed by the Central Administrative Tribunal. Accordingly, with the aforesaid

> modification in the order of the Central Administrative Tribunal and the High Court, the appeal is disposed of."

7. In this factual scenario, when we consider the arguments advanced by the learned counsel appearing for the respective parties, it would not detain us for too long to brush aside the contention of the learned senior counsel and learned Advocate General appearing for the State of Himachal Pradesh. **Inasmuch as the issue involved in these appeals has been laid to rest by this Court in the case of Mool Raj Upadhyaya (Supra). That apart, this Court, while examining a similar plea in Ashwani Kumar's (Supra) case in Civil Appeal No. 5753 of 2019 disposed of on 22.07.2019, has specifically addressed this issue by arriving at a conclusion that the order of the Tribunal directing conferment of 'work charge status' on completion of eight (08) years of service, did not suffer from any infirmity** and it was reiterated order of the Tribunal was just and proper.

8. However, in order to allay the apprehension of the State as expressed thereunder and to safeguard the interest of the State which otherwise would have burdened the exchequer with extra benefits being conferred on the employees who had not been regularly appointed, **this Court has, as a succor to the State, restricted the claim or, in other words, modified the order of the Tribunal as affirmed by the High Court by arriving at a conclusion that the petitioners/appellants therein would be entitled to the notional**

benefits of the order passed by the Tribunal and accordingly disposed of the said appeal.

9. It would not be out of context to refer at this juncture itself that the State, in its wisdom, having felt that the subsequent schemes having been formulated and implemented, would alter the situation and, therefore, order dated 12.04.1994 passed in **Mool Raj Upadhyaya's** (Supra) case has to be modified, had approached this Court by filing an Interlocutory Application being IA No. 3 in the year 2005 in the aforesaid **Mool Raj Upadhyaya's** case, i.e., Writ Petition (Civil) No. 787 of 1987. A perusal of the said application and the averments made thereunder would clearly indicate that the very same contentions urged, pleas advanced and arguments put forth today before us were the ones which were urged/raised in the said application. Though Mr. Vivek Tankha, learned senior counsel appearing for the State would fairly submit that the said application was withdrawn on the ground of subsequent schemes having been formulated and implemented by the State of Himachal Pradesh, but we are unable to accept the said proposition howsoever attractive it may be, for the simple reason that the said application was dismissed simpliciter as withdrawn. Yet another factor which sways our mind to reject the contention raised by the learned senior counsel appearing for the State would be the fact that the State having accepted the judgment of **Ashwani Kumar (Supra),** has implemented the same and it is in this background, the High Court in the

impugned order has observed that the State cannot adopt pick and choose policy.

10. For the cumulative reasons aforestated, we are of the considered view that the dicta laid down by this Court vide order dated 22.07.2019 in **Ashwani Kumar's** (Supra) case which is based on the judgment of **Mool Raj Upadhyaya** (Supra) holds the field and would also be applicable to the Respondents herein who had approached the Tribunal or the High Court seeking similar relief. **As such, the Respondents shall be entitled for grant of 'work-charged' status from the date of completion of 8 years of service. However, we hold that the relief in the present appeals will be limited to notional benefits** as explained in paragraph 3 and 4 of **Ashwani Kumar's** (Supra) case in Civil Appeal No(s). 5753 of 2019 and the present appeals stand disposed of accordingly with no order as to costs.

11. We also make it explicitly clear that the State in its endeavour of implementing the orders of the Tribunal, High Court or this Court, if having paid the amounts in excess, would be at liberty to take such steps as it deems fit without insisting for one time recovery.

12. It is further underscored **that this judgment would necessarily be a judgment in rem** and the State shall hence forth not take recourse to employing personnel as daily wagers but shall make appointments only in accordance with law, as enumerated in the case of **Secretary,**

State of Karnataka Vs. **Uma Devi** [(2006) 4 SCC 1]."

DIRECTIONS:

8. Considering the *factual matrix and the relief* of work charge status from the date of 8 years of continuous service, now being claimed in terms of the mandate of the Hon'ble Supreme Court in case of ***Surajmani [supra],*** this Court disposes of the instant petition, *in the following terms:-*

(i) Claim of the petitioner for grant of work charge status on completion of 10 years of continuous daily wage service in terms of the mandate of the Hon'ble Supreme Court in the case of ***Mool Raj Upadhyaya [supra],*** w.e.f. 01.01.1996 is declined in view of ineligibility of the petitioner;

(ii) State Authorities are directed to examine/ consider the claim of the petitioner for conferment of work charge status in terms of the mandate of the Hon'ble Supreme Court in the case of ***Surajmani [supra]*** and in light of *Mandays Chart [Annexure P-2];*

(iii) Upon consideration, in case, petitioner completes 8 years of continuous daily wage service with 240 days from 1994 till

31.12.2001, then, the Respondents shall extend the benefit of work charge status to the petitioner w.e.f. 01.01.2002 in terms of the mandate of the Hon'ble Supreme Court in the case of ***Surajmani [supra];***

(iv) Needless to say that conferment of work charge status shall not entail any past-arrears, but the benefits shall be limited to ***"notional benefits only"****;* and

(v) Costs made easy for respective parties.

9. In aforesaid terms, the instant petition and all pending miscellaneous application(s), if any, shall accordingly stand disposed of.

(Ranjan Sharma)
Judge

October 29, 2025
[Bhardwaj]