IN THE HIGH COURT OF HIMACHAL PRADESH AT SHIMLA

CWP No. 579 of 2023
Decided on : 09.04.2026

Gandho Ram

…Petitioner

Versus

State of Himachal Pradesh and others

…Respondents

Coram
Hon'ble Mr. Justice Ajay Mohan Goel, Judge
Whether approved for reporting?[1] Yes

For the petitioner : Mr. Sat Prakash, Advocate.

For the respondents : Mr. Rajat Chauhan, Assistant Advocate General.

Ajay Mohan Goel, Judge *(Oral)*

CMP No. 6973 of 2026

In view of the averments contained in the application, the same is allowed. The application stands disposed of.

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2. With the consent of the parties, this petition is being disposed of at this stage, today itself.

1*Whether reporters of the local papers may be allowed to see the judgment?*

3. The case of the petitioner is that he was engaged as a daily wage Mason in IPH Sub-Division Chowari, Division Dalhousie, District Chamba, H.P, in the year 1991. He continuously worked as such by putting in full 240 days in each calendar year. His services were brought on work charge/regular establishment with effect from 01.01.2001. Thereafter, his services were regularized vide Annexure P-1, dated 28.07.2003. The petitioner superannuated on 30.06.2010. The grievance of the petitioner is that the work charge service rendered by him, as also the service rendered on daily wage basis have not be taken into consideration for assessing his eligibility to receive pension, in terms of the law settled by the Hon'ble Supreme Court of India in its judgments titled as ***Balo Devi Vs. State of H.P. & Ors., Civil Appeal No. 4792 of 2022,*** *decided on 18.07.2022* and ***Sunder Singh Vs. The State of Himachal Pradesh & Ors., Civil Appeal No. 6309 of 2017,*** *decided on 08.03.2018.* It is in this backdrop that the petitioner is before this Court.

4. Learned counsel for the petitioner submitted that the petitioner after being regularized on 28.07.2003, served as

such till 30.06.2010. Before this, he was brought on work charge/regular establishment with effect from 01.01.2001 and in terms of the law declared by Hon'ble Division Bench of this Court in ***CWP No. 2384 of 2018, titled State of Himachal Pradesh & Others Vs. Sh. Matwar Singh & Another,*** *decided on 18.12.2018,* this period has to be taken into consideration for assessing the eligibility of the petitioner to receive pension. Learned counsel further submitted that as per the law declared by the Hon'ble Supreme Court of India in Balo Devi's and Sunder Singh's case (supra), five years of daily wage service with 240 days in each calendar year has to be treated as one year, which is to be added to the regular service rendered by an employee to render him or her eligible for grant of pension. Learned counsel submitted that in the present case, as from the date when the petitioner was brought on work charge/regular establishment, he served the Department for about nine years and six months. He further submitted that as the petitioner had rendered daily wage service from the year 1991 till the year 2001, this period of 10 years has to be calculated as being equivalent to two years and when these

two years are added to nine years and six months, this takes the total service of the petitioner beyond 10 years, thus rendering him eligible for the receipt of pension. Accordingly, the learned counsel for the petitioner prayed that in this backdrop of the non-grant of pension to the petitioner is arbitrary and respondents be directed to pay the pension to the petitioner with effect from 01.01.2018 in terms of the judgments of the Hon'ble Supreme Court of India.

5. The stand of the State is that as the service rendered by the petitioner, including work charge service, was of nine years and six months, i.e., less than 10 years, he is not entitled to receive pension and the same has been rightly denied to him. Learned Assistant Advocate General by referring to the reply filed by the respondents submitted that the petitioner cannot take the benefit of the judgment of the Hon'ble Supreme Court in Balo Devi's and Sunder Singh's case (supra), for the reason that those judgments are relatable to Class-IV employees, whereas, the petitioner happens to be a Class-III employee. Learned Assistant Advocate General also submitted that the petition is barred by delays and laches. Accordingly, he

submitted that as no cause of action has accrued in favour of the petitioner, this petition deserves to be dismissed.

6. In rebuttal, learned counsel for the petitioner has referred to the judgment of Hon'ble Division Bench of this Court in ***Letters Patent Appeal No. 196 of 2022, titled Roop Lal Vs. State of Himachal Pradesh and others,*** *decided on 11.10.2023* and also judgment of this Court in ***CWP No. 6768 of 2024, titled Smt. Lachhi Vs. State of Himachal Pradesh and others,*** *decided on 24.03.2026* and submitted that in light of these adjudications, the issue is no more *res-integra*, and the benefit of daily wage service in terms of the judgment of the Hon'ble Supreme Court in Balo Devi's and Sundar Singh's case (supra) has to be given to a Class-III employee also.

7. I have heard learned counsel for the petitioner as well as learned Assistant Advocate General and have also carefully gone through the pleadings as well as documents placed on record and also the judgments relied upon by the learned counsel for the petitioner.

8. The facts, as have been mentioned hereinabove, are not much in dispute. It is a matter of record that the

petitioner was engaged on daily wage basis in the year 1991. He was brought on work charge/regular establishment with effect from 01.01.2001. His services were regularized on 28.07.2003 and he superannuated on 30.06.2010. The petitioner superannuated as a Mason, which is a Class-III post. In terms of the judgment of the Hon'ble Division Bench of this Court in *State of Himachal Pradesh & Others Vs. Sh. Matwar Singh & Another (supra),* it is now well settled that the work charge status followed by regular appointment, has to be counted as a component of qualifying service for the purpose of pension and other retirement benefits. In fact, recently, the State of Himachal Pradesh has also issued a Circular dated 04.04.2026, in terms whereof, the work charge period has to be counted for the purpose of pensionary benefits and not for the purpose of increment.

9. Be that as it may, the factum of the work charge period being counted for the purpose of pensionary benefit is not much in dispute. The moot issue is whether in light of the fact that the petitioner happens to be a Class-III employee, he can be granted the benefit of the judgment of the Hon'ble

Supreme Court in Balo Devi's and Sunder Singh's case (supra) or not. Recently, this Court in *Smt. Lachhi Vs. State of Himachal Pradesh and others (supra),* has decided this issue. The relevant portion of the said judgment is quoted hereinbelow:-

> *"9. Now, as far as the issue of the late husband of the petitioner not being entitled to the benefit of the said judgments on the ground that he was a Class-III employee is concerned, this issue is no more res-integra. In fact, this Court in CWP No.7051 of 2021, titled Ravinder Singh versus State of Himachal Pradesh and another, decided on 31.07.2024 has held that the benefit of the judgments of the Hon'ble Supreme Court in Balo Devi's case and Sunder Singh's case has to be granted even to a Class-III employee in light of the law declared by the Hon'ble Division Bench of this Court in LPA No.196 of 2022, titled Roop Lal versus State of Himachal Pradesh and others, decided on 11.10.2023, which judgment of the Hon'ble Division Bench was upheld by the Hon'ble Supreme Court of India. Therefore, as this issue is no more res-integra that the benefit of Balo Devi as well as Sunder Singh's judgments of the Hon'ble Supreme Court of India is to be given to a Class-III employee also, the denial of the said benefit to the petitioner by the respondents is not sustainable in the eyes of law."*

10. Thus, it is evident from the above-mentioned judgment that the factum of a Class-III employee also being

entitled to receive the benefit of the judgments of Hon'ble Supreme Court of India in Balo Devi's and Sunder Singh's case (supra), is no longer *res-integra.* In order to render them eligible for the purpose of pension, service rendered by them on a daily wage basis, has to be taken into consideration and five years period has to be taken as one year, which is to be added to the work charge and regular service of the petitioner to gauge the eligibility of the party.

11. In light of the above facts, the denial of pension by the respondents to the petitioner by not taking into consideration the daily wage service rendered by him on the ground that he is a Class-III employee, is not sustainable in the eyes of law. Accordingly, this petition is allowed. Respondents are directed to take into consideration the daily wage service rendered by the petitioner, in terms of the law declared by the Hon'ble Supreme Court in *Balo Devi Vs. State of H.P. & Ors. (supra)* and *Sunder Singh Vs. The State of Himachal Pradesh & Ors. (supra),* to assess the eligibility of the petitioner to be entitled for pension. Respondents are thereafter directed to pay pension to the petitioner with effect from 01.01.2018. It is

clarified that the pension shall be payable to the petitioner only from this day, meaning thereby, that arrears shall be payable to the petitioner only with effect from 01.01.2018 and he shall not be entitled for pension before the said date. This date is being fixed by this Court in terms of the judgment of the Hon'ble Division Bench of this Court in *Roop Lal Vs. State of Himachal Pradesh and others (supra)*. It is further observed that the daily wage service rendered by the petitioner and also the work charge service rendered by him, shall not be taken for consideration for any other purpose but for rendering the petitioner eligible for receipt of pension.

12. With these observations, this petition is disposed of. Let arrears be paid to the petitioner within a period of three months and regular pension be now paid to the petitioner with effect from the month of May, 2026. Pending miscellaneous application(s), if any, also stand disposed of accordingly.

(Ajay Mohan Goel)
Judge

April 09, 2026
(Shivank Thakur)