2026:HHC:47309

**IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA.**

**CMP(M) No. 1763 of 2026 &**
**LPA No. 637 of 2026**

**Date of decision: 28.10.2026**

H. P. State Cooperative Bank ...Appellant

Versus

Prem Chand Kashyap & Ors. ...Respondents

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

***The Hon'ble Mr. Justice Bipin C. Negi, Judge.***
*Whether approved for reporting?*

**For the Appellant:** Mr. Sunil Mohan Goel, Senior Advocate with Mr. Raman Jamalta, Advocate.

**G. S. Sandhawalia, Chief Justice (Oral)**

**CMP No. 28323 of 2026**

Keeping in view the averments made in the application, delay of 155 days in re-filing the appeal is condoned. The application stands disposed of.

**CMP(M) No. 1763 of 2026**

2. For the reasons stated in the application, which is duly supported by the affidavit of the official, delay of 162 days in filing the appeal is condoned. The application stands disposed of.

2026:HHC:47309

**LPA No. 637 of 2026**

3. Consideration is sought to the order of the learned Single Judge passed in ***CWP No. 5063 of 2023***, titled as ***H.P. State Cooperative Bank Ltd. vs. State of H.P. & Ors.***, whereby the writ petition filed by the appellant-Bank was dismissed on 08.10.2025 on both accounts of issues of limitation and merits.

4. The learned Single Judge, *firstly*, came to the conclusion that the challenge to the order dated 25.06.2011 (Annexure P-16) was made at a belated stage, after an inordinate delay of 11 years, since the writ petition was filed in the year 2023 and noticed that there was an order/award dated 07.08.2007 (Annexure P-14) in favour of the employee, which was being sought to be executed. Resultantly, reliance was placed upon the judgment of the Apex Court in ***Shivamma (Dead) by LRs vs. Karnataka Housing Board & Ors., 2025 LiveLaw (SC) 899,*** that limitation as such cannot be condoned as a matter of course and the State is under a duty as such to act in time. However, the learned Single Judge also proceeded on merits, while noticing that the employee as such having worked with the Bank since the year 1975 as Cashier-cum-

2026:HHC:47309

Clerk (Recovery). He had gone on deputation to the Bhagat Urban Cooperative Bank in the year 1988 and thereafter was absorbed on 01.01.1997 and he was, thus, very much in the service of the Bank on 01.01.1996 and was, thus entitled for the grant of the benefits of the said scheme, which had come into operation w.e.f. 01.01.1996. It was also noticed that during the period of the deputation, he was promoted twice, *firstly*, as Grade-II employee and thereafter, Grade-I employee, by the petitioner-Bank.

5. Thus, while examining the provisions of the "***The Himachal Pradesh State Cooperative Bank Limited; Employees Contributory Pension Scheme 2003***", the learned Single Judge came to the conclusion that the employees who were on regular pay scales of the bank on the date of the commencement of the Scheme, were entitled for the benefit as such and there being no dispute regarding this aspect, was liable to be considered and, thus, came to the conclusion that there was no illegality committed by the Arbitrator, while passing the award dated 07.08.2007 (Annexure P-14).

6. We have gone through the Paper Book as such and find that vide option dated 18.07.2003 (Annexure P-12),

2026:HHC:47309

the employee as such had opted for the benefit of the Scheme, but his case had been rejected by passing an order dated 08.01.2005 (Annexure P-13) mainly on the ground that he had left the institution in October, 1988 being on deputation with the Bhagat Urban Cooperative Bank upto 31.12.1996 and had been absorbed there on 01.01.1997 and the Bank had reimbursed all his retiral dues upto the date he was not the employee of the appellant-Bank, hence representation could not be considered.

7. An award dated 07.08.2007 (Annexure P-14), thus, came to be passed in favour of the employee, as such, that minimum length of 10 years' service was as per the Scheme and he had fulfilled the requirement and was covered under the ***Employees Contributory Pension Scheme 2003***, as he was on the rolls of the bank on 01.01.1996.

8. The appellant-Bank was unsuccessful in getting the said award set aside and the Under Secretary (Coop.) to the Government of Himachal Pradesh had dismissed its appeal on 25.06.2011 (Annexure P-16). Apparently, the appellant-Bank as such chose not to file any proceedings as such, thereafter. The employee as such *firstly,* filed an

2026:HHC:47309

Execution Petition, which was dismissed in default on 30.12.2015 and by the dismissal of the said Execution Petition, the Bank further chose not to file any proceedings, as such.

9. Thereafter, the *second* execution petition came to be allowed on 03.08.2022 (Annexure R-3) by the Additional Registrar (Administration) Cooperative Societies, Himachal Pradesh, whereby the said stand of the bank was rejected and the implementation of the orders dated 07.08.2007 and 25.06.2011 was directed to be done. It is apparently, after the order having been passed on 03.08.2022, the writ petition was then filed in the year, 2023.

10. It is, thus, apparent that the findings recorded by the learned Single Judge were well-justified that there was total inaction and negligence on the part of the Bank as it had chosen not to challenge the order dated 25.06.2011 (Annexure P-16) and no fault in the said proposition as such has been laid down by the learned Single Judge can be found. It is settled principle of law that justice and rights accrue to the litigants and on account of the inaction of the

2026:HHC:47309

employer as such to get the order set aside, he has right to get the order executed in accordance with law.

11. On merits also, we are of the considered opinion that the reasoning, which was given by the appellant-Bank as such to reject the case of the employee was without any justification, as he was on the roll of the Bank till 01.01.1996 and merely being on deputation, would not break the link as such and he was only thereafter absorbed on 01.01.1997 and apparently served with other bank i.e The Baghat Urban Cooperative Bank till the year, 2014, when he was stated to have retired. During the period of his service, he had opted for the Scheme on 18.07.2003, however, his case had been wrongly rejected on 08.01.2005 and as noticed, it was set aside by passing an award dated 07.08.2007 (Annexure P-14), which was accordingly upheld on 25.06.2011 (Annexure P-16).

12. In such circumstances, the reasonings of the learned Single Judge in dismissing the writ petition both on the grounds of delay and laches and on merits, does not suffer from any infirmity, which warrants interference by this Court.

2026:HHC:47309

13. Learned Senior Counsel for the appellant-Bank at this stage submits that Contempt Petition is also pending for the execution of the order and the order will be implemented within a period of four weeks from today, subject to the employee as such depositing his share. His statement is accordingly taken on record.

14. Accordingly, the appeal is dismissed so also the pending applications, if any.

**(G. S. Sandhawalia)**
**Chief Justice**

**(Bipin C. Negi)**
**Judge**

**28th October, 2026**
(sanjeev)