IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CWP No.6913 of 2013

Decided on: 06.11.2026

Bhup Singh … Petitioner

Versus

State of Himachal Pradesh and others … Respondents

Coram

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

For the petitioner	:	Mr. Jai Dev Thakur, Advocate.
For the respondents	:	Mr. Pushpinder Jaswal, Additional Advocate General.

Ajay Mohan Goel, Judge (Oral)

By way of this petition, the petitioner has *inter alia* prayed for the following reliefs:-

> *"(i). That writ of certiorari may kindly be issued, quashing the impugned award dated 10.12.2012 (Annexure P-6) passed by the Ld. Labour Court in Reference No. 274/2010.*
>
> *(ii) That writ of mandamus may kindly be issued, directing the respondents to re-engage the petitioner in service as Beldar with all consequential benefits such as; seniority, back wages, promotion etc."*

2. Learned Labour Court-cum-Industrial, Tribunal, Dharamshala, vide impugned award dated 10.12.2012 answered the reference against the petitioner. Feeling aggrieved, the petitioner has filed this writ petition.

3. I have heard learned Counsel for the parties and have also perused the Award passed by the learned Labour Court.

4. Following reference was sent by the appropriate Government for adjudication to the learned Labour Court-cum-Industrial Tribunal: -

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

"Whether verbal termination of the services of Shri Bhup Singh S/o Shri Dila Ram daily wage workman by the Divisional Forest Officer, Forest Division Sunder Nagar, District Mandi, H.P. w.e.f. May, 2008, without serving charge sheet, without holding enquiry and without complying with the provisions of the Industrial Disputes Act, 1947, whereas junior to him have been retained by the above employer, is legal and justified? If not, to what back wages, service benefits and relief the above named workman is entitled to?"

5. As per the petitioner, his services were engaged as a daily wage Beldar by the respondents in the month of March, 2002. He served continuously till 31.03.2003. He had worked more than 240 days during the calendar years of his employment. His services were terminated verbally on 31.03.2003. According to the petitioner, termination of his service was not in accordance with law, as no reasons were assigned for his disengagement and opportunity of hearing was also not afforded to him. He was re-engaged by the respondents as Beldar on 12.02.2008. He worked up to 01.05.2008, whereafter his services were terminated again under an oral order. As per the petitioner, no reasons were assigned for retrenching his services and no opportunity of hearing was given to him whereas persons junior to him named in the claim petition had been retained. Despite availability of work, the petitioner was not reinstated. The petitioner contended that the above action of the respondents was in violation of Sections 25-F and 25-G of the Industrial Disputes Act, 1947.

6. The respondents denied having engaged the petitioner as daily waged beldar in March, 2002. According to them, the petitioner was appointed as a casual labourer for the seasonal

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forestry works in April, 2002. He had worked intermittently till February, 2006 and had never completed 240 days of work in any calendar year during his employment. According to the respondents, the petitioner continued to serve intermittently till February, 2006. Subsequently, he did not report for duty and abandoned the job. The respondents denied engaging any persons junior to the petitioner.

7. The parties led their respective evidence. On considering the entire case, the learned Labour Court held the claim petition to be not maintainable and dismissed it, thereby rejecting the Reference, giving occasion to the petitioner to institute this writ petition.

8. While dismissing the claim petition, the learned Labour Court took note of the evidence placed on record, whereby the respondents had admitted to not giving any notice to the petitioner before terminating his services and having not conducted inquiry against him. The Labour Court also held that the respondents' contentions about "petitioner leaving the job of his own accord and free volition in the month of February, 2006 pales into insignificance, since the termination in question, in terms of the Reference, has not been impugned on any ground by the petitioner/workman."

9. In case respondent's plea of petitioner's abandoning the job is considered to have paled into insignificance, the learned Labour Court was required to return conclusive findings with respect to petitioner's allegations of his services having been

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unlawfully terminated without issuing any notice and without conducting any inquiry. However, no such conclusive findings on this aspect are discernible from the record.

10. The learned Labour Court appears to have been persuaded by the fact that the petitioner in his claim had asserted having worked up to 01.05.2008 and oral termination of his services w.e.f. 01.05.2008, whereas, according to the Mandays chart placed on record by the petitioner as well as by the respondents, the petitioner had presumably worked in the month of February, 2006. I have perused the record. As per the Mandays chart (Ext. PW1/B) produced by the petitioner (PW-1), he had served 254 days in 2002, 91 days in 2003 and completed 240 days in each calendar year and did not work thereafter. No question for disputing Ext.PW1/B was put by the respondents to the petitioner. On the other hand, as per the Mandays chart (Ext. RW1/B) produced by the respondents, the petitioner had not worked in the year 2008. He worked for 50 days during the month of February, 2006. Shri Ajit Kumar Thakur, who produced the Mandays Chart (Ext. RW1/B), could not satisfactorily answer the question with respect to the alleged wrong preparation of the Mandays Chart (Ext. RW1/B) and the same having been prepared differently from Ext. PW1/B produced by the petitioner. A perusal of the record demonstrates that it is not the case of the respondents that Ext. PW1/B had not been correctly prepared by them. The Mandays Chart produced by the petitioner has not been

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disowned by the respondents and, in fact, both the charts have been prepared by the respondents.

11. Further, a perusal of the Award demonstrates that the learned Labour Court-cum-Industrial Tribunal observed that since the petitioner had himself claimed termination of his services under a verbal order on 01.05.2008 and his having worked thereafter, having been demonstrated on the record, held the claim petition to be not maintainable. The said approach does not appear to be in consonance with law.

12. The Hon'ble Supreme Court in ***Oshiar Prasad & Ors. Vs. Employers in Relation to Management of Sudamdih Coal Washery of M/s Bharat Coking Coal Limited, Dhanbad, Jharkhand (2015) 4 SCC 71*** reiterates the settled principle that the Industrial Tribunal is to confine its adjudication to the points referred for adjudication.

13. In the instant case, the Reference sent for adjudication to the Labour Court was as to whether petitioner's oral termination w.e.f. February, 2006, without serving a charge-sheet, without holding an inquiry, and without complying with the provisions of the Industrial Disputes Act, 1947, was legal and justified. Therefore, the conclusion arrived at by the learned Labour Court was not justified. Petitioner's serving the respondents during May 2008, would not have impacted the reference.

14. In the given facts and circumstances, the conclusion

drawn by the learned Labour Court for holding the claim petition being not maintainable is not justified.

15. In view of the above discussions, this petition is allowed. The impugned award dated 10.12.2012 (Annexure P-6) is accordingly quashed and set aside and the matter is remanded to the learned Labour Court for a fresh decision. Keeping in view the age of the case, the learned Labour Court-cum-Industrial Tribunal is requested to decide the case as expeditiously as possible and preferably within six months from today. Records be returned forthwith. Parties, through their respective counsel, are directed to appear before the learned Labour Court on 04.12.2026.

Petition stands disposed of in above terms. Pending miscellaneous application(s), if any, shall also stand disposed of.

(Ajay Mohan Goel)
Judge

November 06, 2026
(Rishi)