IN THE HIGH COURT OF HIMACHAL PRADESH AT SHIMLA

CMP.M No. 656 of 2024 &
RP No. 108 of 2026
Decided on : 30.10.2026

The State of Himachal Pradesh and another

…Applicants/Petitioners

Versus

Smt. Neena Sharma

…Respondent

Coram

The Hon'ble Mr. Justice G.S. Sandhawalia, Chief Justice.
The Hon'ble Mr. Justice Ajay Mohan Goel, Judge.

Whether approved for reporting?[1]

For the applicants/ petitioners	**:**	Mr. Rakesh Dhaulta, Additional Advocate General.
For the respondent	**:**	Ms. Pooja Thakur, Advocate, for Mr. Ravinder Singh, Advocate.

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

CMP.M No. 656 of 2024

The present application has been filed for condonation of delay in filing the Review Petition against the judgment in ***LPA No. 95 of 2023,*** titled ***The State of Himachal Pradesh and another Vs. Neena Sharma,*** dated 21.08.2023.

2. The application is opposed by filing reply by the respondent.

3. Keeping in view the averments made in the application, duly supported by an affidavit of the applicant, we are of the opinion that the delay is liable to be condoned. Accordingly,

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

the application is allowed and delay of 251 days in filing the Review Petition is condoned.

4. The application stands disposed of accordingly.

Review Petition No. 108 of 2026

5. The primary consideration, which is sought to be raised by the Counsel for the State is that the findings recorded in the judgment, which are sought to be reviewed, are on the premise that the employee was working as a Clerk from her initial date of engagement. While referring to the dates mentioned in the Review Petition, it is submitted that it is not so. Resultantly, review has been sought.

6. Perusal of the record would go on to show that it is not the first round of litigation. On an earlier occasion, when the matter was filed before the erstwhile Himachal Pradesh Administrative Tribunal, having ***T.A. No. 2684 of 2015***, titled ***Smt. Neena Sharma*** Vs. ***State of Himachal Pradesh and another,*** which was decided on 21.07.2016, directions were issued to the respondents to consider the case of the employee for regularization as per Policy of Regularization and the State Counsel had admitted that the applicant, being a woman, had been adjusted in the office to handle the clerical work. The relevant part of the observations of the Tribunal read as under:-

"4. The learned Additional Advocate General has

submitted that the applicant was engaged on daily wages. The daily wagers are required to work in the field. The applicant being a woman was adjusted in the office to handle clerical work. The applicant was never engaged as a Clerk and, therefore, she is not entitled to be regularised as a Clerk.

5. It is an admitted case of the parties that the applicant was engaged on daily wages. She is performing the duties of a Clerk on the establishment of H.P.P.W.D. Division, Theog, since April, 1990. The applicant had been deployed to discharge the duties of a Clerk. The respondents in O.A. No.1098 of 1997 had admitted that the applicant had worked as Stock Storage Clerk with effect from 1990 to 25.03.1994. She had performed the duties of a Clerk with effect from 26.04.2014 onwards. The applicant after interim order dated 02.01.1998 passed in O.A. No.1098 of 1997, had performed the duties of Store Munshi with effect from 26.01.1998 to 31.12.2002 and Store Clerk with effect from 01.01.2003 to March 2005. The respondent No.2 on production of record had also found that the applicant had worked as Assistant Levler, Assistant Store Attendant, Store Munshi and Store Clerk during the period 1994 to 1997. The applicant had been discharging the duties of a Clerk."

7. It is also to be noticed that after the said order had been passed, the rejection had been made vide order dated 23.01.2017, which was subject matter of consideration before the learned Single Judge. The said order was then challenged by the State in ***CWP No.3066 of 2016,*** titled ***State of Himachal Pradesh and another Vs. Smt. Neena Sharma,*** which was decided on 14.12.2016 by directing the petitioners to consider the case of the respondent in light of the Rules occupying the field

and make a decision after hearing the respondent, strictly as per the law applicable.

8. The case of the employee had been rejected by the Engineer-in-Chief only on the ground that she was seeking a direct placement to the post of Clerk, which was contrary to the Recruitment & Promotion Rules. Resultantly, she had challenged the said order by filing the Original Application specifically pleading that she had qualified one year Computer Programming Examination from the Pioneer Computer Centre, having done her Senior Secondary School Examination from the National Institute of Open Schooling, Government of India, New Delhi. She had been asked to do the work of clerical nature i.e., to do the job of typing official letters, making entries in the Receipt and Dispatch Registers of the official dak which used to come to the office and dispatch letters sent to outlying stations and to maintain the registers, account of service postage stamps etc., due to shortage of the clerical staff in the Sub-Division.

9. In the reply also, though various dates had been given, which have now been relied upon by the State to show that she had worked as a Beldar, Assistant Ledger, Assistant Store Attendant, Store Clerk, but it has not been denied that her services were utilized for the purpose of taking the work of the Clerk. The relevant portion of the reply filed by the State, reads

as under:-

> *"6 (3 to 5) That the plea of the applicant that she throughout performed the job of Clerk/Class-III in sub-divisional office of respondent department is wrong and factually incorrect. Rather the fact remain that the applicant was engaged as Beldar on daily wage basis in the year, 1990. She accepted the offer without any objection. She was paid wages of Beldar. However, admittedly in the absence of regular incumbent and due to shortage of staff in sub-divisional office as depicted in para 5 of petition the applicant on need basis entrusted work of Class-III in the exigency of work and for this she was paid the wages of Beldar which the applicant also received without any protest. As also evident from para 5 of petition the applicant w.e.f. 26.5.1997 again worked as Beldar and never completed requisite criteria of regular service with 240 days in calendar year in any capacity, therefore the services of applicant rightly been regularized as Beldar on the basis of MoolRaj Upadhaya verdict. Hence, merely working against higher post that too for a limited period do not held her entitled for regularization-as Clerk/Class-III against the provisions of R&P Rules. In fact in respondent Public Works Department, there are thousands of educated workers so engaged on Must Roll/regular basis against Class-IV, mainly in the category of Beldar or in other industrial categories whose services are often utilized in office(s) on need basis keeping in view the exigency of work to make a optimum use of their higher educational qualification. Beside this 20% quota has also been provided to these Class-IV/qualified incumbents for their career progression to the post of Clerk/Class-III under LDR scheme. It is pertinent to mention here that applicant also appeared LDR conducted by the H.P. Subordinate Services Selection Board, Hamirpur and successfully passed the LDR exam. The applicant has been posted in Education Department but did not join in*

Education Department and is bent upon her direct placement against the post of Clerk in the respondent department contrary to provisions of R & P Rules."

10. Even before the learned Single Judge, there was an admission by the State Counsel that she had been performing the clerical work, which would be clear from the reading of Paragraph No.6 of the judgment, which was subject matter of consideration in the main Letters Patent Appeal.

11. Keeping in view the above, we are of the considered opinion that the attempt to get the order to be reviewed, is without any justification, since there is enough material on record to show that there is an admission by the State itself regarding the nature of work taken from the employee.

12. In such circumstances, no case of review is made out and accordingly, the Review Petition is dismissed. Pending miscellaneous application(s), if any, also stand disposed of accordingly.

(G.S. Sandhawalia)
Chief Justice

(Ajay Mohan Goel)
Judge

October 30, 2026
(Shivank Thakur)