IN THE HIGH COURT OF HIMACHAL PRADESH AT SHIMLA

CWPOA No. 238 of 2019
Decided on: 30.10.2026.

Hira Nath .... Petitioner

Versus

State of Himachal Pradesh and another.

.... Respondents

Coram :
Hon'ble Mr. Justice Ranjan Sharma, Judge
[1] *Whether approved for reporting?*

For the petitioner : None, though represented by Sh. Dhanajay Sharma, Advocate.

For the respondents: Mr. Gautam Sood, Deputy Advocate General.

Ranjan Sharma, Judge :

Petitioner has come up before this Court seeking the following relief(s).

(i) That the respondents may kindly be directed to grant work charge status after completion of 10 years i.e w.e.f 01.01.2000 till 17.03.2008.

(ii) That the respondents may further be directed to grant consequential benefits w.e.f. 01.01.2000 to 17.03.2008 with seniority etc.

(iii) That the respondents may also be directed to count the service of the

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

petitioner for grant of pensionary benefits as envisage under Rule 14 of CCS Pension Rules.

FACTUAL MATRIX:

2. Grievance of the petitioner is that he was appointed as a Beldar on 01.04.1991 and since then, he has rendered continuous service under the respondents, but, the petitioner has not been granted work-charge status, notwithstanding the fact that he was regularized on 17.03.2008 by the Respondents. In this backdrop, the petitioner claims work-charge status from the date of completion of 10 years of continuous Daily-Wage Service, as per the mandate of the Hon'ble Supreme Court in **Mool Raj Upadhyaya versus State of Himachal Pradesh, 1994 [Supp (2) SCC 316**, with the further prayer for all consequential benefits to the petitioner.

STAND OF STATE AUTHORITIES IN REPLY-AFFIDAVIT:

3. Upon the issuance of notice on 04.01.2010, the matter was admitted. Pursuant to the issuance of notice, the State Authorities have filed a Reply-Affidavit dated 19.03.2010.

3(i) Reply-Affidavit indicates that present petition has been filed after a lapse of two years. Reply-Affidavit does not dispute the factual matrix that the petitioner was engaged as a Daily-Wage Laborer during 1991 by the Resident Commissioner, Pangi, under Single-Line Administration. Reply-Affidavit indicates that based on the continuous service rendered by the petitioner as per the statement of man-days [Annexure R-4] the petitioner was regularized on 17.03.2008 and consequently joined on a regular basis under the control of the Deputy Director of Agriculture, Palampur, on 21.04.2008. Reply/Affidavit indicates that since the petitioner has been regularized, therefore, the claim for Work-Charge status w.e.f. 01.01.2001 i.e the date of completion of 10 years of continuous Daily-Wage service is not tenable. Reply/Affidavit further indicates that judgment in **Mool Raj Upadhyaya** covers only Daily-Wagers of the Public Works Department [PWD] and Irrigation & Public Health [IPH] Departments and not the petitioner, who is serving in the Agriculture Department of the Respondent-State. In this backdrop, the State Authorities have opposed the prayer for Work-Charge status.

4. After the matter was admitted on 04.01.2010, the same was transferred to the State Administrative Tribunal in 2015. Upon the abolition of the Tribunal, the matter was re-transferred and listed before this Court on 25.02.2020. It was again taken up on 06.07.2020, when there was no Representation for the petitioner. The matter was again listed after more than six years on 27.10.2026, when no one appeared for the petitioner.

5. Considering the nature of the controversy, which is squarely covered by the mandate of the Hon'ble Supreme Court in the case of **Mool Raj Upadhyaya (Supra)** this Court proceeds to decide the instant petition on merits, notwithstanding the non-appearance of the petitioner, after hearing Learned State Counsel, who reiterates the stand taken in the Reply-Affidavit.

MANDATE OF LAW ON WORK CHARGE STATUS AFTER TEN YEARS OF DAILY WAGE SERVICE:

5(i). While interpreting the Scheme for Betterment of Daily Wagers/Muster-Roll Workers of all departments in the State, the Hon'ble Supreme Court approved the Scheme, with modification(s), entitling the daily wagers for work charge

status from the date of completion of ten years of continuous daily waged service, in the case of **Mool Raj Upadhyaya vs. State of Himachal Pradesh 1994 Suppl (2) SCC 316**, reads as under:

> "4. Taking into consideration the facts and circumstances of the case, we modify the said scheme by substituting paragraphs 1 to 4 of the same by the following paragraphs:
>
> "(1) Daily-wage/muster-roll workers, whether skilled or unskilled, who have completed 10 years -6- or more of continuous service with a minimum of 240 days in a calendar year on31-12-1993, shall be appointed as work-charged employees with effect from 01-01-1994 and shall be put in the time-scale of pay applicable to the corresponding lowest grade in the Government;
>
> (2) Daily-wage/muster-roll workers, whether skilled or unskilled, who have not completed 10 years of continuous service with a minimum of 240 days in a calendar year on 31-12-1993, shall be appointed as work-charged employees with effect from the date they complete the said period of 10 years of service and on such appointment they shall be put in the time-scale of pay applicable to the lowest grade in the Government;

(3) Daily-wage/muster-roll workers, whether skilled or unskilled who have not completed 10 years of service with a minimum of 240 days in a calendar year on 31-12-1993, shall be paid daily wages at the rates prescribed by the Government of Himachal Pradesh from time to time for daily-wage employees falling in Class III and Class IV till they are appointed as work-charged employees in accordance with paragraph 2;

(4) Daily-wage/muster-roll workers shall be regularized in a phased manner on the basis of seniority-cum-suitability including physical fitness. On regularization they shall be put in the minimum of the time-scale payable to the corresponding lowest grade applicable -7- to the Government and would be entitled to all other benefits available to regular government servants of the corresponding grade."

MANDATE OF LAW ON WORK CHARGE STATUS INTERPLAY BETWEEN TEN YEARS AND EIGHT YEARS POLICY-SCHEME EXPLAINED IN CASE OF GAURI DUTT:

5(ii). Issue of interplay between Scheme-Policy of Regularization and Work Charge Status under ten years Scheme/Policy and under eight years Scheme-Policy needs to be recapitulated.

5(iii). The right and entitlement of daily wagers who were engaged and had rendered ten years continuous service

with 240 days as on 31.12.1993 and or who rendered atleast one year's of continuous daily wage service as on 31.12.1993 were to be granted work charge status from the date of completion of 10 years of continuous daily wage service **and conversely**, daily wagers who had not rendered atleast one year's of continuous daily wage service as on 31.12.1993 and who were engaged on or after 01.01.1994 were to be granted work charge status from the date of completion of 8 years of continuous daily wage service, in terms of the mandate of the Hon'ble Supreme Court in case of **Mool Raj Upadhyaya** [supra], was explained by the Hon'ble Division Bench of this Court in case of **Gauri Dutt & others vs. State of Himachal Pradesh**, 2008 (1) Latest HLJ 368, in following terms:-

> "12. The Apex Court did not accept the scheme as proposed by the State of Himachal Pradesh and modified it. Under Clause (1) of the scheme, as modified, all the employees who had completed 10 or more years of continuous service with a minimum of 240 days in a calendar year as on 31.12.1993 were to be appointed as work charged employees w.e.f. 1.1.1994. **Para 2 of the scheme, as approved by the Apex Court, provides that those who had not completed 10 years of continuous service**

as on 31.12.1993 shall be appointed as work charged on completion of said period of 10 years. It is apparent from a reading of para 2 that para 2 contemplates that an employee to be covered under para 2 must have completed at least one year i.e. 240 days of service prior to 31.12.1993. Para 3 of the scheme relates to the payment of wages with which we are not concerned. **Para 4 of the scheme, as modified by the Apex Court**, provides that regularization of daily paid/Muster Roll workers shall be done in a phased manner on the basis of seniority-cum-suitability. No further direction was issued by the Apex Court for granting work charged status to any other employees.

13. We have considered **both the schemes** and find that the dispute before the Apex Court was in respect of the employees who had joined services much before 31.12.1993. None of the schemes dealt with employees engaged thereafter, except that under para 4 of the scheme as amended general directions were issued for regularization of all daily waged muster roll workers in a phased manner. Para 1 of the approved scheme deals only with employees who had completed 10 years of service as on 31.12.1993. **Para 2 of the scheme deals with employees who had not completed 10 years of service as on 31.12.1993. However, we are of the firm opinion that**

para 2 relates only to employees who had at least served for one year prior to 31.12.1993. This scheme was a one-time scheme dealing with employees who had rendered sufficient service upto 31.12.1993. We are not in agreement with the learned counsel for the employees that this scheme applies to daily waged employees engaged thereafter. The only portion of the scheme which may relate to such employees is para 4 which relates to regularization of all daily waged/muster roll workers. Paras 1 & 2 of the scheme relate to the workers specified in those paragraphs.

15. The **scheme does not deal with future contingencies**. We cannot read into the judgment of the Supreme Court or in the scheme as approved by the Supreme Court anything more than what is stated in it. As per our reading of the scheme the same only applies to employees who had either completed 10 years of continuous service as on 31.12.1993 or the employees who had rendered one or more years' of service, but had not completed 10 years of service as on 31.12.1993. **This scheme does not apply to those employees who had not completed even one year of service as on 31.12.1993 or who were employed** thereafter. The first question is answered accordingly.

16. **Under para 4 of the scheme the State was under an obligation to regularize all daily**

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> **waged/muster roll workers whether they had joined prior to 31.12.1993 or thereafter**. The State has framed a scheme in this behalf on 6th May, 2000. In our opinion those employees who are not governed by the direction given in Mool Raj Upadhyaya's case as set out by us above, shall be governed by the scheme of 2000. The second question is answered accordingly."

GRANT OF REGULARIZATION SHALL NOT DIVEST EMPLOYEE OF WORK CHARGE STATUS FROM EARLIER DATE:

5(iv). The issue as to whether a daily wager who was regularized, can claim work-charge status from an earlier date stands answered by the Hon'ble Supreme Court in **State of Himachal Pradesh and others vs. Gehar Singh**, (2007) 12 SCC 43, and the operative part of the judgment reads as under:-

> "The aforesaid case made out by the State of Himachal Pradesh before the High Court was a clear departure from the directions given in Mool Raj Upadhyaya's case. The respondents had only claimed the benefit of the Betterment Scheme which was placed before this Court in Mool Raj Upadhyaya's case and had prayed for work charged status from 1-1-2000, before the Tribunal whereas the change in policy was brought about on 6-5.2000. It is on that basis that

the Tribunal directed that the respondents be given work charged status with effect from 1-1-2000.

19. Notwithstanding the fact that the services of the respondents have been regularized with effect from 1st January, 2003 and they have joined their posts from that date without protest, they cannot, in our view, be denied the benefits as directed to be given to them by the Tribunal and affirmed by the High Court which had already accrued to them under the Scheme which was approved in Mool Raj Upadhyaya's case. -12- 20. We, therefore, see no reason to interfere with the judgment of the High Court impugned in these appeals. All the appeals are accordingly dismissed without any order as to costs."

ANALYSIS:

6. Considering the mandate of Hon'ble Supreme Court in the case of **Mool Raj Upadhyaya** [supra], which was followed and clarified by the Division Bench of this Court in the case of **Gauri Dutt** [supra], this Court, in facts of instance case is of the considered view, that once the petitioner had rendered continuous daily wage service with 240 days during 1991 and had completed ten years of continuous daily wage service as on 31.12.2000, then, in terms of the declared law, the petitioner is entitled to

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be considered and granted the work charge status from the date of completion of ten years of continuous daily wage service in terms of Para-4 (2) of the judgment in the case of **Mool Raj Upadhyaya (Supra)**, which was followed and reiterated in case of **Gauri Dutt** [supra]. Conferment of work charged status, in respect of daily wagers working in all the Government Departments was in recognition of their prolonged daily wage continuous service in terms of the Scheme for Betterment of Daily Wagers framed by the State, which was approved by the Hon'ble Supreme Court in the case of **Mool Raj Upadhyaya,** entitling the daily wagers of all Departments for work charge status from the date of completion of ten years of continuous service, in applicable time scale, in the post/category.

6(i). In instant case, though, the petitioner had completed ten years of continuous daily waged service as on 31.12.2000 and had become eligible for grant of work charge status in applicable time scale w.e.f. 01.01.2001 but the said benefit was denied to petitioner. Feeling aggrieved against the denial of work charge status, the petitioner filed Original Application No. 2589 of 2002 and the same was decided by the Division Bench of this Court

on 12.04.2007, directing the respondents to consider the case of the petitioner in accordance with applicable rules/norms and the law. After passing of directions on 12.04.2007 the petitioner was regularized on 17.03.2018 prospectively and now petition has been filed for grant of work charge status as per law declared in the case of **Mool Raj Upadhyaya** [supra]. The plea of the State Authorities the Respondent Agriculture Department did not have a work charge status cadre cannot on the basis of an artificial distinction, when, work charge status was to be granted to all daily wagers in Respondent State upon completion of requisite period of service irrespective, as to whether work charge establishment or work charge cadre existed in a department or not. Concept of work charge status in the Respondent-State was neither dependent nor relatable to a Cadre or Establishment but the same was conferment of better status with better service benefits in time scale, as was admissible to the corresponding post/category under the State Government. Action of the State Authorities amounts to negating and defeating the mandate of the Hon'ble Supreme Court in the case of **Mool Raj Upadhyaya (Supra)** which cannot sustain, on facts as well in law. Resultantly, this

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Court upholds the right as well as entitlement of the petitioner for work charge status in the applicable time-scale for post/category of Beldar/Labour/Laboratory Attendant or any other equitable category/post (Class-IV) from the date of completion of ten years of continuous daily wage service w.e.f. 01.01.2001 with all consequential benefits.

CONTENTION OF STATE AUTHORITIES:

7. Learned State Counsel contends that instead of giving consequential benefits[actual monetary benefits], the relief shall be given notionally, in view of the judgment in the case of **State of Himachal Pradesh vs. Surajmani** [Civil Appeal No. 1595 of 2025 decided on 06.02.2025].

7(i) The above contention of Learned State Counsel cannot sustain, for the reason, *firstly*, the case of petitioner is governed by the mandate of the Hon'ble Supreme Court in case of **Mool Raj Upadhyaya** (supra) entitling daily wagers for work charge status from the date of completion of ten years of continuous daily wage service and *secondly*, once the petitioner had completed ten years of continuous daily wage service as on 31.12.2000 and he became eligible and entitled for work charge status w.e.f. 01.01.2001 in

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applicable time scale of Class-IV post but the benefit of work charge status due to the petitioner in accordance with the law declared by the Hon'ble Supreme Court in case of **Mool Raj Upadhyaya** (supra) was denied and delayed by the Respondents for one reason or other, resulting in depriving the petitioner of the higher rank status, in the applicable time scale w.e.f. 01.01.2001; and *thirdly*, due to inaction of the State Authorities, petitioner was forced to file the present Civil Writ in 2014 to remedy the wrongs done by the State Authorities by granting him benefit of work charge status in terms of the law declared by the Hon'ble Supreme Court in case of **Mool Raj Upadhyaya** (Supra), and *fourthly*, the mandate of the Hon'ble Supreme Court in the case of **Surajmani** (supra) governs the entitlement of daily wagers for work charge status from the date of completion of eight years of continuous daily waged service; and aforesaid judgment does not deal with the right and entitlement of daily wagers for work charged status from the date of completion of ten years of continuous daily waged service in terms of the mandate of the Hon'ble Supreme Court in case of **Mool Raj Upadhyaya** (supra). Even the Division Bench of this Court in the case of

Rakesh Kumar vs. State of Himachal Pradesh & others [CWP No. 2735 of 2010], decided on 18.07.2010,has rendered a finding in Para-7 that delay in itself cannot be a ground for deny the benefits altogether but in view of delay, the rights and interests of the parties [i.e. petitioner as well as the State Authorities] can be appropriately adjusted, by restricting the actual monetary benefits, in facts of each case; and *fifthly*, the claim of an in-service employee for work charged status, involves pay fixation from the due date [01.01.2001] and then in revised scale w.e.f. 01.01.2006 and even thereafter is a continuing cause, and resultant denial of benefit higher pay fixation in the applicable time-scale, and the denial of higher retiral benefits.

In these circumstances, this Court carves a balance between the rights of petitioner and interests of the State Authorities, upholding the right and entitlement of the petitioner for work charge status from the date of completion of ten years of continuous daily waged service w.e.f. 01.01.2001 notionally and actual monetary benefits shall accrue from the date of decision of this case and thereafter.

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Accepting the contention of Learned State Counsel shall amount to penalizing the petitioner for the fault of the State Authorities and that too in utter disregard of the law declared in the case of **Mool Raj Upadhyaya** (supra) which this Court is bound to implement but the State Authorities have delayed or denied benefits on flimsy grounds with intent to defeat the law and such an action cannot be permitted to operate and is accordingly interdicted.

CONCLUSION:

8. Since the stand of the State Authorities in the rejection order dehors the broader principle outlined by the Hon'ble Supreme Court in the case of **Mool Raj Upadhyaya** [supra], the stand of the State Authority is denying work charge status from 01.01.2001, being contrary to the established law is declared inoperative; with direction to the State Authorities, to consider the claim of the petitioner for conferment of work charge status from the date of completion of ten years of continuous daily wage service, in terms of the mandate of the Hon'ble Supreme Court in case of **Mool Raj Upadhyaya** [supra] subject to verification of Mandays; and upon consideration, incase, the petitioner is found eligible and entitled for work charge status

then, the benefits accruing from grant of work charge status shall be granted w.e.f. 01.01.2001 "notionally", and "actual monetary benefits shall accrue" to the petitioner from the date of decision of the present writ petition so as to entitle the petitioner for legal entitlement as per the mandate of the Hon'ble Supreme Court and clarified by the Divisional Bench of this Court in the case of **Mool Raj Upadhyaya, Gauri Dutt and Gehar Singh** [supra].

9. No other point was raised/argued.

DIRECTIONS:

10. In view of above discussion and for the reasons recorded hereinabove, the instant petition is **allowed**, in following terms:-

i) Action of the State Authorities denying work charge status in applicable time scale to the petitioner, is quashed and set aside;

ii) State Authorities are directed to consider and upon consideration, to extend benefit of work charge status to the petitioner from the date of completion of ten years of continuous daily waged service w.e.f. 01.01.2001 notionally, in terms of the mandate of the Hon'ble Supreme Court in the case of **Mool Raj Upadhyaya** (supra), reiterated by the Hon'ble Division Bench of

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this Court in the case of **Gauri Dutt** (supra) till disposal of present petition; with benefit of such service for higher pay fixation, alongwith arrears from date of judgment w.e.f. 30.10.2026 and thereafter, with all consequential benefits, within two months from today;

iii) Parties to bear their respective costs.

In aforesaid terms, instant petition and the pending applications, if any, shall accordingly stand disposed of.

(Ranjan Sharma)
Judge

October 30, 2026
(Anita)