IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CWPOA No. 1564 of 2019

Date of decision: 26.10.2026.

Bishan Dass ...Petitioner.

Versus

State of Himachal Pradesh & others ...Respondents.

Coram:

The Hon'ble Mr. Justice Ranjan Sharma, Judge.

Whether approved for reporting?[1]

For the petitioner : Ms. Ranjana Pathania, Advocate vice Ms. Archna Dutt, Advocate.

For the respondents : Mr. Anup Rattan, Advocate General with Mr. Sumit Sharma, Deputy Advocate General.

Ranjan Sharma, Judge:

Petitioner had filed a Civil Writ Petition No. 1355 of 2013 and upon establishment of the State Administrative Tribunal, the matter was transferred to the Tribunal; and after its abolition, the same has been re-transferred to this Court as CWPOA 1564 of 2019, seeking the following reliefs:

> "That the respondent department may kindly be directed to grant the work charge status/regularization to the petitioner w.e.f. the year 1998 instead of the year 2007 with all consequential benefits like arrears, seniority and other service benefits as per

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

> the directions of the Hon'ble Apex Court as well as keeping in view the directions issued by this Hon'ble Court in CWP No. 4161 of 2009 decided on 16.6.2010 in the interest of justice and fair play."

FACTUAL MATRIX:

2. Case as set up is that the petitioner was engaged as a daily wager in Forest Division Bilaspur in 1988 and he had rendered continuous service till his regularization in the year 2007. Claim of the petitioner is for work-charge status from the date of completion of ten years of continuous daily wage service. Petitioner has relied upon a judgment dated 16.06.2010 passed in CWP No. 4161 of 2009, whereby the daily wagers who had rendered continuous service were accorded the work-charge status in terms of the judgment in the case of **Mool Raj Upadhyaya** passed by the Hon'ble Supreme Court. Petitioner is seeking the similar treatment as given to other daily wagers in the State.

STAND OF STATE AUTHORITIES IN REPLY-AFFIDAVIT:

3. Upon issuance of notice on 01.04.2013, Respondents have filed the Reply-Affidavit dated 17.07.2013 of Conservator of Forests, Bilaspur Forest Circle, Himachal Pradesh.

3 (i). Perusal of the Reply-Affidavit and the Man-Days Chart [Annexure R-1] indicates that the petitioner joined as a daily wager in 1995 and has rendered continuous service with 240 days till 2006. Reply-Affidavit indicates that the services of petitioner were regularized as Forest Worker on 19.09.2007. It is averred that regarding discrepancy in man-days as contended by the petitioner vis-à-vis the stand spelt out in Para 12 of the Reply-Affidavit, the State Authorities has initiated disciplinary proceedings vide Annexure R-III against the officials who had furnished incorrect Mandays to the petitioner.

NO REBUTTAL BY PETITIONER:

4. Petitioner has chosen not to file any rejoinder so as to controvert the stand taken in the Reply-Affidavit.

5. Be that as it may.

STATEMENT BY LEARNED COUNSEL BASED ON SUBSEQUENT EVENTS:

6. At this stage, Learned Counsel for the petitioner submits that the petitioner shall be satisfied, in case, the Respondents are directed to consider the case of the petitioner for conferment of work-charge status from the date of completion of eight years of continuous daily waged service in terms of the mandate of the Hon'ble Supreme Court in the case of **State of Himachal Pradesh** vs. **Surajmani and others**

[State Civil Appeal No. 1595 of 2025, decided on 06.02.2025], with all consequential benefits. Learned Counsel for the petitioner submits that similar benefit of work charge status has been granted in **CWPOA No. 1489 of 2020**, titled as, **Lekh Ram** vs. **State of Himachal Pradesh & others**, decided on 09.10.2026. [*Statement Taken on Record].*

ANALYSIS:

7. Issue involved in the instant case is no longer *res-integra* in view of the judgment passed by the Hon'ble Supreme Court in **State of Himachal Pradesh** vs. **Surajmani and others**, Civil Appeal No. 1595 of 2025, decided on 06.02.2025, which reads as under:

> "8. However, in order to allay the apprehension of the State as expressed thereunder and to safeguard the interest of the State which otherwise would have burdened the exchequer with extra benefits being conferred on the employees who had not been regularly appointed, this Court has, as a succor to the State, restricted the claim or, in other words, modified the order of the Tribunal as affirmed by the High Court by arriving at a conclusion that the petitioners/appellants therein would be entitled to the notional benefits of the order passed by the Tribunal and accordingly disposed of the said appeal.

9. It would not be out of context to refer at this juncture itself that the State, in its wisdom, having felt that the subsequent schemes having been formulated and implemented, would alter the situation and, therefore, order dated 12.04.1994 passed in Mool Raj Upadhyaya's (Supra) case has to be modified, had approached this Court by filing an Interlocutory Application being IA No. 3 in the year 2005 in the aforesaid Mool Raj Upadhyaya's case, i.e., Writ Petition (Civil) No. 787 of 1987. A perusal of the said application and the averments made thereunder would clearly indicate that the very same contentions urged, pleas advanced and arguments put forth today before us were the ones which were urged/raised in the said application. Though Mr. Vivek Tankha, learned senior counsel appearing for the State would fairly submit that the said application was withdrawn on the ground of subsequent schemes having been formulated and implemented by the State of Himachal Pradesh, but we are unable to accept the said proposition howsoever attractive it may be, for the simple reason that the said application was dismissed simpliciter as withdrawn. Yet another factor which sways our mind to reject the contention raised by the learned senior counsel appearing for the State would be the fact that the State having accepted the judgment of Ashwani Kumar (Supra),

has implemented the same and it is in this background, the High Court in the impugned order has observed that the State cannot adopt pick and choose policy.

10. For the cumulative reasons aforestated, we are of the considered view that the dicta laid down by this Court vide order dated 22.07.2019 in Ashwani Kumar's (Supra) case which is based on the judgment of Mool Raj Upadhyaya (Supra) holds the field and would also be applicable to the Respondents herein who had approached the Tribunal or the High Court seeking similar relief. As such, the Respondents shall be entitled for grant of 'work-charged' status from the date of completion of 8 years of service. However, we hold that the relief in the present appeals will be limited to notional benefits as explained in paragraph 3 and 4 of Ashwani Kumar's (Supra) case in Civil Appeal No(s). 5753 of 2019 and the present appeals stand disposed of accordingly with no order as to costs.

11. We also make it explicitly clear that the State in its endeavour of implementing the orders of the Tribunal, High Court or this Court, if having paid the amounts in excess, would be at liberty to take such steps as it deems fit without insisting for one time recovery.

> 12. It is further underscored that this judgment would necessarily be a judgment in rem and the State shall hence forth not take recourse to employing personnel as daily wagers but shall make appointments only in accordance with law, as enumerated in the case of Secretary, State of Karnataka Vs. Uma Devi [(2006) 4 SCC 1]."

8. *Per contra*, Learned State Counsel submits that the mandate of the Hon'ble Supreme Court in the case of **Surajmani** (supra) is not in dispute. He further submits that so far as the prayer for consequential benefits is concerned, the same cannot be accorded to the petitioner, as the Hon'ble Supreme Court has limited the relief to "notional benefits only."

9. Faced with above situation, since the claim for work charged status in terms of the judgment in case of **Surajmani** (supra) has been raised for first time, during the course of hearing today, therefore, no mandate can be issued to grant work charge status, but in view of the declaration of law of the Hon'ble Supreme Court in the case of **Surajmani** (supra), which is a judgment in rem and has retrospective applicability, this Court can certainly direct the Respondents-State Authorities to examine/consider the case of the petitioner for conferment of work-charge status from the date of completion

of eight years of continuous daily wage service [with effect from 01.01.2003 in instant case] even though notionally from due date, but without any past arrears, in the light of the judgment in the case of **Surajmani** (supra).

DIRECTIONS:

10. In view of the above discussion and for reasons recorded hereinafter, instant petition, is disposed of in the following terms:

(i) State Authorities shall consider /examine the case of the petitioner for conferment of work-charge status from the date of completion of eight years of continuous daily wage service with effect from 01.01.2003, with notional benefits, in terms of the judgment of the Hon'ble Supreme Court in the case of ***Surajmani*** (supra).

(ii) Needless to say that the petitioner shall not be entitled for any past arrears, except the notional benefits, which shall entail to the petitioner for retiral benefits from the date of passing of the judgment in the case of ***Surajmani*** with effect from 06.02.2025 and thereafter.

(iii) State Authorities shall take the consequential action not later than 15.12.2026.

(iv) Parties to bear respective costs.

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

(Ranjan Sharma)
Judge

26th October, 2026.
(kck)