IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CWP No.4327 of 2019

Date of Decision : 31.10.2026

Balam Ram and others

…… Petitioners

Versus

State of Himachal Pradesh and others

……Respondents

Coram:

The Hon'ble Mr. Justice Bipin Chander Negi, Judge

Whether approved for reporting?[1]

For the petitioners : Mr. Bonit Thakur, Advocate for Mr. A.K. Gupta, Advocate.

For the respondents : Mr. Shalabh Thakur, Deputy Advocate General.

Bipin Chander Negi, Judge (oral)

The present petition has been filed seeking mainly the following relief:-

> *"(i) That the impugned portion of notification dated 10th May, 2001 may kindly be read down/set aside and the petitioners may be held to be in service upto the age of 60 years with all the benefits incidental thereof and their retirement at the age of 58 years may be set aside."*

2. The petitioners were appointed as Daily Wage Workers w.e.f. 01.01.1998. Thereafter, they were conferred work charge status w.e.f. 01.01.2002. On attaining the age of 58 years, the petitioners retired from the service on 31.03.2016, 30.11.2016 and 30.04.2014, respectively.

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

3. It is not in dispute that the issue in question has now been conclusively resolved by the Hon'ble Full Bench in its judgment rendered in this case (***CWP No.2711 of 2017***) along with connected matters on 22.02.2022, wherein while dealing with the question regarding the age of retirement to be 58 years or a right of an employee to continue in service upto attainment of age of 60 years, the following principles were laid down:-

> *"xxxxx (ii) Inconsistency between Bar Chand and Chuni Lal now stands, no just resolved, but rather dissolved, in view of notification dated 21.02.2018 amending F.R. 56(e), issued by the State, which has now reinforced and reiterated what was held in Bar Chand's case, i.e. date of regularization of a Class IV daily wager whether prior or after 10.05.2001, will make no difference to the age of his continuing in service. It is the date of engagement, which is the decisive factor. If date of engagement/appointment is prior to 10.05.2001, the Class- IV employee will continue to serve till 60 years of age. In case, it is later than 10.05.2001, then restriction in age upto 58 years will apply.*
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> *(iii) There cannot be any discrimination amongst similarly situated Class-IV employees belonging to one homogeneous class. Therefore, the retirement date, of such of those employees, who had been engaged on daily wage basis prior to 10.05.2001, but regularized after 10.05.2001 and have actually been retired prior to the issuance of notification dated 21.02.2018 at the age of 58 years, shall be deemed to be the date when they otherwise attained the age of 60 years. Since these employees have not actually worked beyond the age of 58 years, therefore, they will not be entitled to the actual monetary benefits of wages/salary etc. for the period of*

> *service from the date of their actual retirement till deemed dates of their retirement. However, they will be entitled to notional fixation of their pay for the period in question for working out their payable pension and payment of consequential arrears of pension accordingly."*

4. Accordingly, the instant petition is disposed of with the direction to the respondents to examine, consider and then decide the case of the petitioners in light of the aforesaid judgment and in case the case of the petitioners is found to be covered by the said judgment, then the same and similar benefits, as directed by the Hon'ble Full Bench, be extended to the petitioners.

5. Pending miscellaneous application(s), if any, also stands disposed of.

(Bipin Chander Negi)
Judge

October 31, 2026 **(KS)**