

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CWP No.585 of 2024

Date of Decision: 27.11.2025

Prem Lal		Petitioner
	Versus	
State of H.P. and Others		Respondents

*Coram:****Hon'ble Mr. Justice Sandeep Sharma, Judge.****Whether approved for reporting?* ¹ Yes.**For the Petitioner:** Mr. Vijay Kumar, Advocate.**For the Respondents:** Mr. Rajan Kahol & Mr. Vishal Panwar, Additional Advocates General, with Mr. Ravi Chauhan and Mr. Anish Banshtu, Deputy Advocates General, for State.**Sandeep Sharma, Judge** (oral):

Petitioner herein, who has been working as *Jal Rakshak* on part-time basis since 01.05.2012, is aggrieved of inaction on the part of respondents to convert his part-time service into daily wage service on completion of eight years of service on part-time basis, in terms of Policy dated 05.05.2020.

2. Pleadings adduced on record by the respective parties though clearly suggest that petitioner herein, who was given appointment as *Jal Rakshak* on part-time basis by Gram Panchayat concerned, has been working regularly without there being any interruption for more than 13 years, but yet no steps have been taken by the respondents to convert his part-time service into daily wage service in terms of Policy

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

dated 05.05.2020, whereby Government itself decided to convert the part-time service of an employee to daily wage service.

3. Though in reply, respondents have fairly admitted factum with regard to employment of the petitioner on part-time basis as *Jal Rakshak*, but his prayer for conversion of his service from part-time basis to daily wager has been refuted on the ground that he is not an employee of the *Jal Shakti Vibhag*, rather he has been working on the instructions issued by Gram Panchayat Mangal. It is further averred in the reply that petitioner's appointment, if any, to the post of *Jal Rakshak* on part-time basis is pursuant to Memorandum of Understanding arrived *inter se* Gram Panchayat Mangal and *Jal Shakti Vibhag*, whereby number of persons came to be deployed to supervise the distribution/supply of water to number of villages falling under the jurisdiction of Gram Panchayat Mangal. There is no dispute that honorarium, which has now been enhanced to ₹5600/- per month, is being paid by *Jal Shakti Vibhag*. It is also not in dispute that all part-time workers of Gram Panchayats, Panchayat Samitis and Zila Parishads have been granted benefit in terms of Notification/Policy of converting services of part-time workers to daily wagers as well as regularisation. As per Section 135 of Panchayati Raj Act, Gram Panchayat is empowered to appoint part-time Chowkidars, but they also appoint *Jal Rakshak*, Technical Assistant and Panchayat Sahayaks with the prior approval of the competent authority. Though appointments qua the post

in question, as detailed hereinabove, are given by Gram Panchayats, but admittedly major share of salary/wages of employees is paid by the Government.

4. Though Mr. Rajan Kahol, learned Additional Advocate General, while referring to the reply filed by respondents, attempted to argue that Recruitment and Promotion Rules to the post of Pump Attendant, Class-IV (Non-Gazetted) in the Department of Irrigation and Public Health Department, Himachal Pradesh, clearly provide that posts of Pump Attendant (Class-IV) shall be filled up from amongst Beldars, who possess five years experience of working with pump motors and electrical accessories strictly on the basis of seniority/induction from Water Guards after completion of 12 years of service with 3 years experience of working with pump, motor and electrical accessories, however, this Court sees no reason to go into the aforesaid aspect of the matter, because in the case at hand because petitioner is not seeking promotion to the post of Pump Attendant, rather his precise case is that after having completed eight years service on part-time basis, his services ought to have been converted into daily wage services, as has been done in the cases of number of persons appointed by Gram Panchayats.

5. Careful perusal of Policy dated 05.05.2020 (Annexure P-6) clearly reveals that Government itself decided that part-time workers after completing eight years of continuous service as on 31.03.2020 and

30.09.2020 in all Government departments will be converted to daily wage subject to certain conditions, as contained in afore Policy. Though it came to be argued at the behest of respondents that petitioner herein cannot be said to be working in Government department, but once it is not in dispute that honorarium being paid to the petitioner as well as other similarly situate persons is provided by the Government, coupled with the fact that petitioner herein has been performing the work of water distribution, which is otherwise prime duty of Jal Shakti Vibhag, plea otherwise sought to be raised by respondents that petitioner is not a Government employee, cannot be accepted.

6. As per reply filed by respondents, appointment of *Jal Rakshak*/Water Guard is made by concerned Gram Panchayat, on the recommendations of the Selection Committee, comprising of Assistant Engineer (IPH) as its Chairman, Pradhan of Gram Panchayat concerned and Junior Engineer of the Section concerned as its members, through a selection process as per parameters fixed and methodology adopted at that time. It is also admitted case of the respondents that respondent-department had taken a conscious decision to transfer water supply schemes to Panchayati Raj Institutions for operation and maintenance in a phased manner, for which it provided financial assistance to Gram Panchayat, which engaged Jal Rakshaks (Water Guards) on a fixed remuneration. Duties of Water Guard/Jal Rakshak are distribution of water beyond sector storage tank i.e. to regulate the flow, opening and

closing of valves in distribution system daily below the sector storage tank. Though petitioner herein is not involved in any repair and maintenance work, which is done by the regular field staff deployed by the respondent-Jal Shakti Vibhag, but admittedly they are front line workers for providing water to the various Gram Panchayats.

7. Having perused reply filed by the respondents, it can be safely inferred that though petitioner has been working on the scheme of the Jal Shakti Vibhag, but to prevent such persons from claiming regularisation in future, they have been provided appointment through Gram Panchayats, for which otherwise funds are made available by respondent-department. Leaving everything aside, respondents, themselves taking note of continuity of service of such persons, coupled with their persistent demand for regularisation, amended Recruitment and Promotion Rules, thereby creating new post of Pump Attendant. Water Guards engaged by Panchayati Raj Institution are eligible to be appointed as Pump Attendant, subject to their fulfilling criteria as laid down in Recruitment and Promotion Rules.

8. In view of the above, this Court is not persuaded to agree with Mr. Rajan Kahol, learned Additional Advocate General, that petitioner herein is not an employee of the Government, rather of concerned Gram Panchayat. It is also only camouflage which has been created by respondents to prevent persons like petitioner to claim regularisation after their having completed requisite period, as provided

in the Policy of regularisation framed by Government of Himachal Pradesh from time to time. During proceedings of the case, learned counsel representing the petitioner made available communication dated 07.03.2024, issued under the signatures of Deputy Secretary (Jal Shakti) to the Government of Himachal Pradesh, which is reproduced herein below:

From "No.IPG-(B)(A)6-1/2014-Loose Part-I
Government of Himachal Pradesh
Jal Shakti Vibhag

To The Additional Chief Secretary (Jal Shakti) to the
Government of Himachal Pradesh, Shimla-02

The Engineer-in-Chief
Jal Shakti Vibhag, Jal Shakti Bhawan
Tutikandi, Shimla – 171002, 7th March, 2024

Subject:- **Regarding enhancement of honorarium of Jal Rakshaks (Water Guards)/Multipurpose Workers/Para Fitters/Para Pump Operators engaged in Jal Shakti Vibhag.**

Madam,

I am directed to refer to the subject cited above and to convey the approval of the Government to increase honorarium in respect of all the following categories w.e.f. 01.04.2024, subject to completion of all codal formalities:-

Sr. No.	Category	Honorarium Paid at present (per month)	Revised/enhanced honorarium (per month) w.e.f. 01-04-2024
1	Water Guards	Rs.5000/-	Rs.5300/- PM
2	Multipurpose Workers	Rs.4400/-	Rs.5000/- PM
3	Para fitter	Rs.6000/-	Rs.6300/- PM
4	Para pump Operator	Rs.6000/-	Rs.6300/- PM

You are, therefore, requested to take necessary action after observing all the codal formalities.

Yours faithfully,
(Mahi Pal Verma)
Deputy Secretary (Jal Shakti) to the
Government of Himachal Pradesh
Phone No.0177-2880484"

8.1. Careful perusal of aforesaid communication itself reveals that honorarium as well as other perks, if any, payable to the petitioner are being decided by the Government and the Gram Panchayats are only facades created by the department concerned from preventing Jal Rakshaks other similarly situate persons from seeking benefit, if any, in terms of Policy of regularisation framed by the Government of Himachal Pradesh from time to time.

9. At this stage, it would be apt to take note of judgment passed by the Division Bench of this Court in CWP No.6916 of 2011, titled as ***Pankaj Kumar Vs. State of Himachal Pradesh and Others***, decided on 09.12.2014, along with connected matters, wherein direction came to be issued to respondent-State to regularise the Teachers who were not appointed by the State Government, but were appointed by the Gram Panchayat, after completion of requisite length of service. In afore case, Division Bench of this Court made following observations, which reads as under:

“50. It pains us to record here that the State Government has utilized the services of the said teachers right from the year 2003, they have lost their youth and are performing their duties with legitimate expectations and the Government, after taking note of their work and conduct, as discussed hereinabove and at the cost of repetition, came forward and regularized their services and by now, they must have crossed the age of consideration and the impugned judgment has taken away their bread, not only the bread, but has affected their matrimonial home and their family and career of their children for no fault of theirs.”

10. Subsequently, placing reliance upon aforesaid judgment rendered by Division Bench, Coordinate Bench of this Court in CWP No.528 of 2015, titled as ***Rajesh Kumar and Others Vs. State of H.P. and Others***, decided on 20.03.2015, had an occasion to deal with a case where Department of Panchayati Raj proposed to provide technical assistance to the Panchayats for execution of developmental works and to provide employment opportunity to those persons who were qualified in various technical trades like JEs/Surveyors/Draftsman etc. and also to improve the quality of works being carried out by the Panchayats. In aforesaid case, similar objection, as has been taken in the case at hand, was taken by the respondents, but Coordinate Bench of this Court while placing reliance upon *Pankaj Kumar* (surpa) directed respondents to regularise such persons.

11. Reliance is also placed upon judgment rendered by this Court in CWP No.1747 of 2020, titled ***Hari Chand and others Vs. State of Himachal Pradesh and Others***, decided on 14.07.2021, whereby direction came to be issued to respondents to convert the service of the petitioners, who at relevant time were working as Chowkidars in their respective Gram Panchayats, from part-time to daily wagers in terms of policy dated 13.10.2009/11.9.2018. In afore case also, similar plea was sought to be raised by the respondents that Chowkidars appointed by Gram Panchayats cannot be considered to be the employee of Government, but this Court having taken note of various judgments

passed by this Court as well as Hon'ble Apex Court directed the respondents to convert the services of such employees from part-time basis to daily wagers. Relevant Paras of afore judgment read as under:

“22. Though, Part Time Chowkidars in terms of their appointment, are only required to work for four hours, but if their duty charter, Annexure P-1/A is perused, it is difficult to conclude that the persons appointed as Chowkidar on part time basis can complete his given work in four hours, rather, duty chart clearly suggest that the work of Chowkidar is not only arduous but he/she is required to be present 24 x7 for duties and as such, no discrimination can be done to them on the ground that they are not employees of Panchayat Samitis and Zila Parishads.

23. Otherwise also, as per definition of Panchayat, provided under S.2(26), Panchayat Samitis and Zila Parishads fall within the meaning of 'Panchayat'.

24. Vide Notification dated 21.10.2000, Annexure P-1/C Government of Himachal Pradesh formulated scheme for engaging technical staff in Gram Panchayats. Very purpose and aim of aforesaid scheme is /was to provide technical help to Gram Panchayat for execution of developmental works. Vide aforesaid Scheme, persons having qualifications in various technical trades of JE, surveyor and draughtsman etc. Are /were to be appointed by Gram Panchayats. Clause 4 of above Notification reveals that the Gram Panchayat would be the appointing authority of Technical Assistant /Takniki Sahayaks. The Notification dated 21.10.2000, is reproduced herein below:

“Government of Himachal Pradesh

Department of Panchayati Raj

PCH-HC()-5/2000

Shimla 171009 dated the 21st October, 2000

Notification

The Governor, Himachal Pradesh is pleased to order a Scheme for engaging Technical staff in Gram Panchayat. The aim of the scheme is to provide technical help to the Panchayats for execution of Development works.

This scheme will be applicable all over the State and it will provide employment opportunity to those persons, who are

qualified in various technical trades like JEs/Surveyors/ Draftsman etc. The Scheme will be beneficial in order to improve the quality of works being carried out by the Panchayats and there will be somebody who can be given responsibilities by the Panchayats for execution in various Development works.

The following guidelines will be followed for engaging Technical staffing the Gram Panchayats.

- DESIGNATION: The technical person to be recruited would be designated as Takniki Sahayak.
- 2.HONORARIUM: Tekniki Sahayak would be paid honorarium of Rs.1200/- per month. He will also be paid TA and DA at such rates that he Govt. may fix from time to time for tours connected with Panchayat works.
- 3.WORKING HOURS: Takniki Sahayak would work for 4 hours a day. He/she would be entitled for all gazetted holidays and 12 days casual leave in a year.
- 4.APPOINTING AUTHORITY: Gram Panchayats would be the appointing authority of Takniki Sahayak. One Takniki Sahayak would be appointed for every 2-3 Panchayats. The grouping of Panchayats based on their income would be done by the BDO concerned. The hqrs of Takniki Sahayak would be in the same place as of the Hqrs of GPVA and would be fixed by the BDO.
5. SELECTION PROCEDURE: The selection of Takniki Sahayak would be done in the following manner: -
- 1) Applications of the persons possessing the below mentioned qualification would be invited by the Panchayat where the Hqrs of Takniki Sahayak is proposed.
 - 2) The persons having following qualifications would be eligible to apply:-
 - (a) Diploma in any branch of engineering from recognized institution.

b) Diploma in Draftsman/surveyor from recognized institute

The applications would then be processed by GPVA and (b). candidates would be called for interviews. Interviews would be conducted by a committee consisting of Pradhans of the concerned Panchaayts one JE to be nominated by the BDO and AE(Dev.) who would be the Chairman of the Committee: The Selection would be made on the following criteria:-

(i) Educational qualification as follows: 20 marks

Full 10 marks to be given for degree in Engineering.

(a)	10 marks for qualification	5 marks for diploma in engineering 3 marks for diploma in draughtsman
(b)	10 marks for performance in Degree/diploma	Percentage of marks in degree/diploma to be divided by 10

(ii) Experience: 10 marks (1 mark for each year of relevant experience)

(iii) If no member of family is in Government service 5 marks to be given.

(iv) If belong to same 2-3 Panchayats, 5 marks to be given.

(v) Interview to test personality aptitude and knowledge: 10 marks.

The appointment letters would be issued to the selected candidates by the Panchayats where the Hqrs is fixed and the Takniki Sahayak would be the employee of that Panchayat under Section 136 of HP Panchayati Raj Act, 1994.

25. As per aforesaid Scheme Gram Panchayat concerned would be the appointing authority of Technical Assistants. It is not in dispute that part time services of Technical Assistants appointed by Gram Panchayat concerned stand converted into daily wage basis in terms of communication dated 13.10.2009 and many of them, who have

completed 5 years service as daily wagers stand regularized. The Notification dated 30 th November, 2016 is reproduced herein below:

“Government of Himachal Pradesh

Department of Panchayati Raj

No. PCB-HB(1)1/2011-T.S.Vol-II dated Shimla-9, 30 th November, 2016.

Notification

The Governor of Himachal Pradesh in continuation to this department Notification No. PCH-HA(1)11/2010-1-3905-4144 dated 12.7.2016, is pleased to designate Technical Assistants as daily wagers who have completed 5 years of service as on 30.9.2016, out of such Technical Assistants, those who were getting monthly remuneration @ Rs.240/- per day w.e.f. 26.9.2012 shall be deemed to be daily wagers from the said date i.e. 26.9.2012.

The Governor of Himachal Pradesh is further pleased to order that Technical Assistants will be considered for regular pay scale after completion of 7 years of service as per policy which has already been approved for this category on 22.6.2016 and notified on 12.7.2016 vide Notification referred above.”

26. Similarly, communication dated 30.7.2019 issued by Irrigation and Public Health, Himachal Pradesh Annexure A-2 annexed with CMP No. 10427 of 2020 having been filed by petitioner, seeking permission to place on record additional documents, reveals that Irrigation and Public Health Department decided to convert services of Jal Rakshaks/Water Guards initially appointed by Gram Panchayats to Pump Attendants. Jal Rakshaks, who have completed 12 years as on 31.12.2018 with 240 days in calendar year having minimum qualification of 8th pass have been held entitled to be appointed as pump attendants on contract basis. Condition of minimum qualification imposed by Irrigation and Public Health Department for converting services of Jal Rakshaks to pump attendants stands already quashed vide judgment dated 23.6.2021 passed by a Coordinate Bench in CWP No. 3047 of 2020 titled Jagdish Kumar vs. State of Himachal Pradesh.

27. Having carefully sifted entire material available on record, this court is convinced and satisfied that initially all the categories of employees i.e. Panchayat Chowkidars, Jal Rakshaks/Water Guards, Panchayat

Sahayaks, Technical Assistants and Peons are/were given appointment by the Gram Panchayat under S.135 of the Act read with Rule 137 of the Rules, on part time basis, after having obtained necessary approval of the Government and their remunerations are/were being paid out of Grant-in-Aid provided by the respondent-State to the various Gram Panchayats, Panchayat Samitis and Zila Parishads and as such, no discrimination inter se aforesaid categories can be made while converting their services from part time basis to daily wage on the ground of availability of funds with the concerned Gram Panchayats, Panchayat Samitis and Zila Parishads.

28. Further, having taken note of the fact that 90% of the remuneration is paid out of the Grant-in-Aid released by the respondent-State and all the appointments of part time workers are made with prior concurrence and approval of competent authority, it cannot be concluded that persons working against aforesaid posts are the employees of Gram Panchayats.

29. Though under S.135 of Act, read with Rule 137 of Rules, Gram Panchayat is competent to appoint persons as per its necessity but such appointments cannot be made without prior concurrence of Director, Panchayati Raj or any other competent authority, meaning thereby appointment, if any, by Gram Panchayat can only be made qua the different categories of employees subject to satisfaction of the competent authority i.e. Director, Panchayati Raj or any other officer, authorized in this behalf. Last word in appointment of persons appointed against aforesaid categories in Gram Panchayat, Panchayat Samitis and Zila Parishad is of respondent Department and not of concerned Gram Panchayat, Panchayat Samitis or Zila Parishad.

30. Leaving everything aside, once it stands established that all the categories mentioned supra, stand granted benefit of policy of conversion from part time basis to daily wage basis, no discrimination can be meted to the category of petitioners i.e. Part Time Chowkidars that too on the ground that they are not employees of respondent-State.

31. A Division Bench of this court in CWP No. 528/2015, Rajesh Kumar and others versus State of H.P. and others, decided on 20.3.2015, while dealing with similar issue pertaining to regularization of Technical Assistants, has held as under:

“3. Petitioners approached this Court by way of CWP No.9804 of 2013 seeking regularization. CWP No. 9804 of 2013 was disposed of on 6.5.2014 with a direction to consider the cases of the petitioners for regularization. Cases of the petitioners have been rejected on 13.11.2014 vide Annexure P-8. The grounds mentioned for the rejection of the petitioners cases for regularization is that they were merely working on part time basis with effect from their initial date of appointment that too under the Panchayat. Fact of the matter is that the notifications under which the petitioners have been appointed and their remunerations have been fixed, have been issued by the State Government. Petitioners have been working for four hours a day and thereafter for full day @ Rs. 240/- per day as per notification dated 18.2.2005 and their status has been converted from contract to daily wage, after the completion of ten years as per notification dated September, 2012.

4. This Court in CWP No. 6916/2011, titled as Pankaj Kumar vs. State of H.P. and others and analogous matters decided on 9.12.2014 has directed the respondent State to regularize the teachers, who were not appointed by the State Government, but were appointed by the Gram Panchayats, after completion of requisite length of service. The Co-ordinate Bench has held as under:

“50. It pains us to record here that the State Government has utilized the services of the said teachers right from the year 2003, they have lost their youth and are performing their duties with legitimate expectations and the Government, after taking note of their work and conduct, as discussed hereinabove and at the cost of repetition, came forward and regularized their services and by now, they must have crossed the age of consideration and the impugned judgment has taken away their bread, not only the bread, but has affected their matrimonial home and their family and career of their children for no fault of theirs.”

5. Accordingly, the present writ petition is allowed. Respondent-State is directed to consider the cases of the

petitioners for regularization in view of the principles laid down in the judgment dated 9.12.2013, quoted hereinabove. Pending application(s), if any, also stands disposed of. No costs”

32. Division Bench, while referring to Pankaj Kumar (supra), has reiterated that State Government has utilized the services of the said teachers right from the year 2003, they have lost their youth and are performing their duties with legitimate expectations and the Government, after taking note of their work and conduct, as discussed hereinabove and at the cost of repetition, came forward and regularized their services. In the case at hand also, petitioners have been serving the respondents for a long time now, and at this stage, they are neither in a position seek employment somewhere else nor to leave the jobs, as they have to maintain their families and respondents are expected, being welfare State, to reciprocate them by extending benefits of policies of conversion into daily wagers and/or regularisation.”

12. Consequently, in view of detailed discussion made hereinabove as well as law taken into consideration, this Court finds merit in the present petition and accordingly the same is allowed. Respondents are directed to convert the services of the petitioner from part-time to daily wager in terms of Policy dated 05.05.2020 forthwith within a period of eight weeks. Needless to say, petitioner on account of conversion of his services from part-time to daily wager from due date shall not be entitled to any financial benefit, but his seniority from due date shall be protected for the purpose of regularisation, which he may claim subsequently pursuant to regularisation policy, if any, framed by the State Government.

The present petition is disposed of in the above terms, so also the pending miscellaneous application(s), if any.

**(Sandeep Sharma),
Judge**

November 27, 2025
(Rajeev Raturi)