



**IN THE HIGH COURT OF HIMACHAL PRADESH
AT SHIMLA**

CWPOA No: 6621 of 2020

Decided on :28.11.2025

Sunil Kumar

...Petitioner

versus

The Commissioner, Municipal Corporation
Shimla

...Respondent

Coram:

Hon'ble Mr. Justice Ranjan Sharma, Judge

¹ *Whether approved for reporting? No*

For the petitioner: Mr. Mohan Sharma, Advocate

For the respondent: Mr. Mukul Sood, Advocate

Ranjan Sharma, Judge

Petitioner, Sunil Kumar, had initially filed *Original Application No.1314 of 2019* before Learned State Administrative Tribunal and upon abolition of Learned Tribunal, the matter was transferred to this Court as *CWPOA No. 6621 of 2020*, seeking the following reliefs:-

“7(i) That the Annexure A-4, order dated 10.08.2018 may kindly be quashed and set aside.

7(ii) That the directions may kindly be issued to the respondents to regularize the services of the applicant as Driver

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



on or after 21-11-2005 with all consequential benefits such as seniority, increments and arrear of salary along with 12% of interest per annum w.e.f. 21-11-2005 to 01-01-2008.”

2. *During the course of hearing,* Learned Counsel for the petitioner, submits that the petitioner stands regularized w.e.f. 01.01.2008 and has claimed benefit of retrospective regularization from the date of completion of 8 years of daily waged service but on Instructions, Learned Counsel for petitioner submits that the petitioner shall be satisfied in case the Respondent Corporation considers the case of the petitioner for work charged status from the date he completes 08 years of continuous daily wage service in the light of the mandate of the Hon'ble Supreme Court in the case of ***State of Himachal Pradesh & Others versus Surajmani and Another [Civil Appeal No 1595 of 2025 and other connected matters,*** decided on 06.02.2025].

3. *Per contra,* Learned Counsel for the Respondent-Municipal Corporation does not oppose the prayer, being innocuous, except to the extent that the factual aspects needs to be verified.



4. Stand of Learned Counsel for Respondent

Corporation appears to be genuine, *for the reason*, that once the judgment in the case of **Surajmani** (*supra*) is a judgment in rem *entitling all the* daily wagers working in all departments, including authorities under the State for conferment of work charge status from the date of completion of 08 years of continuous daily wage service and based on this, once the State Authorities have extended the benefit of work charged status to other similarly placed incumbents then, the claim of the petitioner for conferment of work charge status carries weight, subject to verification of factual aspect of completion of having rendered 8 years of continuous daily waged service by the petitioner and upon consideration, in case, petitioner is found entitled for work charged in terms of the judgment in the case of **Surajmani** (*supra*) then, the relief shall be limited to “**notional benefits**” in the following terms:-

- “5. The workers who had been regularized in service in the Public Health Department under various schemes announced by the State



Government from time to time but had not been granted the status of “work-charged” had approached the High Court of Himachal Pradesh in CWP No. 2735 of 2010 titled as ***Rakesh Kumar and Ors. Vs. State of Himachal Pradesh and Ors.*** which came to be disposed of on 28.07.2010 by opining as under:

“6. The simple question is whether the delay defeats justice? In analyzing the above issue, it has to be borne in mind that the petitioners are only class-IV workers (Beldars). The schemes announced by the Government clearly provided that the department concerned should consider the workmen concerned for bringing them on the work charged category. So, there is an obligation cast on the department to consider the cases of the daily waged workmen for conferment of the work-charged status, being on a work-charged establishment, on completion of the required number of years in terms of the policy. At the best, the petitioners can only be denied the interest on the eligible benefits and not the benefits as such, which accrued on them as per the policy and under which policy, the department was bound to confer the status, subject to the workmen satisfying the required conditions.

7. In the above circumstances, these Writ Petitions are disposed of directing the respondents to consider the case(s) of the petitioners herein for conferment of work charged status, subject to their eligibility in terms of the policy dated 3.4.2000 and as explained in 6.5.2000 policy, as extracted above. Needful in this regard shall be done within a period of three months from the date of production of the copy of this judgment



by the respective petitioners. Needless to say that the question of conferment of work charged status does not arise in case the establishment ceases to be a work charged establishment and hence, the conferment of the status will not arise after the abolition of the work-charged status of the establishment.”

6. The aforesaid order came to be affirmed by this Court in Special leave Petition (Civil) No. 33570 of 2010 and all connected matters were disposed of on 15.01.2015. Later, certain workers who had been engaged on daily wage basis in Public Works Department of Himachal Pradesh, after having completed eight years of continuous service prayed for conferment of work-charged status by filing O.A. No. 412 of 2016 before the H.P. State Administrative Tribunal. Their prayer was allowed by the Tribunal vide order dated 30.06.2016. Upon challenging the same by the State in Civil Writ Petition No. 3111 of 2016 titled as **State of H.P. and Ors. Vs. Sh. Ashwani Kumar** the High Court, relying upon its judgment in Civil Writ Petition No. 4489 of 2009 titled as **Ravi Kumar Vs. State of H.P. and Ors.**, decided on 14.12.2009, maintained the order of the Tribunal. The order of the High Court in Ashwani Kumar (Supra) has also been affirmed by this Court in Civil Appeal No. 5753 of 2019 titled as **State of H.P. and Ors. Vs. Ashwani Kumar** by order dated 22.07.2019, wherein this Court observed as under:



“3. We are not disturbing the finding of the Tribunal, which was affirmed by the High Court, with respect to the conferral of the status of the work charge from 01.01.2003. However, as regularization has been made only in the year 2006, obviously, **notional benefit could have to be granted** as the petition was initially filed in the year 2013.

4. Thus, we make the modification that the respondent would be entitled only for notional benefits of the order passed by the Central Administrative Tribunal. Accordingly, with the aforesaid modification in the order of the Central Administrative Tribunal and the High Court, the appeal is disposed of.”

7. In this factual scenario, when we consider the arguments advanced by the learned counsel appearing for the respective parties, it would not detain us for too long to brush aside the contention of the learned senior counsel and learned Advocate General appearing for the State of Himachal Pradesh. **Inasmuch as the issue involved in these appeals has been laid to rest by this Court in the case of Mool Raj Upadhyaya (Supra). That apart, this Court, while examining a similar plea in Ashwani Kumar's (Supra) case in Civil Appeal No. 5753 of 2019 disposed of on 22.07.2019, has specifically addressed this issue by arriving at a conclusion that the order of the Tribunal directing conferment of 'work charge status' on completion of eight (08) years of service, did not suffer from any infirmity** and it was reiterated order of the Tribunal was



just and proper.

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 aforesaid, 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].”

DIRECTIONS:

5. Considering the *factual matrix and the prayer for work charge status* from the date of 08 years of continuous service, in terms of the mandate of the Hon’ble Supreme Court in case of **Surajmani (supra)**, this Court disposes of the



instant petition, *in the following terms:-*

- (i) Respondent Corporation is directed to consider the claim of the petitioner for work charge status in terms of the mandate of the Hon'ble Supreme Court in the case of **Surajmani (supra)**;
- (ii) Upon consideration, the Respondent Corporation shall grant Work Charge Status from date of completion of 08 years of continuous daily wage service, based on continuous service rendered from 1997 till 31.12.2004 w.e.f. 1.1.2005 or such due date; as per the mandate of Hon'ble Supreme Court in case of **Surajmani (supra)**;
- (iii) Needless to say, that benefits shall be limited to **"notional benefits"**; but without any past benefits; and
- (iv) Parties to bear respective costs.

In aforesaid terms, the instant petition and all pending miscellaneous application(s), if any, shall accordingly stand disposed of.

(Ranjan Sharma)
Judge

November 28, 2025
[Bhardwaj]