



2025:HHC:45305

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

CWPOA No.5814 of 2019
Decided on: 26.11.2025

Kishan Chand [since died through his LRs]

...Petitioner

Versus

Himachal Road Transport Corporation
and others

...Respondents

Coram

Hon'ble Mr. Justice Ranjan Sharma, Judge

Whether approved for reporting?.

For the petitioner:

Mr. R.L. Chaudhary and Mr. H.R.
Sidhu, Advocates.

For the respondents:

Mr. Raman Jamalta, Advocate.

Ranjan Sharma, Judge

Petitioner Kishan Chand had initially filed Original Application No.3666 of 2015 before the State Administrative Tribunal and upon abolition of Tribunal, the matter stood transferred to this Court, as CWPOA No.5814 of 2019, seeking the following reliefs :-

- “(i). That the respondents may kindly be directed to carry the pay fixation of the applicant in the year 1984 to the post of Conductor taking into consideration the length of service rendered by the applicant as a regular Cleaner w.e.f. 02.10.1974 to 1984.
- (ii). That the respondents may kindly be directed to carry the pay fixation of the applicant in the year 1991 to the post of Driver taking into consideration the



length of service rendered by the applicant as a regular Cleaner and Conductor w.e.f. 02.10.1974 to 1991.

- (iii). That the respondents may kindly be directed to carry the pay fixation of the applicant on 15.05.2004 taking into consideration 30 years regular service rendered by the applicant as a regular Cleaner, Conductor & Driver w.e.f. 02.10.1974 to 15.05.2004.
- (iv). That the respondents may kindly be directed to grant increments for which the applicant is entitled in accordance with law after pay fixation of the applicant in accordance with law.
- (v). That the respondents may kindly be directed to take into consideration 30 years service of the applicant on regular basis to the post of Cleaner, Conductor and Driver for calculating the revised pension of the applicant, since the respondent Corporation has not counted 6 years regular service of the applicant for the purpose of pension without assigning any reason."

FACTUAL MATRIX:

2. Grievance of the petitioner is that he had served in the Respondent-Corporation as a Cleaner from 02.10.1974, on regular basis thereafter he was promoted as Conductor in 1991. It is further averred that the petitioner served as a Driver from 1991 till 15.05.2004 in the Corporation till he was compulsorily retired from the service of the Respondent-Corporation on 15.05.2004. In this background, grievance of the petitioner is that during this period he was placed under suspension



on various occasions but after the revocation of suspension, the Respondent-Corporation has not passed a specific order to treat the period of suspension after revocation as duty period nor passed an order for giving the pay and allowances admissible for the period after deducting the subsistence allowances. It is in this background, the prayer is made that unless and until the orders revoking the suspension contained a specific provision that the period to be counted as duty period or not then, entire period is to be counted as duty period for all purposes.

**STAND OF RESPONDENT-CORPORATION IN
REPLY-AFFIDAVIT:**

3. Pursuant to issuance of notice on 06.10.2015, the Respondent-Corporation has filed the Reply-Affidavit dated 30.11.2015 of Regional Manager Legal H.R.T.C. (HQ) Shimla.

3(i). In Reply-Affidavit Respondent-Corporation has taken an objection with respect to delay and laches. Further Annexure R-2 has been placed on record which indicates the history-sheet of the petitioner from the date of initial appointment on 02.10.1974



as Cleaner-cum-Conductor till he was compulsory retired on 15.05.2004. The history-sheet [Annexure R-2] gives 29 instances whereby, the petitioner was either placed under suspension or the disciplinary proceedings were initiated in which the minor or major penalty was imposed against the petitioner. In this backdrop, Learned Counsel for the Respondent-Corporation states that the matter cannot be relooked into by the Corporation being stale and suffering from delay and laches.

REBUTTAL-REJOINDER BY PETITIONER:

4. Petitioner has filed rejoinder whereby it is stated that the Respondent-Corporation retired the petitioner from service compulsorily by way of penalty and gave retiral benefits for 23 years 7 months and 16 days of service, whereas, the period of 6 years during which the petitioner was intermittently suspended as in Annexure R-2 has been excluded, and in case, the said period is counted then, the petitioner would be entitled for retiral benefits for 29 years 7 months and 13 days of service. In this backdrop, the claim in the petition was reiterated and the averments in the reply were negated.



5. Heard, Mr. R.L. Chaudhary, Advocate, assisted by Mr. H.R. Sidhu, Advocate, for the petitioner and Mr. Raman Jamalta, Learned Counsel for the Respondents-Corporation.

6. During the course of hearing, Learned Counsel for the petitioner, on Instructions, states that the petitioner shall be satisfied, in case the respondents re-look into Annexure R-2 [containing details of period during which petitioner was under suspension on various occasions] as to whether the Disciplinary Authority has passed specific orders for regularizing the suspension period as in Annexure R-2 or not as required by norms.

7. Learned Counsel for the petitioner placed reliance on Fundamental Rule 54-B to assert that once the petitioner was placed under suspension and upon revocation of suspension, the petitioner was reinstated then, the Respondent-Corporation was bound to make a specific order regarding the pay and allowances to be paid to the petitioner for the period of suspension ending with reinstatement or till date of retirement and also to pass another order



whether the petitioner was to be paid any amount other than the amount already paid and whether or not the period of suspension was to be treated as period spent on duty or not. In this background, Learned Counsel for the petitioner states that the Respondent-Corporation has not complied with the statutory provision of Fundamental Rule 54-B, which has resulted in depriving the petitioner of the right for higher retiral benefits, including pension for 29 years and 7 months vis-à-vis retiral benefits given for 23 years and 7 months service and the claim for higher pension is a recurring loss since his compulsory retirement w.e.f. 15.05.2004 till day.

8. Per contra, Learned Counsel for Respondent-Corporation states that the grievance shall be re-looked into and appropriate orders shall be granted in accordance with law.

DIRECTIONS:

9. Taking into account the factual matrix and based on the statement made by Learned Counsel for the petitioner and leaving all questions open, this Court *disposes of the instant petition* in the following terms:



- (i). As jointly agreed, the Respondent No.2- Divisional Manager, Himachal Road Transport Corporation shall re-look into the instances as quoted in *Annexure R-2*, in light of Fundamental Rules 54-B, as to whether the period of suspension has been counted for pay and allowances and whether the said period is to be treated as duty period or not;
- (ii). Entire exercise, upon relooking of *Annexure R-2*, in the light of Fundamental Rule 54-B be completed within two months from today;
- (iii). Needless to say, that this Court has not adverted to the rights and entitlements of petitioner, which are left to be examined by the Corporation in accordance with law;
- (iv) Parties to bear respective costs.

In aforesaid terms, the instant petition along with pending miscellaneous application(s), if any, shall also stand disposed of.

(Ranjan Sharma)
Judge

26th November, 2025
[himani]