



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

CWPOA No.7896 of 2019

Decided on: 28.11.2025

Sunita Kumari & Others

...Petitioners

Versus

State of Himachal Pradesh &
Others

...Respondents

Coram

Hon'ble Mr. Justice Ranjan Sharma, Judge

¹*Whether approved for reporting?. Yes.*

For the petitioners: Mr. Naresh Verma, Advocate.

For the respondents: Mr. Navlesh Verma,
Additional Advocate General, for
the respondents-State.

Ranjan Sharma, Judge [Oral]

Petitioner, Sunita Kumari and two others initially filed O.A. No.3333 of 2016, before Learned State Administrative Tribunal; and upon of the Tribunal, the matter has been transferred to CWPOA No.7896 of 2019 seeking the following relief(s):

- “(i). That the orders dated 23.11.2015 Annexure A-2, A-2, A-2b may kindly be quashed and set aside and the respondents may kindly be directed to regularize the services of the applicants and give them work-charge status after 8 years of daily waged services as per the judgment delivered in CWP No.2735 of 2010 titled as Rakesh Kumar versus State of H.P.”

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



FACTUAL MATRIX:

2. Grievance of the petitioners is that the petitioners were engaged as daily wagers in the Forest Department in 1994 and their services were regularized on 08.09.2007 on completion of 08 years of daily wage services as per the policy.

2(i). It is averred that Petitioner No.1, Sunita Kumari and Petitioner No.2-Vinod Kumar have rendered continuous service with 240 days from 1995 till 2006 as per *Annexure A-2* and *Annexure A-2a*. Likewise, the Petitioner No.2-Vinod Kumar, had rendered continuous service with 240 days from 1995 till 2006 as per *Annexure A-2a*. Petitioner No.3-Thanapati, had rendered continuous service with 240 days from 1996 till 2006 as per *Annexure A-2b*.

In this background, the petitioners have claimed work charge status from the date they complete 08 years of continuous daily wage service in the Respondent-Department.

STAND OF STATE AUTHORTIES IN REPLY-AFFIDAVIT:

3. Pursuant to the issuance of notice on 01.09.2016, the Respondents have filed the Reply-



Affidavit dated 03.12.2016 of Executive Engineer [Forest],
in office of Principal Chief Conservator of Forest, Shimla.

3(i). Perusal of the Reply-Affidavit indicates that Petitioner No.1 and Petitioner No.2 were engaged in 1994 and they completed 240 days of continuous service from 1995 till 2006 as per mandays Annexure R-I and Annexure R-II. Likewise, though the petitioner No.3 was engaged during 1996 but she had completed 240 days of continuous daily wage service from 1995 to 2006 as per *Annexure R-IV*. Reply-Affidavit states that the petitioners stand regularized as Peon on 07.09.2007, as per the regularization policy. In Para 4(iii) of Reply-Affidavit, the State Authorities have taken a stand that the Forest Department does not have a work charge establishment as per the communication dated 24.09.2015 and therefore, the benefit of work charge status cannot be granted to the petitioners in the instant case coupled with the fact that once the petitioners stand regularized, therefore, the claim for work charge status from an earlier date is not tenable. In this backdrop, prayer was made for dismissing the writ petition.



REBUTTAL BY PETITIONER:

4. Petitioners have filed a rejoinder stating that non-grant of work charge status to the petitioners is discriminatory, when, as per the information in *Annexure A-3 [sic. Annexure A-4]* work charge status has been given to about 78 daily wagers in the Forest Department as per the List. In this backdrop, the plea of discriminatory treatment and adoption of different yardstick by the State Authorities has been asserted by the petitioners.

5. Heard, Mr. Naresh Verma, Learned Counsel for the petitioners and Mr. Navlesh Verma, Learned Additional Advocate General, for the Respondents-State and have also gone through the material available on record.

ANALYSIS:

6. Taking into account the entirety of the facts and circumstances and the material on record, this Court is of the considered view that the claim of the petitioners for conferment of work charge status from the date they completed 08 years of daily wage service with notional benefits has force and the *same is accepted for the following reasons:*



6(i). Perusal of the Mandays Chart [*Annexures R-I and R-III*] appended with the Reply-Affidavit goes on to establish that the Petitioners No.1 & 2, namely Sunita Kumari and Vinod Kumar had been in continuous service with 240 days in each calendar year from 1995 till 2006 and they have completed eight years of continuous service as on 31.12.2002. Upon completion of 08 years of continuous daily waged service, the petitioners No.1 & 2 became eligible and entitled for work-charge status w.e.f. 01.01.2003. Perusal of Annexure R-III with Reply-Affidavit indicates that the Petitioner No.3-Thanapati, had rendered 08 years of continuous daily wage service with 240 days in each calendar year from 1996 till 31.12.2003 and she became eligible and entitled for work charge status from 01.01.2004, as per the applicable policy-law.

6(ii). The issue regarding entitlement of daily wagers for work charge status from the date of completion of 08 years of continuous daily service with 240 days stands answered by the Hon'ble Supreme Court in **Civil Appeal No.1595 of 2025**, titled as **The State of Himachal Pradesh & Ors. versus Surajmani & Anr.**, decided on 06.02.2025, in the following terms:

“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 216 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. & 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.”
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 urged/raised in the said application. ones which were **Though Mr. Vivek Tarikha, 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 made 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].**”

Based on the mandate of the Hon'ble Supreme Court, in the case of **Surajmani** (*supra*) which is a judgment *in rem*, this Court has no hesitation to hold that the petitioners shall be entitled for work charge status from the date they complete 08 years of continuous daily waged service w.e.f. 01.01.2003 [in case of petitioners 1 & 2] and w.e.f. 01.01.2004 [in case of petitioner 3] herein.

6(iii). Upon grant of work charge status, the ancillary issue as to whether daily wagers were reliefs of “all



consequential benefits or notional benefits” also stands adjudicated by the Hon’ble Supreme Court in the case of **Surajmani** (*supra*), mandating that upon grant of work charge status the relief shall be limited to “notional benefits”. That being so, this Court sees no reason, as to why the petitioners be not extended the relief of “notional benefits” i.e. pay fixation in applicable pay scale from the date of grant of work charge status [01.01.2003/ 01.01.2004] and annual increments till regularization on 08.09.2007 and the benefit of enhanced pay fixation from regularization during service and the resultant revised retiral benefits till day.

6(iv). Plea of the State Authorities that the *Respondent-Forest Department did not have a work charge establishment* as per the decision taken by the State Authorities-Respondents on 24.09.2015.

The above plea cannot sustain and cannot have any effect on the right/entitlement of petitioners for work charge status in terms of the judgment in the case of **Surajmani** (*supra*). Even, the decision dated 24.09.2015 cannot be made basis for denying work charge status which had accrued w.e.f. 01.01.2003 [in case of petitioners 1 & 2] and w.e.f. 01.01.2004 [in case of petitioner No.3].



The decision dated 24.09.2015 cannot have retrospective applicability. The rights-entitlement for work charge status accruing from mandate of law in **Surajmani** (*supra*), which stands reinforced by the Hon'ble Supreme Court in **Special Leave Petition (Civil) Diary No(s).11170 of 2024**, in *Re: The State of H.P. & Ors. versus Janak Dev Sharma*, decided on 26.05.2025, mandating that the benefit of the judgment in case of **Surajmani** (*supra*) being a judgment in *rem* has to be extended to all similar persons who have same fact-situation as in this case.

6(v). Even, the Division Bench of this Court, in various judgments in **LPA No. 82 of 2025**, titled as **State of Himachal Pradesh and others versus Pritam Chand**, decided on 27.08.2025, **LPA No. 100 of 2025**, titled as **State of Himachal Pradesh and others versus Layak Ram**, decided on 27.08.2025 and **LPA No. 231 of 2025**, titled as **State of Himachal Pradesh and others versus Gita Ram Sharma**, decided on 27.08.2025 has reiterated the entitlement for work charge status from the date of completion of 08 years of continuous daily waged service to daily wagers in *Government Departments, which includes the Respondent-Forest Department*. The Division Bench has further held that there is neither the



requirement of a work charge establishment nor the abolition of work charge establishment or conversion of work charge posts into regular post or otherwise shall not have any effect on entitlement of daily wages for work charge status. The accrued right of consideration and resultant work charge status in terms of the judgment in case of **Surajmani** and **Janak Dev Sharma** (*supra*) cannot be kept in abeyance and the benefits of work charge status and notional benefits of pay fixation from due date cannot be negated, restricted, curtailed or denied in any manner by the State Authorities. Denial of work charge status and accruable service benefits notionally amounts to individuous discrimination when, the Respondent-Forest Department has granted work charge status to other similar placed 78 daily wagers [*Annexure A-3, sic. Annexure A-4*]. This Court cannot feign ignorance about the discriminating treatment meted out to the petitioners. Denial of work charge status to the petitioners vis-a-vis other similarly placed daily wagers [an in *Annexure A-3, sic. Annexure A-4*] who were granted work charge status, negates the very foundational principle that “equals cannot be treated unequal”. The State action reveals, ex facie violation of Articles 14 and 16 of the Constitution of India.



In the above backdrop, this Court, sees no reason, as to why the petitioners be not extended the same benefits, are held entitled for work charge status, but with notional benefits without any past arrears.

6(vi). The Rejection Orders passed by the State Authorities on 23.11.2015, *Annexure A-2, Annexure A-2a, Annexure A-2b*, which run *dehors* the mandate of the Hon'ble Supreme Court in the case of **Surajmani** and **Janak Dev Sharma** (*supra*) cannot form the basis for negating, curtailing and depriving the entitlement of the petitioners for work charge status from due date with notional benefits. The declaration of law by the Hon'ble Supreme Court on entitlement of daily wagers for work status [i.e. a better status in time scales] shall have retrospective applicability and therefore, the legal rights and entitlements accruing from the judgment(s) can neither be negated, curtailed, restricted or denied by the State Authorities.

In these circumstances, the Rejection Orders dated 23.11.2015 [*Annexure A-2, Annexure A-2a, Annexure A-2b*] cannot pass the test of judicial scrutiny and the same are quashed and set-aside.



DIRECTIONS:

7. In view of above discussion and for the reasons recorded hereinabove, the instant petition is *allowed in the following terms:*

- (i). Rejection Orders dated 23.11.2015 [Annexure A-2, Annexure A-2a, Annexure A-2b] are quashed and set aside;
- (ii). State Authorities are directed to grant work charge status to the petitioners from the date they complete 08 years of continuous service [w.e.f. 01.01.2003 in case of petitioners No.1 & 2 and 01.01.2004 in case of petitioner No.3] within six weeks from today;
- (iii). State Authorities shall extend benefits notionally from due date of grant of work charge status, with pay fixation in terms of the judgment in the case of *Surajmani (supra)* but, without any past arrears;
- (iv). State Authorities shall complete the entire exercise within a period of six weeks from today.
- (v). Parties to bear respective costs.

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

(Ranjan Sharma)
Judge

November 28, 2025
[Shivender]