

2025:HHC:40748

IN THE HIGH COURT OF HIMACHAL PRADESH SHIMLA

LPA No. 323 of 2025

Date of decision: 26.11.2025.

State of Himachal Pradesh & othersAppellants

Versus

Rakesh Kumar ...Respondent

*Coram:***The Hon'ble Mr. Justice G.S. Sandhawalia, Chief Justice.****The Hon'ble Mr. Justice Jiya Lal Bhardwaj, Judge.***Whether approved for reporting?¹*

For the Appellants: Mr. Sidharth Jalta, Deputy
Advocate General.For the Respondent: Mr. C.N. Singh, Dr. Nidhi Singh
and Mr. Anshul Gandhi,
Advocates.

G.S. Sandhawalia, Chief Justice (Oral)

The State is in appeal against the order of the learned Single Judge passed on 08.07.2024, in CWP No. 2270 of 2024, titled as ***Rakesh Kumar versus State of Himachal Pradesh & others***, wherein the writ petition was allowed and the order dated

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

09.08.2023 (Annexure P-5) was quashed. The petitioner was held entitled for work-charge status/regularization w.e.f. 01.01.2004 with all consequential benefits including seniority, pay fixation and pensionary benefits etc. The needful was required to be done by 30th October, 2024, failing which, the petitioner was held entitled for interest on the arrears @ 7.5% per annum from the date of accrual of the same till final payment thereof.

2. Learned Counsel for the State has restricted his argument only to the consequential benefits including seniority, pay fixation and pensionary benefits being claimed on account of the work-charge status.

3. Perusal of the order dated 09.08.2023 (Annexure P-5) which had been quashed, would go on to show that the benefits of work-charge status were rejected from 01.01.2004 on the ground that the question of work-charge status did not arise, in case the establishment ceased to be a work-charge establishment and the conferment of the status would

not arise after the abolition of the work-charge status of the establishment.

4. Distinction was made by the competent Authority from the judgment passed by this Court in ***CWP No. 2735 of 2010***, titled as ***Rakesh Kumar Vs. State of Himachal Pradesh & others***, while passing the said order.

5. Learned Single Judge had relied upon Paragraph-6 of the said judgment to clarify that the said reasoning as such was not sustainable and thus, granted the benefit of work-charge status w.e.f. 01.01.2004.

6. The only question which thus arises for consideration in the present appeal is whether the consequential benefits have to be granted on notional basis or not, keeping in view the fact that the law stands settled by the Apex Court subsequently in the judgment passed in ***SLP(C) No. 23016 of 2023 (Civil Appeal No. 1595 of 2025)***, titled ***the State of***

Himachal Pradesh & others Vs. Surajmani, dated 06.02.2025.

7. Subsequently, a clarification was also made to this effect by the Apex Court in the judgment rendered in ***SLP (C) Diary No.11170 of 2024*** titled ***State of H.P. and others vs. Janak Dev Sharma***, dated 26.05.2025, arising out of ***CWP No.1180 of 2022***, titled ***Janak Dev Sharma Vs. State of H.P. and others***, wherein it was held that the judgment of ***Surajmani*** was a judgment in rem which had been passed and it would apply *mutatis mutandis* in all cases having similar facts. In the said judgment, the Apex Court has clarified that the judgment in ***Surajmani's*** case has to be applied.

8. Learned Counsel for the respondent has sought to argue that the judgment had been passed by the learned Single Judge on 08.07.2024 before the judgment passed in ***Surajmani's*** case and, therefore, the benefits, which had been granted by the learned

Single Judge, should not be disturbed in the Letters Patent Appeal.

9. He has now been fair enough to concede being Counsel in **Execution Petition No. 48 of 2025**, titled as **Amar Chand @ Amru Ram Vs. State of Himachal Pradesh & others**, wherein in the order dated 08.10.2025, we have taken a categorical view that once a position of law has been declared by the Apex Court, the Executing Court will not give the relief against what has been laid by the Apex Court and thus, it cannot be said that the law is to be applied prospectively.

10. The order passed in the aforesaid Execution Petition reads as under:-

*"The present Execution Petition has been filed seeking benefits of the judgment passed by the Co-ordinate Bench, dated 06.09.2023 in CWPOA No. 5723 of 2020, titled **Amar Chand Vs. State of Himachal Pradesh & others**, whereby directions have been issued to the respondents-State to extend benefits of the judgment dated 28.7.2010, passed by this Court in **CWP No. 2735 of 2010, titled Rakesh Kumar Vs. State of H.P. and others**, to the petitioner by*

conferring work-charge status upon him w.e.f. 01.01.2002 on completion of 8 years of daily wage service with 240 days in each calendar year since 1994 with all consequential benefits. The entire service of the petitioner as work-charge employee was also directed to be counted for the purpose of pension. Necessary orders to extend the said benefits were ordered to be issued within two months from the date of the order.

2. *Learned Counsel for the State has placed on record the order dated 01.08.2025 issued by the Principal Chief Conservator of Forest, Shimla, whereby in sum and substance, the judgment passed in **SLP(C) 3 No.23016 of 2023 [Civil Appeal No.1595 of 2025] titled the State of H.P. and others vs. Surajmani, dated 06.02.2025**, had been taken into consideration and directions had been issued to grant notional benefits to all the daily wage employees. The necessary orders were thereafter passed on 04.08.2025 by the Divisional Forest Officer, Forest Division, Karsog, HP, wherein the employee as such has been granted the benefits of work-charge status on the analogy of **Surajmani's** case (supra) w.e.f. 01.01.2002 on notional basis. The pension case of the petitioner has accordingly been prepared and sent.*

2. *Learned Counsel for the petitioner has vehemently submitted that his case was decided prior to the aforesaid judgment and has attained finality and, therefore, the State is not justified in granting notional benefits contrary to the directions passed by the Coordinate Bench. It is submitted that the Executing Court 4 as such is*

bound by the decision of the Co-ordinate Bench and cannot go beyond the same.

3. We are not in agreement as such with the argument raised by the learned Counsel for the petitioner.

4. It is a matter of fact that the order in **Surajmani's** case (*supra*) has further been reiterated in **SLP (C) Diary No.11170 of 2024 titled State of H.P. and others vs. Janak Dev Sharma**, dated 26.05.2025, arising out of **CWP No.1180 of 2022, titled Janak Dev Sharma Vs. State of H.P. and others**. The relevant observations made by the Apex Court in the said judgment read as under:-

"5. It is experienced that despite passing the judgment in *Surajmani* (*supra*) which is in rem, but in view of the separate orders passed by the High Court, several special leave petitions are being filed by the State. Considering the same, it is to be expressed that in our view, when a judgment in rem has been passed, it would apply *mutatis mutandis* in all cases having similar facts and filing 5 separate special leave petitions is in futility. The State may take note of this fact and do the needful."

5. Once the law has been declared by the Apex Court, it cannot be said that the law is to be applied prospectively. The declaration as such is specific and the Apex Court in the subsequent judgment has clarified that only notional benefits have to be given and the judgment in **Surajmani's** case (*supra*) has to be applied.

Therefore, once the position of law has been declared by the Apex Court, this Court in execution proceedings will not give the relief against what has been laid by the Apex Court. Thus, we do not find any force in the argument as such raised by the learned Counsel for the petitioner.

6. *In such circumstances, the State has been bound down to give the benefits on notional basis, no fault can be found in the order passed by the respondents.*

7. *Reference has been made to various other orders passed by this Court, whereby arrears had been given upto three years and the matters were further carried unsuccessfully upto the Apex Court by the State. It is to be noticed that all the said orders were passed before 26.05.2025, wherein the matter was clarified by the Apex Court in **Special Leave Petition (Civil) Diary No(s).11170 of 2024**, titled **The State of H.P. & Ors. Versus Janak Dev Sharma**, decided on 26.05.2025. Thereafter a consistent view as such was taken that only notional benefits are permissible.*

8. *Accordingly, the Execution Petition stands disposed of in the above terms.* 9. *However, Shri Tek Ram Sharma, learned Standing Counsel for the Accountant General, is directed that pension case of the legal representatives of the deceased employee as such be processed within a period of six weeks from today and pension be released accordingly.*

10. *Liberty is further granted to the legal heirs of the petitioner to revive the execution, in case*

the needful is not done within the aforesaid period.”

11. Keeping in view the fact that we have already held that as such that the judgment in **Surajmani's** case has to be applied, we do not find any plausible reason as such to take a different view, as it would only lead to unsettle the law declared by the Apex Court as to how the benefits have to be granted to the employees. This Court is already flooded by the execution of such orders arising out of **Surajmani's** case of work-charge establishment. The notional benefits results in pay fixation and even for the benefits of that account also, the employees get their due shares of monetary benefits, once the State re-fixes their pay. Therefore, it cannot be said that there are no financial benefits, which accrue to the employees. The order of granting consequential benefits would have further financial bailouts to the State to deal with and also places similarly situated employees in different categories without any valid justification or

classification and it would be violative of Article 14 of the Constitution of India.

12. In such circumstances, we allow the appeal partly to the extent that the benefits as directed by the learned Single Judge will be granted on notional basis, as granted by the Apex Court in ***Surajmani's*** case, even if the order was passed on 08.07.2024.

13 It is expected that the needful will be done within two months from today and the resultant pay fixation will be done by the Accountant General.

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

(G.S. Sandhawalia)
Chief Justice.

November 26, 2025
(hemlata)

(Jiya Lal Bhardwaj)
Judge.