

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

CWP No.15714 of 2025

Decided on 24th November 2025

The State of Himachal Pradesh and others

...Petitioners

Versus

Smt Kamla Devi

...Respondent

Coram

Hon'ble Mr. Justice Ajay Mohan Goel, Judge

¹Whether approved for reporting?

**For the petitioners: Mr. R.P. Singh, Deputy Advocate
General.**

**For the respondent: Ms. Shivangi Sharma, Advocate, Legal
Aid Counsel.**

Respondent is present in person.

Ajay Mohan Goel, Judge (Oral)

Respondent stands served. Respondent is present in the Court in person. She prays that a Legal Aid Counsel be appointed on her behalf. Ms. Shivangi Sharma, Advocate, who is present in the Court, was requested by the Court to assist the Court as a Legal Aid Counsel. On her request, the case file was handed over to her and the case was taken up after some time and she has ably assisted the Court in the adjudication of the case.

2. By way of this petition, the State has assailed the award passed by the learned Labour Court on 30.07.2024, in terms whereof, the claim petition of the respondent-claimant was allowed by the learned labour Court in the following terms:-

“In view of my discussion on the issues No.1 to 6 the claim petition succeeds and is partly allowed. The respondent is directed to reinstate the services of the petitioner forthwith. She is also held entitled for seniority and continuity in service from the date of her illegal termination alongwith compensation to the tune of Rs.50,000/- alongwith interest @ 6% from date of illegal termination in year 2004 till realization. Parties are left to bear their costs.

The reference is answered in aforesaid terms. A copy of this Award be sent to the appropriate Government of publication in the official gazette. File after due completion be consigned to the Record Room.”

3. Learned Deputy Advocate General has vehemently argued that the award is bad in the eyes of law as the findings returned by the learned Labour Court that there was a violation of the Industrial Disputes Act were not borne out from the record of the case.

4. On the other hand, learned Legal Aid Counsel took the Court through the award and submitted that the findings returned by the learned Labour Court qua violation of the

provisions of the Industrial Disputes Act, as were spelled out in Para-11 to 13 of the award, were duly substantiated by reference of the relevant record and, therefore, as the findings were based on record and as the violation of the provisions of the Industrial Disputes Act was indeed writ large, there was no occasion for this Court to interfere with the award under challenge.

5. Having heard learned Deputy Advocate General as well as learned Legal Aid Counsel and having perused the award under challenge, this Court is of the considered view that the award calls for no interference.

6. On a dispute raised by the respondent herein, the following reference was made by the appropriate Government for adjudication by the learned Labour Court.

7. On the basis of the pleadings of the parties, learned Labour Court framed the following issues:-

- “1. Whether the termination of service of the petitioner w.e.f. 09.02.2004 by the respondent is illegal and unjustified, as alleged? OPP.*
- 2. If issue No.1 is proved in affirmative, to what service benefits the petitioner is entitled to? OPP.*

3. *Whether the claim petition is not maintainable, as alleged? OPR.*
4. *Whether the petitioner was retrenched under Section 25-F of the I.D. Act after following complete procedure as claimed? OPR.*
5. *Whether the claim of the petitioner suffers from the delay and laches of six years. If so, its effects? OPR.*
6. *Whether petitioner has herself abandoned her job in August, 2004. If so, its effect? OPR.”*

8. On the strength of the evidence which was led by the parties in support of the respective contentions, the issues were decided as under:-

<i>“Issue No.1</i>	<i>:</i>	<i>Yes</i>
<i>Issue No.2</i>	<i>:</i>	<i>decided accordingly</i>
<i>Issue No.3</i>	<i>:</i>	<i>No</i>
<i>Issue No.4</i>	<i>:</i>	<i>No</i>
<i>Issue No.5</i>	<i>:</i>	<i>No</i>
<i>Issue No.6</i>	<i>:</i>	<i>No.”</i>

9. The grievance of the petitioner primarily was that she was engaged as a Beldar in the month of 1994 and she continued as such upto 08.02.2004, when her services were retrenched in violation of the principles of Section 25(f) of the Industrial Disputes Act, though she had completed more than

240 days in the preceding 12 months as from the date of her retrenchment. It was further her grievance that after her retrenchment, many workmen were reengaged, but no offer was made to her for re-engagement which violates Section 25(h) of the Industrial Disputes Act.

10. Though, the claim was resisted by the employer, however, in terms of the award, RW-1 Sh. Vivek Sharma, Executive Engineer of the Respondent-Department admitted that the workman/claimant had continuously worked for 240 days in the preceding 12 months as up to 08.02.2004. This demonstrates that the findings returned by the learned Labour Court that there was a violation of Section 25(f) of the Industrial Disputes Act are borne out from the record. Learned Labour Court has further held that as per the petitioner, after her retrenchment, thousands of workers were re-engaged in the month of June and July, 2004, but no offer of re-engagement was made to the claimant, whereas the stand of the employer was that the claimant had joined the service in April 2004 and thereafter, left the same of her own sweet will. Learned Court observed that though the Department's mandays chart should

that the claimant had worked from April 2004 to August 2004, but no record of any payment of wages to the claimant could be produced. No notice to the effect that the claimant had left the job on her own account was also produced. Learned Court thus held that it stood proved on record that the employer had in fact violated the provisions of the Industrial Disputes Act. Learned Court further held the retrenchment of the petitioner to be bad in law, ordered the reinstatement in service of the claimant alongwith seniority and continuity in service from the date of illegal termination and also directed the Department to pay a lump sum compensation of Rs.50,000/- in lieu of back wages to the petitioner.

11. There is an admission on the part of the witness of the Department and that too of the rank of Executive Engineer that indeed when the services of the claimant were retrenched, she had put in more than 240 days in the preceding 12 months. This being the case, obviously, there was an apparent violation of Section 25(f) the Industrial Disputes Act. This itself rendered the retrenchment of the petitioner bad in law and, therefore, on this count, the award passed by the learned Labour Court of

reinstatement alongwith seniority and continuity in service and Rs.50,000/- as compensation in lieu of back-wages call for no interference.

12. Besides this, it is also clearly borne out from the record, as is mentioned in the award that there was a further violation of Section 25(h) as after the retrenchment of the petitioner many workmen were re-engaged, but the claimant/petitioner was not given any such offer. Now, incidentally, learned Labour Court held that, whereas, it was the stand of the Department that the claimant had willfully abandoned the work, but no notice etc., was ever sent by the Department to the claimant as to why she had voluntarily abandoned the work. Learned Deputy Advocate General could not demonstrate that these findings were perverse or any notice indeed was issued to substantiate the contention of the Department that the claimant had voluntarily abandoned the work. Further, the claimant, who is present in person is stated to be 60 years old now and in this aspect of the matter also, this Court is of the considered view that setting aside the award shall be extremely harsh.

13. On the basis of the above observations, this petition is dismissed. Pending miscellaneous applications, if any, also stand disposed of.

14. The Court places on record its appreciation for the assistance rendered by Ms. Shivangi Sharma, learned Legal Aid Counsel, who was requested by the Court to assist the Court in the matter, by appointing her as a Legal Aid Counsel. She be paid her full fee as Legal Aid Counsel.

(Ajay Mohan Goel)
Judge

November 24, 2025
(*Vinod*)