

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 6309 OF 2017

SUNDER SINGH

...APPELLANT(S)

VERSUS

THE STATE OF HIMACHAL PRADESH & ORS.

...RESPONDENT(S)

WITH

SLP(C) NO. 1866 OF 2013

SLP(C)NO. 5269 OF 2013

SLP(C) NO. 13674-13675 OF 2013

O R D E R

1. Heard learned counsel for the parties.
2. The appellants represent class of Class-IV employees who were recruited initially as daily wagers such as Peon/Chowkidar/Sweeper/Farrash/Malis/Rasoia etc. Their services, thereafter, were regularized pursuant to the decision of this Court in Mool Raj Upadhyaya Vs. State of H.P. and Ors. 1994 Supp(2) SCC 316 under a Scheme. Regularization was after 10 years of service.
3. It is undisputed that the post-regularization

an employee who had served for 10 years is entitled to pension for which work charge service is counted. Earlier, in terms of O.M. dated 14.05.1998, 50% of daily-wage service was also counted for pension after regularization but the rules have undergone change.

4. Since the appellants have not rendered the requisite 10 years of service they have been denied pension.

5. Even though strictly construing the Rules, the appellants may not be entitled to pension. However, reading the rules consistent with Articles 14, 38 and 39 of the Constitution of India and applying the doctrine of proportionate equality, we are of the view that they are entitled to weightage of service rendered as daily wagers towards regular service for the purpose of pension.

6. Accordingly, we direct that w.e.f 01.01.2018, the appellants or other similarly placed Class-IV employees will be entitled to pension if they have been duly regularized and have been completed total eligible service for more than 10 years. Daily wage service of 5 years will be treated equal to one year of regular service for pension. If on that basis, their services are more than 8 years but less than 10 years, their service will be reckoned as ten years.

7. The appeal as well as special leave petitions are disposed of in above terms.

.....J  
[ADARSH KUMAR GOEL]

.....J.  
[ROHINTON FALI NARIMAN]

NEW DELHI  
8<sup>th</sup> MARCH, 2018

.....J.  
[UDAY UMESH LALIT]

ITEM NO.101

COURT NO.11

SECTION XIV

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

Civil Appeal No(s). 6309/2017

SUNDER SINGH

Appellant(s)

VERSUS

THE STATE OF HIMACHAL PRADESH IPH PRINCIPAL SECRETARY &amp; ORS.

Respondent(s)

WITH

SLP(C) No. 13674-13675/2013 (XIV)SLP(C) No. 1866/2013 (XIV)SLP(C) No. 5269/2013 (XIV)

Date : 08-03-2018 These appeals were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ADARSH KUMAR GOEL  
HON'BLE MR. JUSTICE ROHINTON FALI NARIMAN  
HON'BLE MR. JUSTICE UDAY UMESH LALIT

For Appellant(s)      Mr. Amit Anand Tiwari, Adv.  
                                 Mr. Vinod Sharma, Adv.  
                                 Mr. Arun Singh, Adv.  
                                 Mr. Bhaskar Y. Kulkarni, AOR

Mr. Ashwini Kumar Gupta, Adv.  
Mr. Vikrant Yadav, Adv.  
Mr. Piyush Kant Roay, Adv.  
Mr. M. C. Dhingra, AOR

Mr. Balraj Dewan, AOR

Ms. Pragati Neekhara, AOR

For Respondent(s)    Mr. P.S. Patwalia, Sr. Adv.  
                                 Mr. Abhinav Mukerji, AAG  
                                 Mrs. Bihu Sharma, Adv.  
                                 Ms. Purnima Krishna, Adv.  
                                 Mr. Dhruv Sheoran, Adv.  
                                 Mr. Siddharth Garg, Adv.

Mr. Y.P. Adhyaru, Sr. adv.  
Mr. K. Parameshwar, Adv.  
Mr. Mukul Singh, Adv.

Mr. Mukesh Kumar Maroria, AOR

Mr. Varinder Kumar Sharma, AOR

Mr. B. V. Balaram Das, AOR

Ms. Pragati Neekhara, AOR

Mr. M. C. Dhingra, AOR

UPON hearing the counsel the Court made the following  
O R D E R

The civil appeal as well as special leave petitions are disposed of.

Pending application(s), if any, shall also stand disposed of.

(MADHU BALA)  
COURT MASTER (SH)  
(Signed order is placed on the file)

(PARVEEN KUMARI PASRICHA)  
BRANCH OFFICER