
(2021) 08 SHI CK 0170

In the High Court Of Himachal Pradesh

Case No : Civil Writ Petition (Original Application) No.6345 Of 2019

Geeta Ram

APPELLANT

Vs

State Of Himachal Pradesh And Others

RESPONDENT

Date of Decision : 16-08-2021

Acts Referred:

Citation : (2021) 08 SHI CK 0170

Hon'ble Judges : Anoop Chitkara, J

Bench : Single Bench

Advocate : C.N. Singh, Devender Sharma, Nand Lal Thakur, Ram Lal Thakur, Sunny Dhatwalia

Final Decision : Disposed Of

Judgement

Anoop Chitkara, J

1. Seeking directions to the respondents to grant work charge status w.e.f. 1.1.2002 with all consequential benefits, an employee of the Forest

Department had came up before the Erstwhile Administrative Tribunal of Himachal Pradesh. The said application was registered as O.A. No.5597 of

2015.

2. Vide ordered dated 8.1.2016, the Tribunal had issued notice to the respondents. In the meanwhile, the respondents had also filed reply. However, after closure of the Tribunal, the matter was transferred to this court and assigned the new number as CWPOA No.6345 of 2019.

3. The applicant claims to have been appointed on daily wage service in the year 1992 in the Forest Department, Division Karsog. The further claim is

that on 31.12.2001 he had completed 8 years of regular daily wage service and was thus entitled for grant of work charge status w.e.f. 1.1.2002.

Further, the services of the applicant were regularized from 2007 after completion of more than 13 years on daily wage. The applicant has retired from the government service after attaining the age of superannuation on 31.3.2009. Seeking work charge status, on completion of 8 years regular service in terms of Policy applicable at that time, the applicant had approached the Erstwhile Administrative Tribunal. The respondents filed a joint reply and in the reply, preliminary submissions were mentioned in great detail. The said preliminary submissions are abstracted as under:-

1. That the petitioner was engaged as a casual daily waged labourer during the year 1992 for carrying out various forestry works in Seri Range of Karsog Forest Division. He worked continuously with respondent department w.e.f. 01.01.1994 with minimum 240 days in each calendar year upto 31.8.2007. In pursuance of Govt. Policy for regularization of daily waged workers issued vide Govt. letter No.PER(AP)-C-B(2)-1/2006 Vol.II dated 9.6.2006 (Annexure R-1), his services were regularized on the post of Forest Worker in the respondent department w.e.f. 20.9.2007 as per the availability of post vide D.F.O. Karsog office order No.130/2007-08 dated 10.10.2007 (annexure R-II). The applicant has been retired from Govt. service after attaining the age of superannuation on 31.3.2009.

2. That the petitioner had filed CWP No.11671/2011- titled as Geeta Ram Vs. State of HP & Others for grant of work charge status after completion of 8 years of daily waged service in terms of the judgment dated 28.07.2010 passed by Honâble High Court in CWP No.2735/2010-Rakesh Kumar Vs. State of H.P. and others.

3. That the CWP NO.11671/2011 came up before Honâble High Court on 11.01.2012 when the same was disposed of.

The judgment is reproduced as under:-

The petitioner claims work charge status on completion of eight years of continuous service as daily waged worker. According to the petitioner, the issue is covered in their favour by the judgment of this Court rendered in CWP No.2735 of 2010 titled as Rakesh Kumar v/s State of H.P. and others.

It is for the respondents to examine the matter. We are informed that the State has filed an appeal against the above mentioned decision.

Therefore, it is made clear that the implementation of the judgment referred to

above would depend on the outcome of the decision of Apex Court.

The needful action, after verifying the facts will be taken within a period of two months from the date of the judgment of the Apex Court. The

petitioner will produce a copy of this judgment along-with a copy of writ petition before the second respondent/ competent authority.

With these observations, the writ petition is disposed of, so also pending applications if any.â??

4. That the State had assailed the judgment in CWP No.2735/2010-Rakesh Kumar v/s State before the Honâ??ble Apex Court by way of filing SLP

Â© 8830-8869/2011 which was dismissed by Honâ??ble Apex Court on 15.01.2015. Thereafter, the matter was referred by Pr. CCF (HoFF), H.P.

to Govt. seeking clarification with regard to implement the judgment in the respondent department.

5. That the petitioner had submitted the representation alongwith a copy of judgment passed by the Honâ??ble High Court of HP in CWP

No.11671/2011 to the respondent No.3 (DFO Karsog) on 19.6.2013 for grant of work charge status.

6. That the petitioner, had subsequently filed an Execution Petition NO.338/2015 titled as Geeta Ram Vs. State of HP & Ors. before the Honâ??ble

High Court of HP for the implementation of judgment passed by the Honâ??ble High Court in CWP No.11671/2011 dated 11.1.2012, which was

disposed of on 13.8.2015 with the following orders (Annexure R-III):-

â??This execution petition is disposed of by directing the respondents to comply with the directions dated 11th January, 2012, passed in CWP

No.11671 of 2011, with in a period of six weeks, if not already complied with and report compliance before the Registrar (Judicial), show cause.

The Registry to convey the order to the respondents and also furnish the copy of the same to the Learned Advocate General. Copy Dasti.â??

7. That the necessary clarification has been conveyed vide Govt. letter No.FFE-A(B)17-37/2015 dated 24.09.2015 (Annexure R-IV) whereby it has

been agreed upon by Govt. that the Forest Department is not a work charged Establishment. Thereupon Pr. CCF(HoFF), H.P., issued necessary

direction/guidelines to Pr.CCF((WL), H.P., all APCCFs/CCFs, all CFs/DFOs (T) & W.L) and others in H.P. vide memo No.Ft.HB(15)-207/2015

(E.III) dated 26.10.2015 (Annexure R-V) to examine, consider and decide the

cases which have been decided by Honâ??ble High Court by relying upon the judgments of Honâ??ble High Court rendered in CWP No.2735/2010- Rakesh Kumar v/s State and CWP and Som Nath v/s State of H.P.

Accordingly, the claim of the petitioner was examined, considered and rejected by Pr. CCF(HoFF), H.P. Shimla vide his order NO.827/2015 dated

16.11.2015 being not covered under the judgment of Rakesh Kumar (Annexure R-VI).â??

4. The State did not claim the irregularity in her initial recruitment or its process.

5. In Gauri Dutt v. State of HP, 2007 Law Suit(HP) 397, Division Bench of this Court holds,

[1] By this judgment we are disposing of the aforesaid batch of writ petitions since the following common questions of law arise for decision in these

petitions.

1. Whether the scheme of putting the workers on work charged basis as approved by the Apex Court in Mool Raj Upadhyaya's case is applicable to

those daily waged employees who had not completed minimum of 240 days of service in a calendar year as on 31st December, 1993?

2. If the answer to the first question is in the negative, what will be the process of regularization of services of those employees who had not

completed 240 days of service in a calendar year as on 31st December, 1993 or had joined service after 1st January, 1994?

3. Whether the scheme, as approved by the Apex Court, in Mool Raj Upadhyaya's case, is only applicable to the employees of the Irrigation and

Public Health Department and Public Works Department of the State of Himachal Pradesh or is applicable to all the daily rated employees working

under the Government of H.P.?

4. Where if an employee has rendered service on daily waged basis on 2 separate posts in lower and higher scales, can the employee be given benefit

of the service rendered by him in the lower scale and be regularized in the higher scale by combining the two services after 10 years?

[17] Under para 4 of the scheme the State was under an obligation to regularize all daily waged/muster roll workers whether they had joined prior to

31.12.1993 or thereafter. The State has framed a scheme in this behalf on 6th May, 2000. In our opinion those employees who are not governed by

the direction given in Mool Raj Upadhyaya's case as set out by us above, shall be

governed by the scheme of 2000. The second question is answered accordingly.

[18] The State of H.P. has also raised a plea that the scheme in Mool Raj Upadhyaya's case is only applicable to the employees of the IPH and PWD

departments of the State of H.P. and is not applicable to other employees. We have already quoted para 6 of the affidavit of Mr. Subramanyam which

clearly shows that the scheme, as presented by the State of H.P. to the Apex Court, was to be applicable to all the daily rated employees in all the

departments in H.P. In view of the affidavit of Mr. Subramanyam, the State cannot now urge that this scheme is not applicable to other departments.

In answer to the third question, it is held that the scheme is applicable to all daily waged employees working in any department of State of H.P.

6. The petitioner is granted work charge status from the date of her completing ten years of work, subject to completion of 240 days in each calendar

year, as per attendance register(s)/entries following the scheme framed by the State Government on 6th May 2000, and in terms of the judgment of

this Court in Gauri Dutt v. State of HP, CWP 778 of 2006, decided on 29-12-2007, (2007 Law Suit (HP) 397). Thus, the petitioner is entitled to work

charge status as per the terms and conditions of any policy that was in force or applicable at the time when he was qualified for the same. As per

Para-1 of the respondents' reply, the petitioner's services were regularized in 2007. The petitioner had filed the petition on 06.12.2015. The arrears

have to be restricted up to three years before filing the petition, i.e., up to Dec 2012. But in the year 2012, the petitioner was no more working as a

daily wager but was on a regular post. Thus, the petitioner is not entitled to any back wages or arrears of wages. However, the petitioner would be

entitled to other incidental and consequential benefits, if any. The respondents are to verify and grant such benefits, if applicable, within four months

from today. All the officials who shall deal with this file shall put a date when they forward the file so that the deadwood is identified in case of any

lapse.

Consequently, the present petition is disposed of in the above terms, so also the pending miscellaneous application(s), if any.