

(2022) 11 SHI CK 0008

In the High Court Of Himachal Pradesh

Case No : Civil Writ Petition (Original Application) 5214 Of 2020

Puran Chand

APPELLANT

Vs

State Of Himachal Pradesh And Others

RESPONDENT

Date of Decision : 04-11-2022

Acts Referred:

Citation : (2022) 11 SHI CK 0008

Hon'ble Judges : Satyen Vaidya, J

Bench : Single Bench

Advocate : Dalip K. Sharma, Narender Thakur

Final Decision : Disposed Of

Judgement

Satyen Vaidya, J

1. By way of instant petition, petitioner has prayed for the following substantive relief:-

"i). Respondents be directed to grant the work charge status to applicant from the date after the completion of eight years of service with all the benefits incidental thereof such as back wages, pension, seniority and pay fixation with interest.

ii) The applicant be further held entitled for the pensionary benefits."

2. The petitioner was engaged as Daily Wage Labourer in HP PWD Sub Division, Karsog in 1997. The services of petitioner were regularized as Beldar vide office order dated 25.7.2007. Petitioner seeks conferment of work charge status immediately on completion of eight years continuous service.

3. Respondents in their reply have submitted that petitioner had not completed 240 days in the year 1997. It was w.e.f. the year 1998 that petitioner had completed 240 days in each calendar year and hence remained in continuous service thereafter. According to respondents, the petitioner completed eight

years continuous service on 31.12.2005. Respondents further submitted that the State Government had abolished the work charge establishment for Class-IV employees w.e.f. 19.8.2005. Thus, on completion of eight years of continuous service of petitioner, the work charge establishment did not exist in HP PWD and hence petitioner was not entitled for grant of work charge status.

4. I have heard learned counsel for the parties and have also gone through the record carefully.

5. The facts of the case are not in dispute. Petitioner has rendered continuous daily wage service with 240 days in calendar year since 1998. He was regularized in 2007. Thus, petitioner would be entitled for work charge status on completion of eight years of continuous daily wage service w.e.f. 1998. As per admission made by respondents, petitioner had completed eight years of continuous service on 31.12.2005. In this view of the matter, petitioner became entitled for grant of work charge status w.e.f. 1.1.2006.

6. The petitioner has been denied the benefit of work charge status even w.e.f. 1.1.2006 on the premise that the State Government had abolished the work charge establishment w.e.f. 19.8.2005 and in absence of availability of work charge establishment, on completion of eight years of daily wage continuous service of petitioner, he cannot be granted such benefit.

7. The aforesaid reasons assigned by respondents cannot be countenanced. Judging the ground of rejection against the contention raised on behalf of the petitioner, this Court is of considered view that the objection so raised cannot be sustained in view of judgment passed by a Division Bench of this Court in CWP No. 3111 of 2016, titled State of H.P. & Others vs. Ashwani Kumar, in which it has been held as under:

"6. Having carefully perused material available on record, especially judgment rendered by this Court in Ravi Kumar v. State of H.P. and Ors., as referred herein above, which has been further upheld by the Hon'ble Apex Court in Special Leave to Appeal (C) No. 33570/2010 titled State of HP and Ors. v. Pritam Singh and connected matters, this Court has no hesitation to conclude that there is no error in the finding recorded by the learned Tribunal that work charge establishment is not a pre-requisite for conferment of work charge status. The Division Bench of this Court while rendering its decision in CWP No. 2735 of 2010, titled Rakesh Kumar decided on 28.7.2010, has held that regularization has no concern with the conferment of work charge status after lapse of time, rather Court in aforesaid judgment has categorically observed that while deciding the issue, it is to be borne in mind that the petitioners are only class-IV worker (Beldars) and the schemes announced by the Government, clearly provides that the department concerned should consider the workmen concerned for bringing them on the work charged category and as such, there is an obligation cast upon the department to consider the case of daily waged workman for conferment of daily work charge status, being on a work charged establishment on completion of

required number of years in terms of the policy. In the aforesaid judgment, it has been specifically held that benefits which accrued on workers as per policy are required to be conferred by the department.”

8. Recently in State of Himachal Pradesh vs. Smt. Reema Devi, LPA No. 161 of 2021, decided on 23.05.2022, a Division Bench of this Court following Ashwani Kumar's case (supra) held as under, in the case where also the respondent department was involved: -

“11. Now advertent to the facts of the instant case, the grant of work charge status to late Shri Het Ram has been denied on the ground that Himachal Pradesh Forests Department had no work charge establishment. In Ashwani Kumar's case (supra) also right of the petitioner therein for grant of work charge status was considered when the HPPWD had ceased to be a work charge establishment.

12. This Court while delivering judgment in Ashwani Kumar's case (supra) had, thus, decided the principle that work charge establishment was not a prerequisite for conferment of work charge status and thus, would not confine only to the petitioner in the said case. In view of this, the contention raised on behalf of the appellants that the judgment in Ashwani Kumar's case (supra) was a judgment in personam, cannot be sustained.”

9. Thus, the action of the respondents in denying the claim of the petitioner for grant of work charge status after completion of 8 years' continuous service as daily wager is clearly arbitrary and discriminatory hence cannot be sustained.

10. Petitioner has failed to make out any case for grant of pensionary benefits.

11. In view of the above discussion, the petition is partly allowed. The respondents are directed to grant work charge status to the petitioner w.e.f. 1.1.2006 till the date of his regularization. Needless to say that the consequential benefits shall also follow, subject however, to the condition that petitioner shall be entitled for consequential financial benefits, if any, only for a period of three years immediately preceding the date of filing of petition.

12. The petition is accordingly disposed of, so also the pending application(s), if any.