

**(2022) 08 SHI CK 0053**

**In the High Court Of Himachal Pradesh**

**Case No : Civil Writ Petition No. 7369 Of 2021**

Tirath Bahadur

APPELLANT

Vs

State Of H.P And Others

RESPONDENT

**Date of Decision : 24-08-2022**

**Acts Referred:**

Constitution Of India, 1950 — Article 226

**Citation : (2022) 08 SHI CK 0053**

**Hon'ble Judges : Satyen Vaidya, J**

**Bench : Single Bench**

**Advocate : A.K. Gupta, Arvind Sharma**

**Final Decision : Allowed**

## Judgement

Satyen Vaidya, J

1. Petitioner namely, Sh. Tirath Bahadur, who is a Nepali citizen, was engaged as a daily wage beldar with effect from 1999 and since then he had been working continuously with 240 days in each calendar year in the aforesaid capacity till his regularization in the year, 2017, Annexure P-1. Since the petitioner was not granted work charge status after his having completed eight years' service, he has approached this Court in the instant proceedings filed under Article 226 of the Constitution of India, praying therein for following relief:

"i. That the respondents may be ordered to grant work charge status to the petitioner from the date he completed 8 years' service with all benefits incidental thereof."

2. Learned counsel for the petitioner while making this Court to peruse the judgment rendered by Principal Division Bench of this Court in bunch of petitions i.e. Civil Writ Petition No. 5702 of 2011 titled Dal Bahadur versus State of Himachal Pradesh alongwith other connected matters, contended that his case is squarely covered with the aforesaid judgment. He also invited attention of this Court to judgment passed by learned Single Judge of this Court in CWP No. 5799

of 2014 titled as Budh Bahadur versus The State of H.P. and others, wherein similar relief, as has been prayed in the instant petition, has been granted to the petitioner in that case.

3. Aforesaid prayer made on behalf of the petitioner has been resisted on behalf of the respondent-department by learned Additional Advocate General on the ground that judgment rendered by Division Bench of this Court in Dal Bahadur versus State of Himachal Pradesh alongwith other connected matters and judgment dated 27.04.2012 passed in Shiv Kumari versus State of Himachal Pradesh alongwith other connected matters, have not attained finality because department has laid challenge to the same by way of SLP in the Hon'ble Supreme Court.

4. However, careful perusal of material made available to this Court clearly reveals that SLP having been filed by the respondent-State against the judgment rendered by Division Bench of this Court in Dal Bahadur case (supra) stands dismissed. Having taken note of dismissal of SLP filed by the respondent-State in Dal Bahadur case, learned Single Judge while allowing the writ petition bearing CWP No.5799 of 2014 titled as Budh Bahadur versus the State of HP and others, directed the respondent-State to confer work charge status upon the petitioner on his having completed eight years of uninterrupted service and thereafter regularize the service of the petitioner in accordance with law upon availability of vacancies.

5. Learned Additional Advocate General was unable to dispute that larger issue as to whether petitioner, who is not Indian citizen, is entitled to invoke writ jurisdiction of Court of India stands duly adjudicated by the Hon'ble Apex Court. Learned Additional Advocate General was also unable to dispute that relief claimed by the petitioner in the instant proceedings have been already extended to similar situate Nepalee employees.

6. Division Bench of this Court while passing judgment dated 9.11.2011 in Dal Bahadur case (supra) specifically took note of judgment rendered by this Court in case titled as Man Singh versus State of Himachal Pradesh, CWP No.1594 of 2008, decided on 27.7.2009, wherein it specifically took note of resolution passed by Central Government on 1.3.1977, the office memorandum dated 10.5.1978 and letter dated 16.7.2009 addressed by the Secretary (Agriculture) to the Government of Himachal Pradesh to the Director of Agriculture, whereby it was laid down that as far as Nepalese citizens are concerned, only eligibility certificates are required. As per aforesaid judgment, if Nepalese citizens are able to furnish eligibility certificates they are also required to be granted benefit in terms of policy framed by Government of Himachal Pradesh from time to time with regard to conferment of work charge status and thereafter regularization. Since aforesaid judgment rendered by Principal Division Bench has already attained finality, the petitioner in the case at hand being similar situate person is also entitled for similar benefit.

7. Consequently, in view of the above, the present petition is allowed and the respondents are directed to confer work charge status upon the petitioner from the date he completed eight years' service with all benefits incidental thereto. Since the petitioner has approached this Court in the instant proceedings in the year 2021, he is held entitled to consequential benefits from the date three years prior to filing of the petition.

Pending miscellaneous applications, if any, also stand disposed of.