(2024:HHC:9548)

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CWPOA No 7597 of 2020

Date of decision: 30th September, 2024.

Kunta Devi …Petitioner

Versus

State of HP & others …Respondents.

Coram
Hon'ble Mr. Justice Vivek Singh Thakur, Judge.

Hon'ble Mr. Justice Ranjan Sharma, Judge.

Whether approved for reporting? Yes

For the Petitioner: ***Mr. Ashok Kumar Verma, Advocate.***

For the Respondents: ***Mr. Hemant Verma, Deputy Advocate General.***

Vivek Singh Thakur, Judge (Oral)

Petitioner has approached this Court seeking following main relief:-

> (i) That the services of the applicant be regularized as per the eight years policy of the Govt. or from the date when juniors mentioned supra to her have been regularized w.e.f. 28-11-2008 along with all consequential financial and service benefits.

(ii) That applicant be regularized in terms of the judgment of the Hon'ble High Court of Himachal Pradesh in CWP titled as 'Rakesh Kumar V/S State of H.P. and others along with all consequential service benefits.

2 Admittedly, as evident from documents and plea taken in reply and Mandays Chart filed therewith, petitioner was appointed w.e.f. 1.1.1999 as daily waged Beldar and in the year 1999, she completed 261 days, but she was not allowed to complete 240 days in the year 2000 but was allowed to work only for 175 days. Thereafter, during the year 2001, 2002, 2003, 2004, she was allowed to work for 289, 323, 326 and 346 days respectively.

3. In the year 2005, after allowing her to work for 185 days, she was retrenched w.e.f. 8th July, 2005 whereupon she raised an industrial dispute which was referred by the appropriate Government to Labour Court and it was registered as Reference No. 391 of 2008. Labour Court passed Award on 14th September, 2009 with following relief:-

"27. Judged in the light of my findings on the issues above, particularly issue 1, the petition succeeds partly and is allowed in part. Accordingly, the petitioner is held entitled to reinstatement with 50% back-wages and continuity of service from the date of her unlawful retrenchment (July 8, 2005). The said 50% back-wages

shall be computed on the basis of the last drawn wage or the minimum wages permissible under the Minimum Wages Act whichever is higher till the date of reinstatement of the petitioner. The respondent is directed to reinstate the petitioner within a period of 90 days from today. The reference is answered accordingly. A copy of this award be sent to the appropriate Govt. for publication in the official gazette and the file after completion consigned to record."

4 After passing of aforesaid award by Presiding Judge, Labour Court-cum-Industrial Tribunal, Dharamshala, petitioner was re-engaged by the Department by accepting the verdict of Labour Court and she was given continuity of service but w.e.f. 2001 by permitting her in service as Beldar daily wager w.e.f. 1.1.2001 as stated in para 3(c) to the preliminary submission of reply filed by State.

5 The plea of Department that petition initially was engaged during the year 2001 is also not true and it stands falsified by the documents of the Department itself placed on record as Annexure R-1 with reply which unequivocally indicates that petitioner was initially appointed w.e.f. 1.1.1999.

6 Thereafter, services of the petitioner were regularized vide Office Order dated 14.9.2011 with prospective effect from the date of

(2024:HHC:9548)

joining, by considering the completion of 8 years or more by her on daily wages basis as on 31.03.2010.

7 From combined reading of Anneuxres R-1 and verdict of the Labour Court, it is apparent that petitioner was initially appointed on 1.1.1999 and except the year 2000, she was allowed to continue her for 240 days and in the year 2002 she was allowed to work only for 175 days.

8 Learned counsel for petitioner submits that in order to deprive the benefit of service w.e.f. 1.1.1999, respondent Department had deliberately denied the work in the year 2000 and did not allow the petitioner to work in the year 2000 and the said intention is clear from the false stand taken in reply that petitioner was initially appointed from the year 2001.

9 Learned Deputy Advocate General has submitted that petitioner herself did not join the work in the year 2000 for completing 240 days in the said year. Nothing has been placed on record by State/Department with respect to any notice given to petitioner for her not joining the work and on account of that, engagement or employment of another daily wager employer by the Department to do the work. It is not the case of respondents Department that in the year 2000, work was not available, rather stand is that petitioner did not

(2024:HHC:9548)

come to work, which appears to be wrong and incorrect for the material on record and for concealing the initiate date of appointment of petitioner by respondent Department in its reply.

10 In view of above, stand of Departments that petitioner herself did not attend the work during initial years of her engagement appears to be an afterthought to justify the artificial breaks given to petitioner to avoid financial liability for which otherwise petitioner would have been entitled for working 240 days in each calender year during her initial years.

11 It has been contended by learned counsel for petitioner that issue involved in present case is squarely covered by judgment dated 30th August, 2017 passed by a Division Bench of this Court in ***LPA No. 645 of 2011 titled as State of HP vs. Keshav Ram***; judgment dated 14th December, 2009 passed in ***CWP No. 4489 of 2009 titled Ravi Kumar vs. State of HP***; judgment dated 10.05.2018 passed in ***CWP No. 3111 of 2016 titled State of HP vs. Ashwani Kumar*** and also judgment dated 28.11.2023 passed in ***CWPOA No. 6089 of 2020 titled Dharam Chand vs. State of HP.***

12 In similar circumstances, learned Single Judge of this High Court in **CWPOA No.352 of 2019,** titled as ***Keshav Ram v. State of Himachal Pradesh,*** decided on **1.7.2020,** after taking into

consideration judgments passed in **CWP(T) (CWPOA) No.8145 of 2008,** titled as ***Beli Ram v. State of H.P. and others;*** and **CWP(T) (CWPOA) No.8143 of 2008,** titled as ***Layak Ram v. State of H.P. and others,*** decided on **15.6.2009,** has ordered that during artificial breaks, petitioner therein shall be deemed to have completed 240 days during years 2001 and 2002, in which years he was not allowed to complete 240 days, with further direction to regularize the services of the petitioner with all consequential benefits from the date of completion of 8 years service, counting the same from initial date of appointment.

13 Similar directions were passed by learned Single Judge of this High Court vide judgment dated **9.7.2010**, passed in **CWP(T) (CWPOA) No.5752 of 2008,** titled as ***Keshav Ram v. Secretary IPH & others***, directing the respondents-Departments that petitioner shall be deemed in continuous service from the date of his initial engagement after ignoring the fictional breaks given to the petitioner therein from the year 1994, with further observation that the petitioner shall be entitled to all consequential benefits of continuous service of period from the date of initial appointment.

14 Judgment passed in **CWP(T)(CWPOA) No.5752 of 2008,** titled as ***Keshav Ram v. State of Himachal Pradesh,*** was assailed by the State of Himachal Pradesh by filing **LPA No.645 of 2011,** titled as

State of H.P. & others v. Sh. Keshav Ram, which was dismissed by a Division Bench of this High Court vide judgment dated **30.8.2017,** by considering the judgment of the Supreme Court in ***Mohd. Abdul Kadir and anr. v. Director General of Police, Assam and others,*** **(2009) 6 611,** and the fact that **SLP(C) bearing No.21833 of 2010** having been preferred by the respondents therein against the similar judgment passed by the Division Bench of this Court in **CWP(T) No.1807 of 2009**, titled ***Satish Kumar v. State of HP and Ors.,*** and **SLP (Civil) No.20740 of 2008** titled ***Sarvjeet v. State of H.P. and Ors***, stand dismissed and, as such, judgment passed by the Division Bench of this Court in **CWP No.4367 of 2009**, wherein directions were issued to respondents therein to condone the shortage of few days in a particular year while calculating 240 days, has attained finality.

15 In **CWP No.4489 of 2009,** titled as ***Ravi Kumar v. State of H.P,*** decided on **14.12.2009,** a similar view has been taken by a Division Bench of this High Court.

16 By relying upon ***Mohd. Abdul Kadir's, Keshav Ram's (CWPOA No.352 of 2019, CWP(T)(CWPOA) No. 5752 of 2008:LPA No. 645 of 2011)*** and ***Ashwani Kumar's*** cases, similar period of artificial breaks during few years, after initial appointment of the petitioner, was also directed to be condoned by a Division Bench of

this High Court in **CWPOA 6089 of 2020**, titled as ***Dharam Chand v. H.P. State and others,*** decided on **28.11.2023**.

17 Learned Deputy Advocate General referring the averment made in para 3(b) of preliminary submissions, submits that for delay and laches also, petitioner is not entitled for any relief in present petition. To substantiate this plea judgments passed by the Division Bench in ***LPA No. 91 of 2011 titled State of HP vs. Babu Ram decided on 17.6.2016 and CWP No. 5119 of 2024 titled Jai Ram vs. State of HP decided on 10.06.2024*** have been referred by learned Deputy Advocate General.

18 To rebut the plea raised on behalf of respondents-Departments regarding delay and laches, learned counsel for petitioner has referred pronouncements of this High Court in ***CWPOA No. 5748 of 2019, titled Man Singh vs. The State of HP and others, CWPOA No. 5554 of 2019, titled Daulat Ram vs. State of HP and others, CWPOA No. 5660 of 2019 titled Ghanshyam Thakur vs. State of HP and others*** and ***CWPOA No. 46 of 2020 titled as Yashwant Singh and others vs. State of Himachal Pradesh and others.*** In these cases, similar plea of State was not accepted by the Court.

19 In the light of above referred pronouncements, plea of respondents-Department to oust the petitioner on the ground of delay and laches, in our opinion, in present case is not sustainable. Petitioner is a Beldar and belongs to a lowest rank in her class. As per Policy, a duty was cast on the respondents to consider the cases of eligible workmen for conferment of work charge status on completion of required number of years as per Policy. Petitioner is eligible for benefits under the Policy and in consonance with pronouncements of the Courts.

20 The issue in this regard also stands settled in ***CWPOA No. 2735 of 2010 titled as Rakesh Kumar vs. State of HP,*** wherein it has been observed as under:-

> "6. The simple question is whether the delay defeats justice? In analysing the above issue, it has to be borne in mind that the petitioners are only Class-IV workers (Beldars). The Schemes announced by the Government clearly provided that the department concerned should consider the workmen concerned for bringing them on the work-charged category. So, there is an obligation cast on the department to consider the cases of the daily waged workmen for conferment of he work charged status, being on a work-charged establishment, on completion of the required number of years in terms of the policy. At the best, the petitioners can only be denied the interest on the

> eligible benefits and not the benefits as such, which accrued on them as per the policy and under which policy, the department was found to confer the status, subject to the workmen satisfying the required conditions.

21 It was duty of the respondents-State to confer Work Charge status upon the petitioner and for lapse on the part of respondents, petitioner, who belongs to the lowest rank of hierarchy in the service cannot be made to suffer, and in numerous similar cases it has also been held that for dereliction of duty on the part of concerned officer, petitioner cannot be made to suffer and, thus, prayer of learned Additional Advocate General is rejected.

22 For delayed extension of benefits, arising out of the Policy of the State, the petitioner cannot be deprived from consequential benefits from the due date, as implementation of Policy is the duty of the State through its Officers, being custodian of rights of citizens.

23 In ***CWPOA No.5286 of 2020, titled as Mohinder Singh vs. State of H.P. & others***, this High Court has observed as under:-

> "2. The decision to grant benefit to individuals like the petitioner in terms of judgment passed by this Court, in CWP No. 2735 of 2010 titled Rakesh Kumar Vs. State of H.P. alongwith connected matters decided on 28.07.2010, was taken vide letter dated 08.06.2015 i.e. Annexure A5.

Subsequently, the respondents implemented the decision in Rakesh Kumar's case and as a consequence thereof, the date of regularization of the petitioner was changed to 01.01.2005, as is evident from Annexure R3 dated 01.08.2015.

... ...

7. From a perusal of records, it is clearly evident that sole ground for non grant of benefits to the petitioner is based on the reason that the petitioner had not filed a case seeking the benefits of Rakesh Kumar's case stated supra. At the outset, it is made clear that no other ground is available to the State to defend its action as it is a well settled principle of law that reasons are not like wine which mature over a period of time. As has been held in ***AIR 1978, Supreme Court, 851 titled Mohinder Singh Gill and another Vs. The Chief Election Commissioner, New Delhi and others.*** Relevant extract is reproduced herein below:-

> "8. The second equally relevant matter is that when a statutory functionary makes an order based on certain grounds, its validity must be judged by the reasons so mentioned and cannot be supplemented by fresh reasons in the shape of affidavit or otherwise. Otherwise, an order bad in the beginning may, by the time it comes to court on account of a challenge, get validated by addition grounds later brought out. We may here

draw attention to the observations of Bose J. In Gordhandas Bhanji **(AIR 1952 SC 16)** (at. p.18):

"Public orders publicly made, in exercise of a statutory authority can not be construed in the light of explanations subsequently given by the officer making the order of what he meant, or of what was in his mind, or what he intended to do. Public orders made by public authorities are meant to have public effect and are intended to affect the acting and conduct of those to whom they are addressed and must be construed objectively with reference to the language used in the order itself."

Orders are not like old wine becoming better as they grow older."

8. A perusal of Rakesh Kumar's case stated supra reflects that the same is a decision, which touches upon a policy matter, scheme of regularization. Rakesh Kumar's case is a judgment in rem with intention to give benefits to all similarly situated persons, whether they approached the Court or not. The same casts an obligation upon the authorities to themselves extend the benefits thereof to all similarly situated persons. A perusal of Annexure A5, letter dated 08.06.2015, reflects the respondents authorities of their own had also decided to extend the benefits of Rakesh Kumar's case to all.

9. In Rakesh Kumar's case, there is no direction of the Court to restrict the consequential benefits, including monetary benefits, for three years prior to filing of the petition. It has been observed in Rakesh Kumar's case that for delay in approaching the Court, the petitioner, at the most, can be denied interest on delayed payment,

but shall not be denied arrears of wages and other financial benefits for which he is entitled, like others, from the date of regularization/ conferment of Work Charge status. Therefore, restriction of payment of consequential benefits for only three years prior to filing of the Writ Petition is not sustainable.

10. Even otherwise, when a particular set of employees is given relief by the Court, other identical situated persons need to be treated alike by extending that benefit, and not doing so would amount to discrimination and would be violative of Article 14 of the Constitution of India.

11. Plea of the respondents with respect to delay and laches is also not legally sustainable. The distinction between operation of delay and laches to judgments delivered in rem and in personam is lucidly captured in ***State of UP Vs. Arvind Kumar Shrivastva 2015 (1) SCC Page 347*** followed in 2021 Vol. 13 SCC Page 225. Relevant extract wherein is being reproduced hereinbelow:-

> "22.1. The normal rule is that when a particular set of employees is given relief by the court, all other identically situated persons need to be treated alike by extending that benefit. Not doing so would amount to discrimination and would be violative of Article 14 of the Constitution of India. This principle needs to be applied in service matters more emphatically as the service jurisprudence evolved by this Court from time to time postulates that all similarly situated persons should be treated similarly. Therefore, the normal rule would be that merely because other similarly situated persons did not approach the Court earlier, they are not to be treated differently.
>
> 22.2. However, this principle is subject to well recognised exceptions in the form of laches and delays as well as acquiescence. Those persons who did not challenge the wrongful action in their

> cases and acquiesced into the same and woke up after long delay only because of the reason that their counterparts who had approached the court earlier in time succeeded in their efforts, then such employees cannot claim that the benefit of the judgment rendered in the case of similarly situated persons be extended to them. They would be treated as fencesitters and laches and delays, and/or the acquiescence, would be a valid ground to dismiss their claim.
>
> 22.3. However, this exception may not apply in those cases where the judgment pronounced by the court was judgment in rem with intention to give benefit to all similarly situated persons, whether they approached the court or not. With such a pronouncement the obligation is cast upon the authorities to itself extend the benefit thereof to all similarly situated persons. Such a situation can occur when the subject matter of the decision touches upon the policy matters, like scheme of regularisation and the like ***(see K.C. Sharma v. Union of India, (1997) 6 SCC 721)***. On the other hand, if the judgment of the court was in personam holding that benefit of the said judgment shall accrue to the parties before the court and such an intention is stated expressly in the judgment or it can be impliedly found out from the tenor and language of the judgment, those who want to get the benefit of the said judgment extended to them shall have to satisfy that their petition does not suffer from either laches and delays or acquiescence." (Emphasis supplied)

12. Present case is covered by Paras 22.1 and 22.3 of Arvind Kumar Shrivastva's case supra and, therefore, claim of the petitioner does not suffer either from delay and laches or acquiescence.

13. Where the Court has not restricted the benefits for specific period, any guidelines, instructions, circular etc

> issued by Department or executive decision of any other authority cannot restrict such benefit as it would amount to modification of order of Court by an authority having no jurisdiction to do so"

24 Similar view has been taken by this High Court in ***CWPOA NO.5741 of 2020, titled as Dhanveer Singh vs. State of H.P. & others,*** decided on 29.08.2023.

25 In ***CWPOA No.2343 of 2020, titled as Vikram Singh vs. Himachal Road Transport Corporation,*** and other connected matters, decided on 09.11.2023, this High Court has observed as under:-

> "23. In so far as the plea of limitation/delay and laches is concerned, the same is also liable to be rejected. As has already been stated supra, the plea of petitioners is based on discrimination which is violative of Article 14 of the Constitution of India. In this regard, it would be appropriate to refer to the decision of the Hon'ble Supreme Court in ***K. Thimmappa and others vs. Chairman, Central Board of Directors, State Bank of India and another, 2001 (2) SCC 259,*** wherein, it has been categorically laid down that if there is an infraction of Article 14 of the Constitution of India then petition cannot be dismissed on the ground of delay and laches.
> … … …
>
> 25. For delayed regularization, petitioners cannot be blamed as the same was to be done by the respondent-Corporation. In this regard, reliance is placed on the decision of a Co-ordinate Bench of this Court in CWP No.2735 of 2010, titled as ***Rakesh Kumar vs. State of HP and others alongwith connected matters decided on 28.07.2010."***

26 It is also apt to record that ***Special Leave to Appeal (C) No.5806 of 2024, titled Himachal Road Transport Corporation & Others vs. Vikram Singh & others,*** laying challenge to the decision in Vikram Singh's case (supra), was dismissed by the Supreme Court of India on 15.03.2024.

27 Affirming ***State of U.P. vs. Arvind Kumar Srivastava, (2015) 1 SCC 347,*** Supreme Court of India in ***Chairman/Managing Director, Uttar Pradesh Power Corporation Limited and others vs. Ram Gopal, (2021) 13 SCC 225,*** has observed as under:-

> "13. We may hasten to add that these principles may not, however, apply to judgments which are delivered in rem. The State and its instrumentalities are expected In such category of cases to themselves extend the benefit of a judicial pronouncement to all similarly placed employees without forcing each person to individually knock the doors of courts. This distinction between operation of delay and laches to judgments delivered in rem and in personam, is lucidly captured in ***State of U.P. vs. Arvind Kumar Srivastava. ... ..."***

28 In the facts and attending circumstances of present case, in terms of judgment reported in ***1996 (5) SCC 54, titled as Shangrila Food Products Limited and another vs. Life Insurance Corporation of India and another,*** in order to do complete and substantial justice inter se the parties while exercising writ jurisdiction, the benefit of Rakesh Kumar's stated supra needs to be extended to the petitioner for the reasons stated herein below:-

> "11. It is well settled that the High Court in exercise of its jurisdiction under Article 226 of the Constitution can take cognizance of the entire facts and circumstances of the case and pass appropriate orders to give the parties complete and substantial justice. This jurisdiction of the High Court, being extraordinary, is normally exercisable keeping in mind the principles of equity. One of the ends of the equity is to promote honesty and fair play. If there be any unfair advantage gained by a party priorly, before invoking the jurisdiction of the High Court, the Court can take into account the unfair advantage gained and can require the party to shed the unfair gain before granting relief..... ..."

29 Present case is squarely covered by Paras-22.1 and 22.3 of the judgment in ***Arvind Kumar Srivastava's case***, because judgment in ***Rakesh Kumar's case*** was judgment in rem with intention to give benefit to all similarly situated persons whether they approached the Court or not. In such a situation obligation is cast upon the authorities to extend the benefit to all similarly situated persons. Therefore, in given facts and circumstances, petitioner would not be treated fence-sitter and laches and delay or acquiescence would not be a valid ground to dismiss his claim.

30 Similar benefits have been extended to similarly situated employees. Thus, petitioner cannot be discriminated on the ground of delay and laches, particularly when it was duty of respondents to extend such benefits to the petitioner. State should act as a model employer and should extend benefits of its Policies to all eligible

persons, in consonance with pronouncements of the Court(s) which have attained finality, without any discrimination particularly when identical objections have already been overruled by the Courts and such pronouncements have attained finality. Thus claim of the petitioner cannot be refuted only on the ground of delay and laches and for joining on regularization without protest.

31 Though, law of Limitation is not applicable, however principle of delay and laches is attracted for adjudication of a petition under Article 226 of the Constitution of India. The petitioner may be ousted for delay and laches in appropriate case. For otherwise strong merit in the case, in order to prevent exploitation of victims for omission and commission on the part of mighty State, taking into consideration the circumstances of the petition and incapability of petitioner to approach the Court invariably, delay and laches may be ignored for adjudication of issue raised in the Writ Petition on merits. Therefore, we are of the considered view that petitioner, in present petition, is not liable to be ousted on the ground of delay and laches.

32 Regarding regularization of the petitioner from prospective dates of passing of order after issuance of fresh Policy of the Government and withholding regularization/ grant of work-charged status to the petitioner for want of time gap between two Policies,

(2024:HHC:9548)

learned counsel for the petitioner has referred pronouncement of this Court in ***CWP No. 2415 of 2012, titled as Mathu Ram Vs. Municipal Corporation and others, decided on 31.7.2014.***

33 Judgment of Single Bench passed in ***Mathu Ram's case*** has been affired by a Division Bench in ***LPA No. 44 f 2015*** titled as ***Municipal Corporation, Shimla and others vs. Mathu Ram, decided on 13.10.2015.***

34 Conclusion of verdict of ***Mathu Ram's and Rakesh Kumar's cases,*** with respect to gap between issuance/ formulation of two policies, is that previous policy/scheme shall remain in force till issuance/ formulation/introduction of subsequent policy/scheme, but cut of date for completion of requisite number of years shall be redundant in subsequent years and benefit of policy/scheme shall be extended to employees immediately on completion of continuous service for requisite number of years with minimum prescribed number of working days in each calendar year. In case regularization is not possible for want of availability of vacancy, the work-charge status has to be conferred upon daily wage employee on completion of requisite number of years prescribed in the Policy/Scheme.

35 Term "work-charge", in Himachal Pradesh, is used in different context. A person, working on daily-waged basis, before his

regularization, is granted work-charged status on completion of specified number of years as daily-wager and effect thereof is that thereafter non-completion of 240 days in a calendar year would not result into his ouster from the service or debar him from getting the benefit of length of service for that particular year. Normally, work-charged status is conferred upon a daily- wager, on accrual of his right for regularization, on completion of prescribed period of service, but for non-regularization is for want of regular vacancy in the department or for any other just and valid reason. Therefore, it is a period interregnum daily-wage service and regularization, which is altogether different form the temporary establishment of work-charge, as discussed in the judgment of the Apex Court relied upon by the State and, for practice in Himachal Pradesh, work-charged status is not conferred upon the person employed in a project but upon such daily-wage workers, who are to be continued after particular length of service for availability of work but without regularization for want of creation of post by Government for his regularization/regular appointment. Therefore, work is always available in such cases and the charge of a daily-wager is created thereon to avoid his disengagement for reasons upon which a daily-wager can be dispensed with from service.

36 On conferment of work-charged status, sword of disengagement, hanging on the neck of workmen, is removed on completion of specified period of daily-waged service, as thereafter instead of daily-wage, the employee would get regular pay-scale and would be entitled to other consequential benefits for which a daily-waged employee is not entitled.

37 Despite having bestowed status of custodian of rights of its citizens, State or its functionaries invariably are adopting exploitative method in the field of public employment to avoid its liabilities, depriving the persons employed from their just claims and benefits by making initial appointments on temporary basis, i.e. contract, adhoc, tenure, daily-wage etc., in order to shirk from its responsibility and delay the conferment of work-charge status or extension of benefits of regularization Policy of the State by not notifying Policies in this regard in future. Present case is also an example of such practice.

38 So far as regularization of petitioner is concerned, that may depend upon the availability of post, but for conferring work charge status, existence of post or existence of work charge establishment is not necessary and, therefore, plea on this count to

deny conferment of work charge status upon the petitioner, on completion of 8 years, is also not tenable.

39 Learned Deputy Advocate General, referring ***Jai Dev Gupta vs. State of Himachal Pradesh, (1997) 11 SCC 13***, has prayed for restricting the arrears for three years prior to the filing of this petition. This issue had already been dealt with by this Division Bench in ***CWPOA No.7502 of 2020, titled as Nagender vs State of HP*** decided on 14.08.2024 and the same reasons are mutatis mutandis applicable to the present case. Accordingly, prayer for restricting the arrears is rejected.

40 Accordingly, in view of aforesaid discussion, respondents are directed to condone all respective break period of petitioner with effect from her initial appointment i.e. 1.1.1999 till the year she was allowed to complete 240 days in each calender year and count her service from the initial date of engagement i.e. 1.1.1999 for regularization of service from the date of completion of 8 years i.e. 1.1.2007 along with consequential benefits.

41 In view of aforesaid discussion, respondents are directed to pass an appropriate order on or before **14.11.2024** for regularization/conferment of work charge status upon the petitioner from 1.1.2007, on which date she had completed 8 years of continuous

service as daily wage worker with 240 days in each calendar year along with all consequential benefits till her regularization. Arrears of the consequential benefits be extended to the petitioner on or before **14.12.2024**, failing which petitioner shall also be entitled for interest, thereon, at the rate of 5% per annum from the date of filing of the petition, till final payment and in that eventuality, interest, after payment of the same to the petitioner, shall be recovered from erring official(s)/officer(s) responsible for causing delay and after receiving it shall be deposited in the Treasury, within four weeks thereafter.

Accordingly, petition is allowed and disposed of in aforesaid terms, along with pending miscellaneous application(s), if any.

(Vivek Singh Thakur),
Judge.

30th September 2024
(ms)

(Ranjan Sharma),
Judge.

SUBHASH CHAND DHIMAN

Digitally signed by SUBHASH CHAND DHIMAN
DN: C=IN, O=HIGH COURT OF HIMACHAL PRADESH, OU=HIGH COURT OF HIMACHAL PRADESH SHIMLA, Phone=3418061207364d8c002725dfc58ff116f678c3d39289db29b992cce875905119, PostalCode=171001, S=Himachal Pradesh, SERIALNUMBER=5ce240fac0e1267843f29509683d09a9912af10edc4e6cd2ed5d4a8c30134c1b, CN=SUBHASH CHAND DHIMAN
Reason: I am the author of this document
Location:
Date: 2024.10.04 11:46:17+05'30'
Foxit PDF Reader Version: 2024.3.0