



**IN THE HIGH COURT OF HIMACHAL PRADESH,
SHIMLA**

LPA No. 229 of 2023

Reserved on: 27th May, 2025.

Date of decision: 9th July, 2025

Director of Horticulture to the
Government of HP

...Appellants

Versus

Gejam Ram & others

...Respondents.

Coram

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

The Hon'ble Mr. Justice Ranjan Sharma, Judge.

Whether approved for reporting? Yes.

For the Appellants:

Mr. Anup Rattan, Advocate General with Mr. Vishav Deep Sharma, Additional Advocate General and Mr. Hemant K. Verma Deputy Advocate General.

For the Respondents:

Mr. Sanjeev Bhushan, Sr. Advocate with Mr. Sohail Khan, Advocate for respondent No.1.

Vivek Singh Thakur, Judge

The parties herein are being referred as per their status in the Original Application.

2 Petitioner, who was engaged as daily waged Beldar on 13.7.1971 in the Department of Horticulture, had continuously completed his 240 days in each calendar year w.e.f. 1994. His services were regularized as Beldar vide order dated 5.12.2006 as per

the Policy of Regularization of Daily Waged Beldar from the prospective date against the available vacant post of Class-IV.

3 Petitioner, claiming his entitlement for grant of work charge status/regularization w.e.f. completion of 8 years of continuous daily waged service with 240 days in each calendar year, had approached the Court by filing **CWP No. 9579 of 2011** with prayer to grant him work charge status/regularization in terms of law laid down by this High Court in CWP No. 2735 of 2010 titled Rakesh Kumar vs. State of HP with all consequential benefits including salary, pay fixation etc.

4 **CWP No. 9579 of 2011** was disposed of on **9.11.2011** with direction to Department/concerned Authority to examine the case of petitioner with respect to his claim that his case is covered by judgment referred in CWP No. 2735 of 2010 titled Rakesh Kumar vs. State of HP.

5 At that time, appeal preferred by State against aforesaid **Rakesh Kumar's judgment** in the Supreme Court was pending and therefore, implementation of direction to consider the case of petitioner was made subject to outcome of decision of the Apex Court in appeal.

6 **SLP(C) No. 8830-8869 of 2011** filed by State against the **Rakesh Kumar's judgment** was dismissed by the Apex Court on 15.1.2015. Whereafter, case of petitioner was considered by the

Authority and claim of petitioner for conferment of work charge status after completion of 8 years was rejected on the ground that no work charge establishment was in existence in the Horticulture Department.

7 Being aggrieved by rejection of his claim, petitioner preferred **OA No. 49 of 2016** before the Erstwhile H.P. State Administrative Tribunal which was disposed of vide order dated **31.3.2016** with observation that claim of petitioner was covered as per decision dated 15.1.2015 passed in **SLP (C) No. 33570 of 2010 titled State of HP vs. Pritam Singh and connected matters** wherein the plea taken by the State regarding work charge establishment was rejected.

8 Plea of Department for not conferring work charge status upon the petitioner was rejected by the Tribunal in the light of judgment rendered by the Supreme Court in **SLP(C) No. 20620 of 2013 titled State of HP & others vs. Mohar Singh and others** decided on 15.1.2015 whereby decision dated 15.10.2012 passed in CWP No.8285 of 2012 was upheld by the Supreme Court. It was categorically held by the Supreme Court that work charge establishment was not a prerequisite for conferment of work charge status.

9 With aforesaid observations and reference of the judgments passed by the Supreme Court rejection of claim of

petitioner vide Office order dated 27.8.2015 was quashed by the Erstwhile H.P. State Administrative Tribunal vide order dated 31.3.2016 and respondent-Department was directed to reconsider the case of petitioner for regularization on completion of 8 years service with all consequential benefits.

10 For non-reconsideration of case of petitioner, he preferred Contempt Petition No.221 of 2016 before the H.P. State Administrative Tribunal. On abolition of the Erstwhile H.P. State Administrative Tribunal, the matter was transferred to this High Court and was registered as COPCT No. 130 of 2020.

11 During pendency of contempt petition, respondent/State preferred CWP No. 2809 of 2020 assailing the order dated 31.3.2016 passed by the Erstwhile H.P. State Administrative Tribunal in OA No.49 of 2016. However, on 11th April, 2023, the said Writ Petition was disposed of in sequel to submissions made by learned Additional Advocate General that petition had been rendered infructuous as order dated 31.3.2016 passed by the Erstwhile H.P. State Administrative Tribunal had been duly complied with by passing office order dated 10.6.2016.

12 It is apt to record that along with CWP No. 2809 of 2020, an application was preferred by respondent/State for staying implementation and execution of order dated 31.3.2016 passed in OA No. 49 of 2016, wherein impugned order dated 31.3.2016 was stayed

by the Division Bench of this High Court vide order dated 24.9.2020, whereupon Contempt Petition(T) No. 130 of 2020 was closed and disposed of with liberty to petitioner to revive the same if occasion arises to do so or to file fresh if advised so.

13 After dismissal of CWP No. 2809 of 2020, on the basis of submissions made by learned Additional Advocate General, an application CMP-T No. 215 of 2023 was preferred by petitioner for revival of Contempt Petition (T) No. 130 of 2020. The said application was allowed on 19th May, 2023. Thereafter, Contempt Petition was adjourned on numerous dates by granting time to respondent/State to file response/compliance affidavit as requested by respondent.

14 During pendency of contempt petition, vide order dated 30th August, 2023 work charge status was conferred upon the petitioner w.e.f. 1.1.2002 on completion of 8 years regular service as daily wage on 31.12.2001, but subject to final outcome of SLP (Dairy No. 21292 of 2023) filed by the concerned Department in the Apex Court in **Surajmani's case**.

15 In aforesaid background, after partial compliance of order passed by the Erstwhile H.P. State Administrative Tribunal on 4.10.2023, learned Advocate General had raised issue of maintainability of Contempt Petition with submission that no contempt was made out in the matter. Therefore, on issue of maintainability of contempt petition, arguments were heard and in

the aforesaid backdrop impugned order dated 4.11.2023 has been passed by learned Single Judge.

16 The operative portion of impugned order is as under:-

“29. In light of what has been discussed above the contentions raised on behalf of respondents are rejected. I am of the considered view that respondents No.7 and 8 who are at the help of affairs of the Department of Horticulture, despite opportunity to obey the mandate of law have shown defiance and hence at this juncture are required to be proceeded further.

30. List the matter on 8.12.2023, on which date both the respondents shall remain present in the Court for facing further proceedings.”

17 Perusal of order passed by learned Single Judge clearly indicates that learned Single Judge has not issued any direction on merit of dispute between the parties regarding work charge status, regularization or consequential benefits related thereto.

18 Learned Single Judge has only discussed the various orders passed by the Erstwhile H.P. State Administrative Tribunal in OA No. 49 of 2016, Division Bench of the High Court in CWP No. 2809 of 2013 and omission and commission on the part of parties which were incidental to be discussed for determining as to whether offence of contempt is made out in the present matter or not. Learned Single Judge has not adjudicated any issue related to original

dispute/claim/stand of parties in the main case, but has given incidental reference of facts, orders and stand of parties in order to decide as to whether offence of contempt is made out or not.

19 In the entire impugned order there is no direction to respondents to extend any benefit to the petitioner. Learned Single Judge has only discussed that by extending the benefit of work charge status to petitioner from the date of completion of 8 years, itself indicates that respondents were bound to implement the judgment passed by the Court. Thereafter, learned Single Judge has not ventured to direct the respondents to do any act to extend the benefit to the petitioner including consequential benefits as has been directed by the Erstwhile H.P. State Administrative Tribunal vide order dated 31.3.2016 passed in OA No. 49 of 2016.

20 In this regard, following paragraphs of judgment of the Apex Court in **Midnapore People's Cooperative Bank Ltd. and others vs. Chunilal Nand and others** reported in **(2006)5 SCC 399** would be relevant:-

9. On the aforesaid facts and the contentions urged, the following questions arise for consideration :

- (i) Where the High Court, in a contempt proceedings, renders a decision on the merits of a dispute between the parties, either by an interlocutory order or final judgment, whether it is appealable under Section 19 of the Contempt of

Courts Act, 1971 ? If not, what is the remedy of the person aggrieved ?

(ii) Where such a decision on merits, is rendered by an interlocutory order of a learned Single Judge, whether an intra-court appeal is available under clause 15 of the Letters Patent ?

(iii) In a contempt proceeding initiated by a delinquent employee (against the Enquiry Officer as also the Chairman and Secretary in-charge of the employer-Bank), complaining of disobedience of an order directing completion of the enquiry in a time bound schedule, whether the court can direct (a) that the employer shall reinstate the employee forthwith; (b) that the employee shall not be prevented from discharging his duties in any manner; (c) that the employee shall be paid all arrears of salary; (d) that the Enquiry Officer shall cease to be the Enquiry Officer and the employer shall appoint a fresh Enquiry Officer; and (e) that the suspension shall be deemed to have been revoked ?

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11. The position emerging from these decisions, in regard to appeals against orders in contempt proceedings may be summarized thus :

I. An appeal under Section 19 is maintainable only against an order or decision of the High Court passed in exercise of its jurisdiction to punish for

contempt, that is, an order imposing punishment for contempt.

II. Neither an order declining to initiate proceedings for contempt, nor an order initiating proceedings for contempt nor an order dropping the proceedings for contempt nor an order acquitting or exonerating the contemnor, is appealable under Section 19 of the CC Act. In special circumstances, they may be open to challenge under Article 136 of the Constitution.

III. In a proceeding for contempt, the High Court can decide whether any contempt of court has been committed, and if so, what should be the punishment and matters incidental thereto. In such a proceeding, it is not appropriate to adjudicate or decide any issue relating to the merits of the dispute between the parties.

IV. Any direction issued or decision made by the High Court on the merits of a dispute between the parties, will not be in the exercise of 'jurisdiction to punish for contempt' and therefore, not appealable under section 19 of CC Act. The only exception is where such direction or decision is incidental to or inextricably connected with the order punishing for contempt, in which event the appeal under section 19 of the Act, can also encompass the incidental or inextricably connected directions.

V. If the High Court, for whatsoever reason, decides an issue or makes any direction, relating to the merits of the dispute between the parties, in a contempt proceedings, the aggrieved person is not without remedy. Such an order is open to challenge in an intra-court appeal (if the order was of a learned Single Judge and there is a provision for an intra-court appeal), or by seeking special leave to appeal under Article 136 of the Constitution of India (in other cases).

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15. Interim orders/interlocutory orders passed during the pendency of a case, fall under one or the other of the following categories :

- (i) Orders which finally decide a question or issue in controversy in the main case.
- (ii) Orders which finally decide an issue which materially and directly affects the final decision in the main case.
- (iii) Orders which finally decide a collateral issue or question which is not the subject matter of the main case.
- (iv) Routine orders which are passed to facilitate the progress of the case till its culmination in the final judgment.

(v) Orders which may cause some inconvenience or some prejudice to a party, but which do not finally determine the rights and obligations of the parties

16..... Interlocutory orders which fall under categories (i) to (iii) above, are, therefore, 'judgments' for the purpose of filing appeals under the Letters Patent. On the other hand, orders falling under categories (iv) and (v) are not 'judgments' for purpose of filing appeals provided under the Letters Patent.

21 The Larger Bench of the Supreme Court in **Ajay Kumar Bhalla vs. Prakash Kumar Dixit** reported in **AIR 2024 SC 4901** has considered and approved the judgment passed in **Midnapore People's** case and has concluded that a finding by learned Single Judge in Contempt Petition that respondents were guilty for contempt is not amenable to Section 19 of the Contempt of Courts Act, whereas findings given and direction issued that petitioner was entitled to rank of IG for all promotions till the rank of IG from 2021, till the date of his retirement on 21.3.2023, would be amenable to appeal in terms of law laid down by the Apex Court in **Midnapore People's case**, more particularly in terms of para 11(V) of said judgment.

22 In present case, contents of impugned order apparently depict that impugned order passed by learned Single Judge is interim/interlocutory order passed during the pendency of contempt

petition falling in category of orders mentioned in para 15(iv) and 15(v) of **Midnapore People's case**. The impugned order is a routine order which has been passed to facilitate the progress of contempt petition and though it may be causing some inconvenience to the respondents/State but it does not finally determine the rights and obligations of parties.

23 It is apt to record that interlocutory/interim orders passed during the pendency of the case to decide the question or issue in controversy, involved in present case, which materially and directly affects the final decision in main case or the issues which finally decide issue or question which is not the subject matter of main case, would be termed as judgment, as contained in Clause 15 of Letters Patent Appeal for invoking the right to file Letters Patent Appeal.

24 In present case, main case already stands decided and, therefore, neither there was occasion nor it has been done by learned Single Judge in impugned order because the rights and obligations of parties already stand decided in main matter I.e OA No. 49 of 2016 which has attained finality after disposal of CWP No 2809 of 2020 on the basis of statement made by learned Additional Advocate General. Therefore, impugned order does not fall in any category of orders which can be termed as 'judgment' for the purpose of filing appeal under Letters Patent.

25 In view of above discussion, particularly, in the light of pronouncements of the Supreme Court, we are of the considered opinion that impugned order is not amenable to appeal provided under Letters Patent.

26 As punishment has not been awarded but respondents have been directed to remain present for further proceedings, the order is also not amenable to appeal under Section 19 of Contempt Act.

27 Accordingly, appeal is dismissed being not maintainable.

28 Learned counsel for the petitioner has submitted that despite dismissal of similar appeal by Coordinate Bench, like **LPA No. 179 of 2022, titled as State of Himachal Pradesh & others vs. Jai Dutt and others**, decided on 21.6.2023, respondents-State is preferring similar appeals in similar matters again and again, which is not only causing wastage of time, energy and resources of the Court as well as the State, but also resulting into undue harassment to persons, like present petitioner, belonging to lowest strata of the society.

29 In this regard, it is also noticeable that the Government of Himachal Pradesh has approved 'H.P. State Litigation Policy' (hereinafter referred to as 'Policy') in the year 2011 and the same, not only has been circulated by the Principal Secretary (Home) to the Government of Himachal Pradesh, (Prosecution)(F)101/2010, vide

dated communication 7.3.2011, to all No. Home the Principal Secretaries/Secretaries to the Government of Himachal Pradesh and all the Head of Departments in Himachal Pradesh, but has also been uploaded on the Website of Prosecution Department from the link of Home Department website www.himachal.nic.in/home.

30 It has also been communicated to all that Policy outlines broad guidelines of litigation strategies to be followed by the State Government or its agencies with a view to reduce litigation to save avoidable costs on unproductive litigation so as to reduce unavoidable load on judiciary with respect to Government induced litigation.

31 The Policy has been made applicable to any claim and litigation involving the State or its agencies including litigation before Courts, Tribunals, inquiries and in arbitration and matters pending in other alternative dispute resolution processes. All concerned have been requested to take necessary steps in accordance with this Policy after immediately forming Departmental Litigation Monitoring Committee in the Department and also appoint Nodal Officers to monitor the pendency and future litigation being faced by the Department in terms of Policy.

32 As per Policy, it is compulsory obligation upon the State and its agencies to act honestly and fairly in handling claims and litigation, which includes dealing with claims promptly and not

causing unnecessary delay in the handling of claims; paying legitimate claims without litigation, including making partial settlements of claims or interim payments, where it is clearly established that at least part of the claim is payable; acting consistently in the handling of claims and litigation; endeavoring to avoid litigation, wherever possible; where it is not possible to avoid litigation, keeping the costs of litigation to minimum, including by: i) not requiring the other party to prove a matter which the State or an agency knows to be true; and ii) not contesting clearly established liability if the State or an agency knows that the dispute is really about quantum; not taking advantage of a claimant who lacks the resources to agitate a legitimate claim before any competent Court; not relying on technical defences unless the interests of the State or a State agency would be prejudiced adversely; and not to file/continue appeals/ revisions etc unless the State or an agency believes that it has reasonable prospects for success or the appeal is otherwise justified in the public interest, provided that a decision to file/continue the appeal is made as soon as practicable and to file second appeals only on substantial questions of law.

33 Despite approval and adoption of aforesaid Policy, it has been seen that Departments, like present case, are invariably, instead of settling the claims or redressing grievances at their own

level or rectifying the mistake wherever it is apparent on the face of record, are contesting cases vigorously for years together.

34 Another case, where despite noticing and admitting mistake, Department/ Government did not rectify it, is CWPOA No.7684 of 2019, titled as Netar Singh v. The State of H.P., wherein also, reply was filed in the year 2017, admitting the mistake, but till 2021 no action for rectifying the same was taken, causing this Court to observe that despite having noticed the mistake, no steps have been taken to rectify it and to redress the grievance of the petitioner that too after filing reply-affidavit to that effect. It was further observed by the court that such practice deserves to be deprecated and it can be done by the Government by issuing reminders, time-to-time, to all concerned and Court may also enforce this Policy by imposing heavy costs upon the State, recoverable from the concerned Officers/officials responsible for overburdening the Courts with unwarranted and avoidable litigation .

35 It is also relevant to note that in CWP No.1498 of 2017, titled as State of H.P. vs. Raju Ram, a Division Bench of this High Court has directed as under:

“11. Under these circumstances, we direct the Chief Secretary to the Government of Himachal Pradesh to convene a meeting of the Principal Secretaries of the Government of Himachal Pradesh, in apprising them of the existence, importance, significance, advantages and benefits of adhering to the Litigation Policy, in letter and

spirit. In turn, it is expected of the Principal Secretaries to convene a meeting in their respective Departments, sensitizing the stakeholders with regard thereto. This would only help curtail the problem of docket explosion and prevent cause any unnecessary inconvenience and expenditure by innocent persons.

12. We further direct the Chief Secretary as also the Principal Secretaries to the Government of Himachal Pradesh to have all the cases reviewed, periodically, in terms of the H.P. State Litigation Policy. This alone would generate lot of good will to the State.”

36 A Division Bench of this High Court in CWPII No.133 of 2017, titled as Court on its own Motion v. State of Himachal Pradesh, after observing that State, as a model employer, is expected to show fairness in action and directed as under:

“36. We notice that State has formulated a Litigation Policy with the avowed object of not only reducing litigation, saving avoidable cost on unproductive litigation, reducing avoidable load on judiciary with respect to Government induced litigation. This is in tune with the mandate of Article 39-A of the Constitution of India, obligating the State to promote equal justice and provide free legal aid. In fact, by virtue of clause 1.4 (d to h) of the State Litigation Policy, the State is under an obligation to take steps to reduce litigation, wherever possible. Now, if the employees are not paid their salaries within time, obviously, they are left with no remedy but to rush to the Courts.

37. Of late, litigation pertaining to employees of the State has increased and it is not that State is the petitioner. The

action assailed is of mis-governance or avoidable omissions on the part of the Government. Why should the State force an employee to litigate in a case where emoluments/salaries, which are undisputed, are not disbursed in time.

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39. In the light of the aforesaid discussion and position of law, in exercise of our writ jurisdiction, we deem it necessary to pass the following directions:-

- A. The Chief Secretary to the Government of Himachal Pradesh, shall provide a mechanism for enabling the employees to vent out their grievances of non-disbursement of due and admissible wages/salaries/ emoluments. And one such mechanism being of setting up a ‘Web Portal’ at the level of the Principal Secretary/ Secretary of the concerned Department(s), where the employees can lodge their grievances/ complaints. Such grievances/ complaints shall be processed and adequately responded to within a period of one week. This would facilitate speedy redressal of genuine grievances and prevent unnecessary litigation, clogging the wheels of administration of justice. Such endeavour shall not only be in the spirit of Litigation Policy, framed by the State

Government. We see great advantage in the use of information and technology. Not only it would result into effective and efficient redressal of grievances, if any, but also improve efficiency in the affairs of governance of the State.

B. All the Head of Departments of Government of Himachal Pradesh/ Government Institutes/State Instrumentalities to ensure that in future emoluments to all employees of their respective Departments/ Institutes are disbursed in time;

C. In case of said emoluments not being disbursed on schedule, except in the event of the emoluments being withheld as per law, the State/ instrumentality of the State shall be liable to compensate the employees concerned by paying statutory interest or the existing rate for saving bank deposit account provided by the State Bank of India, whichever is higher;

D. Immediately thereto, the Head of the Departments/Instrumentality of the State shall hold an inquiry, which shall be completed within a period of 30 days, to ascertain the omission on the part of the concerned person, resulting in delay of disbursement on schedule; and E. Pursuant to the findings of the inquiry, the interest which stands paid to such employee, shall be recovered from the erring officer(s)/officials(s)."

37 For litigating unnecessarily for years together, despite extending benefits to the similarly situated persons, in **CWP No. 1314 of 2016, titled as Nigma Devi vs. State of Himachal Pradesh**, damage of Rs.20,00,000/- were fastened upon the respondents-State with direction to recover the same from the concerned responsible officers/officials.

38 However, in present case, taking a lenient view, cost is not being imposed upon the respondents-State, with caution to the State not to repeat similar act in future.

39 Registry is directed to list COPCT No. 130 of 2020 before the appropriate Bench on **16th July, 2025** on which date parties shall attend the proceedings before learned Single Judge.

Appeal stands disposed of in aforesaid terms.

(Vivek Singh Thakur),
Judge.

9th July, 2025(ms)

(Ranjan Sharma),
Judge.