



IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CWP No.7143 of 2025

Date of Decision:02.09.2025

Jagat RamPetitioner

Versus

State of Himachal Pradesh ... Respondents

Coram:

Hon'ble Mr. Justice Sandeep Sharma, Judge.

Whether approved for reporting? ¹ Yes.

For the Petitioner: Mr. Vineet Vashistha and Umesh, Advocates.

For the Respondents: Mr. Anup Rattan, Advocate General with Mr. Rajan Kahol, Mr. Vishal Panwar and Mr. B.C.Verma, Additional Advocate Generals and Mr. Ravi Chauhan, Deputy Advocate General, for the respondents-State.

Mr. Tek Ram Sharma, Advocate, for respondent Nos. 5 and 6.

Sandeep Sharma, Judge(oral):

By way of instant petition, petitioner has prayed for following main relief:-

“(a) That the impugned order dated 18.09.2024 (Annexure P-8) may kindly be quashed and set-aside;

(b) That the petitioner may kindly be declared eligible and entitled to pension in view of Sunder Singh's case and Balo Devi's case by counting 10 years of daily wage service (equal to 2 years regular service) and total regular service (7+2=9 years) to be reckoned as 10 years regular service for the purpose of pension and to grant pension alongwith consequential benefits including arrears alongwith 9% interest from the due date.”

2. Precisely, the grouse of the petitioner, as has been highlighted in the petition and further canvassed by Mr. Vineet

¹Whether the reporters of the local papers may be allowed to see the judgment?

Vashistha, learned counsel for the petitioner, is that though petitioner is entitled to be given benefit of judgments passed by Hon'ble Apex Court in Civil Appeal No.6309 of 2017, tilted **Sunder Singh vs. State of Himachal Pradesh and others** and in Civil Appeal No.4792 of 2022, titled **Balo Devi vs. State of Himachal Pradesh and others**, for the purpose of pension, but yet rightful claim of the petitioner is being denied by the respondents for no cogent and convincing reason.

3. Pursuant to the notices issued in the instant proceedings, respondent Nos. 5 and 6 have filed reply, whereas despite sufficient opportunities, no reply has been filed on behalf of respondent Nos. 1 to 4, but time to time have filed instructions and as such, this Court has no option, but to decide the petition at hand on the basis of the material already available on record.

4. It is quite apparent from the pleadings adduced on record, which are duly supported by the affidavit as well as documents annexed therewith that in the year 1983, petitioner was appointed as daily wage Beldar in the Office of Executive Engineer, Chakkar, Tehsil Balh, District Mandi, Himachal Pradesh. After 11 years of his being appointed on daily wage basis, services of the petitioner were regularized w.e.f. 01.01.1994 in terms of judgment passed by Hon'ble Apex Court in Mool Raj Upadhaya's case. After serving as regular/work charged employee for 7 years, petitioner

retired on 31.12.2000 on attaining the age of superannuation i.e. 60 years. On 08.03.2011, Hon'ble Apex Court passed judgment in **Sunder Singh's case** (supra) clarifying that daily wage services of Class-IV employee shall be counted for the purpose of pension and in that regard, five years of daily wage services would be treated as one year of regular service and on that basis if regular service of Class-IV employee comes out to be more than 8 years but less than 10 years, same shall be reckoned as ten years, as a result of thereof employee concerned would be eligible and entitled for pension. Aforesaid aspect of the matter further came to be clarified by Hon'ble Apex Court in **Balo Devi's case** (supra). After passing of aforesaid judgments in **Sunder Singh and Balo Devi's cases** (supra), petitioner made representation dated 04.04.2024 to the respondents to grant him pension. Though, representation filed by the petitioner came to be forwarded by respondent No.4 to respondent No.6, but vide order dated 18.09.2024(Annexure P-8), afore respondent rejected the pension case of the petitioner. In the afore background, petitioner approached this Court in the instant proceedings, praying therein for the reliefs as have been reproduced hereinabove.

5. Admittedly, in the case at hand, petitioner prior to his superannuation rendered 7 years regular service. It is also not in dispute, rather stands admitted by the parties to the *lis* that in terms of the judgment passed in Sunder Singh's case, five years daily wage

service shall be treated as one year of regular service and if on that basis regular service of Class-IV employee comes out to be more than 8 years but less than 10 years, same shall be reckoned as ten years. If it is so, in no eventuality, prayer made on behalf of the petitioner for pension can be rejected.

6. Since, it is not in dispute that prior to regularization petitioner rendered more than 10 years service on daily wage basis, afore service on daily wage is required to be treated as two years regular service, if it is so, regular service of the petitioner would be become more than 9 years((7+2=9 years). Since in Sunder Singh's case, it has been clarified by the Hon'ble Apex Court that in case regular service of the petitioner after giving him benefit of daily wage service comes out to be more than 8 years but less than 10 years, his/her service shall be reckoned as ten years, petitioner herein, who has rendered more than 9 years service on regular basis, is required to be given benefit of 10 years regular service. In case petitioner is held to have completed 10 years regular service, applying the judgments passed by Sunder Singh and Balo Devi's cases, he is very much entitled to pension.

7. At this stage, Mr. Anup Rattan, learned Advocate General invited attention of this Court to the judgment passed by Hon'ble Apex Court in **Chairman, State Bank of India and another vs. M.J. James**,(2022) 2 Supreme Court Cases 301, to state that claim put

forth by the petitioner, as detailed hereinabove, deserves to be rejected on the ground of delay and laches as well as acquiescence. He submitted that since judgment was passed by Hon'ble Apex Court in Sunder Singh's case in the year, 2018, petitioner herein was expected to approach authority at that relevant time, but in the case at hand he filed representation for the first time in the year, 2024. He further stated that by now it is well settled that fence sitter cannot be granted relief.

8. There cannot be any quarrel with the aforesaid proposition of law laid down by the Hon'ble Apex Court, but this Court cannot lose sight of the fact that petitioner is a Class-IV employee, who though had retired on 31.12.2000 after having rendered 7 years regular service, but since judgment passed in Sunder Singh's case came to be rendered in the year, 2018, whereafter number of daily wage employees approached authorities and thereafter, competent court of law for grant of benefit in terms of judgment rendered by Hon'ble Apex Court in Sunder Singh's case(supra), coupled with the fact that Class-IV employee like petitioner cannot be expected to know the very meaning of acquiescence and as such, plea of delay and laches sought to be raised deserves to be rejected, especially when pension is recurring cause of action. Moreover, if the judgment passed by Hon'ble Apex Court in Sunder Singh's case is read in its entirety, it can be safely concluded that judgment passed in afore

case is judgment in *rem* and as such, required to be implemented in the cases of all the similarly situated persons. Pursuant to the judgment passed by Hon'ble Apex Court in Sunder Singh' case, Government of Himachal Pradesh vide notification dated 14.02.2019 advised all the Administrative Secretary (Finance) to the Government of Himachal Pradesh to implement the judgment passed in Sunder Singh's case, but yet respondents failed to abide by the mandate given in Sunder Singh's case, as a result thereof, majority of daily wage employees were compelled to approach competent court of law.

9. Consequently, in view of the above, this Court finds merit in the present petition and accordingly same is allowed and respondents are directed to grant pension to the petitioner by extending the benefit of judgment passed by Hon'ble Apex Court in Sunder Singh's case and further clarified in Balo Devi's case. Since petitioner has been fighting for his rightful claim for quite considerable time, this Court hopes and trusts that needful in terms of instant judgment shall be done by the respondents expeditiously, preferably within four weeks. Pending applications, if any, also stand disposed of.

List for compliance on 27.10.2025.

**(Sandeep Sharma),
Judge**

September 02,2025
(shankar)