

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CWP No.9708 of 2025

Decided on: 19th June, 2025

Raju Ram

.....**Petitioner**

Versus

State of H.P. and others

.....**Respondents**

Coram

Ms. Justice Jyotsna Rewal Dua

Whether approved for reporting?¹

For the Petitioner: Ms. Anjali Soni Verma and
Ms. Shivani Tegta, Advocates.

For the Respondents: Mr. Y.P.S. Dhaulta, Additional
Advocate General, for respondents No.1
to 4.

Mr. Tek Ram Sharma, Advocate, for
respondent No.5.

Jyotsna Rewal Dua, Judge

Notice. Mr. Y.P.S. Dhaulta, learned Additional
Advocate General and Mr. Tek Ram Sharma, learned
counsel, appear and waive service of notice on behalf of
respondents No.1 to 4 and respondent No.5, respectively.

2. With the consent of learned counsel for the
parties, the matter is heard at this stage.

¹Whether reporters of print and electronic media may be allowed to see the order? Yes.

3. Petitioner instituted CWP No.1667 of 2012 seeking pensionary benefits with effect from the date of his retirement, i.e. 28.02.2011. The writ petition was disposed of on 27.03.2012 with following directions:-

“The petitioner seeks counting of 50% of daily waged service for the purpose of pension. The issue is pending before this Court in CWP No.180 of 2001 titled as State of H.P. & Ors. vs. Sarab Dayal & connected cases. The parties agree that they will abide by the outcome of the decision in the said case subject to its finality. Therefore, the writ petition is disposed of by making it clear that the benefits, if any, to which the writ petitioner is found entitled in principle, will be disbursed to him within four weeks of the issue attaining finality.

Pending application(s), if any, also stands disposed of.”

The respondents did not implement the above directions. Consequently, the petitioner instituted Execution Petition No.46 of 2025. During the pendency of execution petition, the respondents passed consideration order on 06.05.2025 (Annexure P-5), rejecting the case of the petitioner primarily on two main grounds:- (i) Petitioner had rendered only 04 years, 04 months and 26 days of regular service till his superannuation on 28.02.2011, hence, he is not qualified for grant of pensionary benefits under the CCS (Pension) Rules, 1972; and (ii) Regarding applicability of decisions rendered in **Sunder Singh Versus**

The State of Himachal Pradesh & Ors.² and Balo Devi & others Versus State of Himachal Pradesh and others³, the order observed that the aforesaid decisions have been rendered in the case of Class-IV employees and are not applicable to the petitioner, who had retired as Mason Grade-II, which is a Class-III post. Taking note of the consideration order, the execution petition was disposed of on 21.05.2025, reserving liberty to the petitioner to seek appropriate remedy for his surviving grievances.

Petitioner has now instituted this writ petition aggrieved against the consideration order dated 06.05.2025.

4. Learned counsel for the petitioner submits that the respondents have made a factual error in taking petitioner's regular service w.e.f. 06.10.2006. The petitioner was regularized under office order dated 20.03.2008 (Annexure P-1), but retrospectively w.e.f. 01.01.2002. He superannuated on 28.02.2011. Even his regular service was 09 years and 02 months. Secondly, it was contended

² Civil Appeal No.6309 of 2017, decided on 08.03.2018

³ Civil Appeal No.4792 of 2022, decided on 18.07.2022

that in ***Roop Lal Versus State of H.P. & Others***⁴, the benefit of decisions in *Sunder Singh*² and *Balo Devi*³ have been ordered to be extended to Class-III employees as well, who had rendered daily wage service. The aforesaid decision has attained finality.

5. There appears to be force in the submissions made by learned counsel for the petitioner. The document placed on record as Annexure P-1 states that petitioner's services were regularized though on 20.03.2008, but retrospectively w.e.f. 01.01.2002. Further, it is a matter of record that in *Roop Lal*⁴, the benefit of decisions in *Sunder Singh*² and *Balo Devi*³ has been ordered to be extended to Class-III employees as well. Both these aspects have not been considered in the impugned office order.

For these reasons, the impugned office order dated 06.05.2025 (Annexure P-5) is quashed and set aside. Respondent No.2/competent authority is directed to consider the case of the petitioner for grant of pensionary benefits to him afresh in accordance with law and taking into consideration the decision rendered in ***Roop Lal***⁴ as also the aspects noticed hereinabove, within a period of four

⁴ LPA No.196 of 2022, decided on 11.10.2023

weeks from today. The decision so arrived at shall also be communicated to the petitioner.

The writ petition stands disposed of in the above terms, so also the pending miscellaneous application(s), if any.

June 19, 2025
Mukesh

Jyotsna Rewal Dua
Judge