

2025:HHC:16059

IN THE HIGH COURT OF HIMACHAL PRADESH AT SHIMLA

CWPOA Nos.5730 of 2020 and  
connected matters

Decided on : May 26, 2025

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1. CWPOA No.5730 of 2020

Hem Chand		.....Petitioner
	Versus	
Himachal Road Transport Corporation		....Respondent

2. CWPOA No.5794 of 2020

Pritam Chand		.....Petitioner
	Versus	
Himachal Road Transport Corporation		....Respondent

3. CWPOA No.1958 of 2020

Nikka Ram		.....Petitioner
	Versus	
Himachal Road Transport Corporation		....Respondent

4. CWPOA No.5773 of 2020

Bhoop Singh		.....Petitioner
	Versus	
Himachal Road Transport Corporation		....Respondent

5. CWPOA No.4360 of 2020

Ranjeet Singh		.....Petitioner
	Versus	
Himachal Road Transport Corporation		....Respondent

6. CWPOA No.6258 of 2020

Surinder Kumar		.....Petitioner
	Versus	
Himachal Road Transport Corporation		....Respondent

7. CWPOA No.6236 of 2020

Naresh Kumar		.....Petitioner
	Versus	
Himachal Road Transport Corporation		....Respondent

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**8. CWPOA No.3373 of 2020**

Partap Singh		.....Petitioner
	<b>Versus</b>	
Himachal Road Transport Corporation		....Respondent

**9. CWP No.953 of 2020**

Rajesh Kumar		.....Petitioner
	<b>Versus</b>	
Himachal Road Transport Corporation		....Respondent

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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 Petitioners** : Mr. Manohar Lal Sharma and Mr. Himanshu Kapila, Advocates.

**For the respondent – HRTC** : Ms Shubh Mahajan, Advocate, in CWPOA Nos.5730, 5773 & 6258 of 2020.

Mr. B.N. Sharma and Ms Mamta, Advocates, in CWPOA No.3373 of 2020.

Mr. Raman Jamalta and Ms Aashima Premy, Advocates, in CWPOA No.1958 of 2020.

Mr. Vikas Rajput, Advocate, in CWP No.953 of 2020, CWPOA Nos.4360, 5794 & 6236 of 2020.

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**Vivek Singh Thakur, Judge**

These petitions, for involvement of similar issue to be decided on the basis of similar facts and common law, as applicable, are being decided together by this common judgment.

2. Petitioners have approached this Court for quashing of impugned office orders dated 10.10.2018 (Annexure A-11 in CWPOA

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Nos.5730 & 5794 of 2020); 6.4.2017 (Annexure A-13 in CWPOA No.1958 of 2020); 15.10.2018 (Annexure A-11 in CWPOA No.5773 of 2020); 31.7.2017 (Annexure A-11 in CWPOA No.4360 of 2020); 15.10.2018 (Annexure A-12 in CWPOA No.6258 of 2020); 12.10.2018 (Annexure A-11 in CWPOA No.6236 of 2020); 15.9.2017 (Annexure A-11 in CWPOA No.3373 of 2020); and 26.11.2019 (Annexure P-13 in CWP No.953 of 2020) and to direct the respondent-HRTC to regularize their services on completion of 8 years, from the date of their initial appointment.

3. These petitions (CWPOAs) were filed in H.P. State Administrative Tribunal (HPSAT), as OA bearing Nos.7379 of 2018, 7529 of 2018, 1716 of 2017, 7385 of 2018, 2452 of 2018, 250 of 2019, 240 of 2019 and 6616 of 2017. On abolition of HPSAT, these OAs were transferred to this Court and registered as CWPOAs.

4. Petitioners were engaged against different posts, on different dates, as under:

<b>Name of Petitioner</b>	<b>Number of Writ Petition</b>	<b>Post</b>	<b>Date of engagement</b>
Hem Chand	CWPOA No.5730 of 2020	Peon	15.10.1998
Pritam Singh	CWPOA No.5794 of 2020	Chowkidar	1.3.1998
Nikka Ram	CWPOA No.1958 of 2020	Chowkidar	5.6.2000
Bhoop Singh	CWPOA No.5773 of 2020	Chowkidar	1.5.1998
Ranjeet Singh	CWPOA No.4360 of	Clerk	15.3.1996

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	2020		
Surinder Kumar	CWPOA No.6258 of 2020	Sweeper	1.7.1994
Naresh Kumar	CWPOA No.6236 of 2020	Peon	1.11.1999
Partap Singh	CWPOA No.3373 of 2020	Peon	2.1.1997
Rajesh Kumar	CWP No.953 of 2020	Upholster	19.8.1998.

5. Services of the petitioners were terminated by HRTC on different dates and, against such termination, the petitioners had approached the Industrial Tribunal-cum-Labour Court and the Labour Court passed Award, on different dates, in favour of the petitioners directing their reinstatement with seniority and continuity in service retrospectively but without back wages. Consequently, the petitioners were reinstated.

6. It has been submitted on behalf of the petitioners that when, even after placing the case of the petitioners before the Board of Directors of the HRTC, their services were not regularized on completion of eight years of service, petitioner Ranjeet Singh had filed CWP No.5403 of 2010, which was allowed by this High Court on 2.5.2011; petitioner Nikka Ram had filed CWP No.5925 of 2012, which was decided on 26.7.2012; petitioner Pritam Singh had filed CWP No.15 of 20213, which was decided by a Division Bench of this High Court vide judgment dated 3.1.2013; and petitioners Partap Singh, Hem Chand, Naresh Kumar, Rajesh Kumar and one other

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person Mehar Singh filed CWP No.7519 of 2011, which was decided on 12.12.2011.

7. Petitioners Surinder Kumar and Bhoop Singh had also filed Writ Petitions No.11575 of 2011 and 11723 of 2011, respectively.

8. Decision in Civil Writ Petitions filed by Ranjeet Singh, Partap Singh, Hem Chand, Naresh Kumar and Rajesh Kumar was assailed by HRTC by filing LPA No.585 of 2011 and LPA No.37 of 2012.

9. The aforesaid LPA Nos.585 of 2011 and 37 of 2012, alongwith CWPs No.11575 of 2011 and 11723 of 2011, filed by petitioners Surinder Kumar and Bhoop Singh, respectively, and one more Civil Writ Petition No.11577 of 2011 filed by one Dila Ram, were decided together by a Division Bench of this Court, vide judgment dated 13.4.2012, in the following terms:

“2. These appeals and writ petitions are disposed of with a direction to the HRTC to consider the claim of the petitioners for regularization positively within a period of three months from today. However, we make it clear that the entitlement of actual back wages will be only for a period of 36 months prior to August, 2012, even if they are regularized from an earlier date. Needless to say that, till such time the benefits would be notional.”

10. Writ Petition No.5925 of 2012, filed by petitioner Nikka Ram; and Writ Petition No.15 of 2013, filed by petitioner Pritam Singh, were decided on 26.7.2012 and 3.1.2013, respectively, by Division

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Bench(s) of this High Court in terms of above referred judgment dated 13.4.2012, passed in LPA No.585 of 2011 and connected matters.

**11.** However, despite direction to consider, benefit of regularization was not extended to the petitioners on completion of eight years of service. Therefore, the petitioners approached the erstwhile HP State Administrative Tribunal by filing Original Applications No.3857 of 2016 (Hem Chand), 4282 of 2016 (Pritam Singh), 5503 of 2015 (Nikka Ram), 4285 of 2016 (Bhoop Singh), 3866 of 2016 (Ranjeet Singh), 4280 of 2016 (Surender Kumar), 3871 of 2016 (Naresh Kumar), 3871 of 2016 (Pratap Singh) and 2028 of 2019 (Rajesh Kumar), which were decided by the Tribunal on 11.8.2016, 1.9.2016, 7.1.2016, 15.10.2018, 11.8.2016, 1.9.2016, 11.8.2016, 11.8.2016 and 10.6.2016 respectively, on the basis of judgment dated 9.5.2014, passed by this High Court in **CWP No.1482 of 2013, titled Rishi v. Himachal Road Transport Corporation and others**, with similar directions.

**12.** In **Rishi's** case, learned Single Judge, has observed as under:

1. "The petitioner was engaged as Sweeper in the respondent-Corporation on 18.4.1998. He worked uninterruptedly for more than eight years and completed 240 days in a block of twelve calendar months. He has not been regularized. The petitioner in fact, as per record, has completed eight years of continuous service on 18.4.2006. the only reason assigned for

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not regularizing the petitioner is that he has been appointed without following the proper procedure.

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4. The plea raised by the respondent-Corporation that the petitioner has not been appointed in accordance with law will not come in the way of the petitioner seeking regularization at this stage. The respondent-Corporation ought to have been cautious at the time when he was engaged. This plea has been raised only to deprive the petitioner status of regular employee.

5. Accordingly, in view of the observation and analysis made hereinabove, the writ petition is allowed and the respondent-Corporation is directed to regularize the petitioner immediately after completion of eight years of service, i.e. 18.4.2006 with continuity in service. It is made clear that the entitlement of the actual back wages will be restricted to 36 months. Pending application(s), if any, also stands disposed of. No order as to costs."

13. Against the aforesaid decision passed in CWP No.1482 of 2013, HRTC had filed LPA No.145 of 2021, which was dismissed by this High Court vide order dated 10.11.2021. **Special Leave Petition (C) No.2066 of 2022**, titled as **Himachal Pradesh Transport Corporatin Shimla & Ors. V. Rishi**, preferred by HRTC against the said order, was also dismissed by the Supreme Court on 18.2.2022.

14. It is apt to record that judgment in **Rishi's** case has been implemented.

15. Respective representations preferred by the petitioners were decided by HRTC, vide impugned orders referred supra, and the claim of the petitioners was rejected with identical reasoning and manner, except name of the petitioner and number of the case. For

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reference, reasoning given for rejecting the representations in one of the cases CWP No.5730 of 2020 (Annexure A-11), is being reproduced as under:

**“AND WHEREAS** in the case of Sh. Rishi Raj, the Hon’ble Court had specifically directed to regularize his services with effect from 18.04.2006 and accordingly, his services were regularized with effect from 18.04.2006. As regards regularization of services of Hem Chand, Peon is concerned, no specific date has been mentioned in the order/judgment of Hon’ble H.P. Administrative Tribunal dated 11.08.2016. Moreover, Sh. Hem Chand, Peon was regularized w.e.f. 09.09.2009 keeping in view the instructions of the State Government dated 09.09.2008 issued regarding regularization of contractual employees who had completed 8 years service as on 31.03.2008. As such, the case of the applicant is not similar to that of Sh. Rishi Raj petitioner in C.W.P. 1482/2013. Hence the applicant is not entitled to get the benefit of judgment passed by the Hon’ble High Court in C.W.P. 1482/2013.”

**16.** The rejection order is glaring example of complete non-application of mind, muchless judicious mind.

**17.** Stand of HRTC in present cases as well as in **Rishi’s** case was one and the same that the petitioners were appointed, at the first instance, without following the proper procedure of recruitment.

**18.** Averments made in the petitions, replies filed thereto, are similar to **Rishi’s** case. The only reason given for differentiating and distinguishing cases of the petitioners from **Rishi’s** case is that in **Rishi’s** case there was direction to regularize Rishi by mentioning a



specific date, i.e. 18.4.2006, but no such specific date has been mentioned in the orders passed in cases of present petitioners.

**19.** Reasoning assigned for rejecting the claim of petitioners is a glaring example of rarest cases of absurdity of highest level. In **Rishi's** case, direction was to regularize him after completion of eight years of service and date of completion of eight years was mentioned as 18.4.2006 with reference to his date of first engagement from 19.4.1998. In present cases also, there is direction to regularize on completion of eight years. Specific date of completion of eight years shall be and is to be determined/ascertained on the basis of dates of initial appointment of petitioners which were and are available with the respondent-Corporation.

**20.** First date of appointment of petitioners is well known to HRTC and has also been mentioned in the petitions preferred by them and the same is also stated in the replies filed by the HRTC. Direction to regularize the petitioners on completion of eight years from their first date of appointment, with mention of date of completion of eight years or without mention of such date, makes no difference in the direction passed by the Court. There is no other reason assigned for rejecting the claim of petitioners. This objection is irrational, unreasonable and arbitrary.

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**21.** No other point, other than the points raised in reply in **Rishi's** case, was raised in the present petitions and except reasons assigned in impugned rejection order there is no other ground taken for denying the benefit of regularization to the petitioners after eight years of service. The grounds raised by the HRTC, as discussed supra, are meritless.

**22.** In view of above, it is made clear that, at this stage, HRTC is precluded from raising any other objection being inhibited from doing so for not raising any other objection at the time of rejection of claim of petitioners, 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 SC 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 cannot 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

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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.”

**23.** In view of the above discussion, we are of the considered opinion that there is merit in the claim of the petitioners and plea of the respondent-Corporation to oppose the same is liable to be rejected.

**24.** It is settled that 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 and a petitioners may be ousted or deprived from monetary benefits or interest on delayed payment for delay and laches in appropriate case.

**25.** Supreme Court in ***Pasupuleti Venkateswarlu v. The Motor & General Traders*, (1975) 1 SCC 770 : AIR 1975 SC 1409**, has held as under:

“... ..It is basic to our processual jurisprudence that the right to relief must be judged to exist as on date a suitor institutes the legal proceeding... ..”

**26.** Supreme Court in ***Rajeshwar and others vs. Jot Ram and another*, (1976) 1 SCC 194: AIR 1976 SC 49**, referring ***Pasupuleti Venkateswarlu v. The Motor & General Traders*, (1975) 1 SCC 770 : AIR 1975 SC 1409**; and ***Bhajan Lal vs. State of Punjab*, (1971) 1 SCC 34**; has held as under:-

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“6. The philosophy of the approach which commends itself to us is that a litigant who seeks justice in a perfect legal system gets it when he asks for it. But because human institutions of legal justice function slowly, and in quest of perfection, appeals and reviews at higher levels are provided for, the end product comes considerably late. But these higher Courts pronounce upon the rights of parties as the facts stood when the first Court was first approached. The delay of years flows from the infirmity of the judicial institution and this protraction of the Court machinery shall prejudice no one. *Actus curiae neminem gravabit*. Precedential support invoked by the appellant's counsel also lets him down provided we scan the fact situation in each of those cases and the legal propositions therein laid down.

7. The realism of our processual justice bends our jurisprudence to mould, negate or regulate reliefs in the light of exceptional developments having a material and equitable import, occurring during the pendency of the litigation so that the Court may not stultify itself by granting what has become meaningless or does not, by a myopic view, miss decisive alterations in fact-situations or legal positions and drive parties to fresh litigation whereas relief can be given right here. The broad principle, so stated, strikes a chord of sympathy in a court of good conscience. But a seeming virtue may prove a treacherous vice unless judicial perspicacity, founded on well-grounded- rules, studies the plan of the statute, its provisions regarding subsequent changes and the possible damage to the social programme of the measure if later events are allowed to unsettle speedy accomplishment of a re-structuring of the land system which is the soul of this which enactment. No processual equity can be permitted to sabotage a cherished reform, nor individual hardship thwart social justice. This wider perspective explains the rulings cited on both sides and the law of subsequent events on pending actions.

8. In ***P. Venkateswarlu v. Motor & General Traders*** (AIR 1976 SC 1409) this Court dealt with the adjectival activism relating to post institution circumstances Two propositions were laid down. Firstly, it was held that

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**'it is basic to our processual jurisprudence that the right to relief must be judged to exist as on the date a suitor institutes the legal proceeding'.**

This is an emphatic statement that the right of a party is determined by the facts as they exist on the date the action is instituted. Granting the presence of such facts, then he is entitled to its enforcement. Later developments cannot defeat his right because, as explained earlier, had the court found his facts to be true the day he sued he would have got his decree. The Court's procedural delays cannot deprive him of legal justice or rights crystallized in the initial cause of action. This position finds support in *Bhajan Lal v. State of Punjab*, (1971) 1 SCC 34.”

**27.** In State of *U.P. and others vs. Harish Chandra and others*, (1996) 9 SCC 309, Supreme Court has observed as under:-

“... ..Under the Constitution a mandamus can be issued by the court when the applicant establishes that he has a legal right to the performance of legal duty by the party against whom the mandamus is sought and the said right was subsisting on the date of the petition... ..”

**28.** In *Union of India and others Vs. Tarsem Singh*, (2008) 8 SCC 648, the Supreme Court has held as under:

“7. To summarise, normally, a belated service related claim will be rejected on the ground of delay and laches (where remedy is sought by filing a writ petition) or limitation (where remedy is sought by an application to the Administrative Tribunal). One of the exceptions to the said rule is cases relating to a continuing wrong. Where a service related claim is based on a continuing wrong, relief can be granted even if there is a long delay in seeking remedy, with reference to the date on which the continuing wrong commenced, if such continuing wrong creates a continuing source of injury. But there is an exception to the exception. If the grievance is in respect of any order or administrative decision which related to or affected several

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others also, and if the re-opening of the issue would affect the settled rights of third parties, then the claim will not be entertained. For example, if the issue relates to payment or re-fixation of pay or pension, relief may be granted in spite of delay as it does not affect the rights of third parties. But if the claim involved issues relating to seniority or promotion etc., affecting others, delay would render the claim stale and doctrine of laches/limitation will be applied. In so far as the consequential relief of recovery of arrears for a past period, the principles relating to recurring/successive wrongs will apply. As a consequence, High Courts will restrict the consequential relief relating to arrears normally to a period of three years prior to the date of filing of the writ petition.”

**29.** In *Jaswant Singh Vs. Punjab Poultry Field Staff Association and others*, (2002) 1 SCC 261; and *Ex-Sepoy (Washerman) Ram Khilawan Vs. Union of India and others*, (2019) 8 SCC 581, the monetary benefits have been restricted by the Supreme Court for three years prior to filing of the suit.

**30.** In given facts and circumstances of a case, monetary benefits may be denied or restricted to three years prior initiation of proceedings, either with interest or without interest. This issue has to be dealt with in each case on the basis of given facts and circumstances. But equals are to be treated in similar manner. It is also apt to record that this Court, wherever facts and circumstances warrant so, has either restricted the monetary benefits to three years from the date of initiation of proceedings or has denied the same. Further, normally interest is imposed only for delayed execution.

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**31.** 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, benefit of ***Rishi's*** case, 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.....”

**32.** 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.

**33.** In present case, for otherwise strong merit in the case, in order to prevent exploitation of victims for omission and commission on the part of mighty Corporation, taking into consideration the

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circumstances of the petition and incapability and consistent efforts of petitioners to approach the Court, invariably delay and laches may be ignored for adjudication of issue raised in the appeal and Writ Petition on merits. Therefore, we are of the considered view that petitioners, in present appeal, are not liable to be deprived monetary benefits from due date, on the ground of delay and laches. But they shall not be entitled for interest on delayed payment and actual monetary benefits are to be granted with reference to date of initiation of first proceeding/petition, claiming relief prayed in present matter.

**34.** 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.

**35.** Now, for finding the reasons assigned by HRTC, denying the benefits of regularization after eight years of service to the petitioners, devoid of merit, the petitioners are entitled for regularization after eight years of service from the date of their initial appointment.



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**36.** Accordingly, respondent-Corporation is directed to regularize the services of the petitioners on completion of 8 years of daily wage service from initial date of appointment with all consequential benefits, and issue appropriate orders for the said purpose with all consequential benefits. However, the actual monetary benefits are ordered to be extended to the petitioners for three years prior to filing of the present petitions, and prior to that the monetary benefits shall be on notional basis. Appropriate order extending consequential benefits be issued on or before 30.6.2025. Consequential monetary benefits be disbursed to them within eight weeks thereafter.

**37.** The petitioners shall not be entitled for interest on arrears in case benefits are extended in aforesaid time, failing which the petitioners shall be entitled for interest @6% per annum.

All the petitions are allowed and disposed of in aforesaid terms.

**( Vivek Singh Thakur )  
Judge.**

**( Ranjan Sharma )  
Judge.**

**May 26, 2025**<sub>(sd)</sub>