



IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CWP No. 16329 of 2026
Decided on: 21.09.2026

Tara Chand

.....Petitioner

Versus

HRTC and Ors.

.....Respondents

Coram

Ms. Justice Jyotsna Rewal Dua

Whether approved for reporting?¹

For the Petitioner: Mr. Rajat Kumar, Advocate.

For the Respondents: Mr. Deepak Sharma, Advocate.

Jyotsna Rewal Dua, Judge

Notice. Mr. Deepak Sharma, learned counsel, accepts notice on behalf of the respondents.

In view of grievance of the petitioner, submissions made by learned counsel for the petitioner and order being passed hereinafter, reply to the writ petition is not required to be called for. The matter has accordingly been heard at this stage.

2. The case set up is that the petitioner was appointed as Conductor on contract basis under office order dated 18.11.2021. He completed two years of continuous contractual service on 18.11.2023 and became eligible for regularization. Several incumbents appointed along with the petitioner and other

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

similarly situated persons were regularized in service vide office order dated 15.07.2024. Petitioner's case for regularization in service was left out from the purview of the aforesaid order on the ground of registration of FIR No. 13/2024 dated 22.02.2024 at Police Station East Shimla under Sections 279 and 337 of the Indian Penal Code. The concerned police department issued a clarification on 23.07.2024 in respect of the aforesaid FIR, stating that the case registered against the petitioner under Sections 279 and 337 of the IPC was not made out and, accordingly, a closure report had been sent to the competent Court on 27.05.2024. In the interregnum, the name of the petitioner was also recommended for regularization vide office letter dated 11.04.2025, and the respondent-Corporation regularized petitioner's services with effect from 16.04.2025 vide office order dated 28.04.2025.

It has further been pleaded on behalf of the petitioner that learned Judicial Magistrate First Class, Court No. 3, District Shimla, Himachal Pradesh, (Court of competent jurisdiction) after considering the cancellation report submitted by the police in FIR No. 13 of 2024, accepted the cancellation report on 27.07.2026 and ordered closure of the FIR.

3. Petitioner's grievance in this petition is in relation to his claim for regularization with effect from 15.07.2024, when services of those appointed with him were regularized. He accordingly claims the same relief.

3(i) In support of relief claimed, reliance has been placed upon ***Rajinder Kumar versus Himachal Road Transport Corporation and others***². In the said case also, the petitioner therein, a driver appointed on a contract basis in the respondent-Corporation, was not regularized upon completion of the requisite period on the ground of pendency of a criminal case against him under Sections 341, 323 and 34 of the Indian Penal Code. Relevant portion from the judgment reads as under: -

"5. Pre-condition for regularization, as per the Government instructions is that an employee, who completes three years of continuous service on contract basis, is entitled for regularization. For the purpose of regularization what has to be looked into is; firstly whether he is a fit person for regularization; secondly, whether he has completed three years of continuous service which is mandatory for regularization; and thirdly, whether his character and conduct is good in order to hold the post in Government/Corporation. When these are the facts and requirement for the purpose of regularization then merely on the ground of registration of a criminal case, a person cannot be deprived of his right of regularization. Since there are many offences which are stated in the IPC but, the Head of Office or the Appointing Authority has to look into the nature of criminal case involved. From the FIR produced, the offences against the petitioner are under Sections 341, 323 and 34 IPC. These offences are common and trivial in nature in respect of a driver, who has to negotiate his vehicle on public road and it is normal that whenever a person who has to negotiate a vehicle on a public road, touches the Government vehicle. This itself may not be sufficient to register a criminal case. Merely registration of a case itself should not be a ground to deprive the petitioner for regularization. The Head of Office is always presumed that

² CWP Number 2110 of 2019, decided on 22.10.2019.

he should protect his employees where cases are filed against its employees. The pendency of a criminal case and registration of FIR is to be taken into account but it depends upon the gravity and nature of the offence. Merely registration of a criminal case itself is not a ground and it shows that the Appointing Authority or the Head of Office has not applied its mind in the present case. Getting an employment/regularization though is not a fundamental right but consideration for regularization is a fundamental right for the purpose of Article 16 of the Constitution of India. When such is a fundamental right for consideration then while dealing with such rights, the respondents should take all care and caution. The respondents in the present case are dealing with the right to life of an employee which ultimately affects his dependents as well. When such interest is involved, which includes the employee as well as his family members, dealing always should be with more care and caution and not in a mechanical and negligent manner.

6. The Hon'ble Supreme Court in *State Bank of India vs P. Soupramaniane*, referred supra in para-7 held as to what is the meaning of moral turpitude. It is important and beneficial for Head of the Department to take note of the observations made by the Hon'ble Supreme Court in para-7, which reads as under:

"7. Moral Turpitude' as defined in the Black's Law Dictionary (6th ed.) is as follows:

"The Act of baseness, vileness, or the depravity in the private and social duties which man owes to his fellow man, or to society in general, contrary to accepted and customary rule of right and duty between man and man."

"implies something immoral in itself regardless of it being punishable by law"; "restricted to the gravest offences, consisting of felonies, infamous crimes, and those that are malum in se and disclose a depraved mind."

According to Bouvier's Law Dictionary, 'Moral Turpitude' is :

"An act of baseness, vileness or depravity in the private and social duties which a man owes to his fellow men or to society in general, contrary to the accepted and customary rule of right and duty between man and man."

Burton Legal Thesaurus defines 'Moral Turpitude' as :

"Bad faith, bad repute, corruption, defilement, delinquency, discredit, dishonor, shame, guilt, knavery, misdoing, perversion, shame, vice, wrong."

7. In *State of Haryana vs. Ved Kaur*, referred sura the Hon'ble Supreme Court has also observed in para-8, which reads as under:

"8. The instructions dated 26.03.1975 which were relied upon in the present case, had been considered by this Court in Pawan Kumar v. State of Haryana and another and paragraph 12 of the decision is relevant for present purposes. The said paragraph was as under:

"12. Moral turpitude" is an expression which is used in legal as also societal parlance to describe conduct which is inherently base, vile, depraved or having any connection showing depravity. The Government of Haryana while considering the question of rehabilitation of ex-convicts took a policy decision on 2-2-1973 (Annexure E in the Paper-book), accepting the recommendations of the Government of India, that ex-convicts who were convicted for offences involving moral turpitude should not however be taken in government service. A list of offences which were considered involving moral turpitude was prepared for information and guidance in that connection. Significantly Section 294 IPC is not found enlisted in the

list of offences constituting moral turpitude. Later, on further consideration, the Government of Haryana on 17/26-3-1975 explained the policy decision of 2-2-1973 and decided to modify the earlier decision by streamlining determination of moral turpitude as follows:

"... The following terms should ordinarily be applied in judging whether a certain offence involves moral turpitude or not;

(1) whether the act leading to a conviction was such as could shock the moral conscience of society in general.

(2) whether the motive which led to the act was a base one.

(3) whether on account of the act having been committed the perpetrator could be considered to be of a depraved character or a person who was to be looked down upon by the society.

Decision in each case will, however, depend on the circumstances of the case and the competent authority has to exercise its discretion while taking a decision in accordance with the abovementioned principles. A list of offences which involve moral turpitude is enclosed for your information and guidance. This list, however, cannot be said to be exhaustive and there might be offences which are not included in it but which in certain situations and circumstances may involve moral turpitude."

Section 294 IPC still remains out of the list. Thus the conviction of the appellant under Section 294 IPC on its own would not involve moral turpitude depriving him of the opportunity to serve the State unless the facts and circumstances, which

led to the conviction, met the requirements of the policy decision above-quoted.”

3(ii) Learned Counsel for the petitioner also referred to office letter dated 22.01.2021 (Annexure P-8), issued by the respondent-Corporation pursuant to *Rajinder Kumar*², whereby directions were issued that, for the “*minor offenses by way of lodged FIRs/criminal case contract employee cannot be deprived of his right of regularization. Since the respondent corporation has implemented the said judgment and regularized the services of Shri Rajinder Kumar in view of instructions issued by the State Government. You are therefore, directed that the Head of Offices or Appointing Authority to look into the matter and consider all pending cases for regularization in which criminal cases of FIRs lodged against them in view of gravity and nature of offence as well as directions of the Hon’ble Court.*”

4. Learned Counsel for the petitioner submitted that the petitioner has submitted a representation dated 02.08.2026 (Annexure P-12) to the respondent-Corporation, seeking retrospective regularization with effect from 15.07.2024, as granted to incumbents appointed along with petitioner, however, the aforesaid representation has not been decided till date.

In view of grievance of the petitioner, this writ petition is disposed of with a direction to respondent No.1 to consider and

decide the aforesaid representation, keeping in view the law laid down in *Rajinder Kumar*², the guidelines issued by the respondent-Corporation vide its office letter dated 22.01.2021 (Annexure P-8), and the fact that the FIR in question, registered against the petitioner under Sections 279 and 337 of the Indian Penal Code, stands closed. The decision be taken within a period of three weeks from today. The order so passed be also communicated to the petitioner. Pending miscellaneous application(s), if any, shall also stand disposed of.

Jyotsna Rewal Dua
Judge

21st September, 2026
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