

Item No. S-5

Bal Krishan Vs. State of HP & others a/w connected matters.

CWP No.7474 of 2022 a/w CWP No.3750 of 2020, CWP No.9633 of 2023, CWP No.14512 of 2024, COPC No.94 of 2025 and CWP No.6693 of 2025

CWP No.7474 of 2022

31.12.2025. Present: Mr. Abhimanyu Rathore, Advocate, for the petitioner.

Mr. Anup Rattan, Advocate General with Mr. Pranay Pratap Singh, Additional Advocate General, for respondents No.1 to 3.

Mr. Manohar Lal Sharma, Advocate, for respondent No.4.

Ms. Tim Saran, Advocate, for respondent No.5.

CWP No.3750 of 2020

Mr. Vijay Kumar, Advocate, for the petitioners.

Mr. Anup Rattan, Advocate General with Mr. Pranay Pratap Singh, Additional Advocate General, for respondent No.1-State.

Ms. Tim Saran, Advocate, for respondent No.2.

CWP No.9633 of 2023

Mr. Sanjeev Kumari Suri, Advocate, for the petitioner.

Mr. Anup Rattan, Advocate General with Mr. Pranay Pratap Singh, Additional Advocate General, for respondents No.1 to 3-State.

Ms. Seema Kaushal Guleria, Advocate, for respondent No.6.

CWP No.14512 of 2024

Mr. Sanjeev Kumar Suri, Advocate, for the petitioner.

Mr. Anup Rattan, Advocate General with Mr. Pranay Pratap Singh, Additional Advocate General, for respondent No.1-State.

Ms. Tim Saran, Advocate, for respondent No.2.

COPC No.94 of 2024

Mr. Abhimanyu Rathore, Advocate, for the petitioner.

Mr. Anup Rattan, Advocate General with Mr. Pranay Pratap Singh, Additional Advocate General, for respondents-State.

CWP No.6693 of 2025

Mr. Sanjeev Kumar Suri, Advocate, for the petitioners.

Mr. Anup Rattan, Advocate General with Mr. Pranay Pratap Singh, Additional Advocate General, for respondents-State.

Ms. Tim Saran, Advocate, for respondent No.5.

On 08.01.2025, we had noticed vide our interim order that there were 750 vacant posts of Staff Nurses as on 31.07.2024 and only 28 posts of Staff Nurses were sought to be filled up on 17.12.2024 by way of regular basis and the fact that the appointments have to be made under Clause 10

of the Himachal Pradesh Department of Health and Family Welfare, Staff Nurses, Class-III (Non-Gazetted), which provide the method of recruitment by way of direct recruitment on regular basis or by recruitment on contract basis through the concerned recruiting agency and by direct recruitment on batch-wise basis on a regular basis or by recruitment on contract basis. The pay scales have also been mentioned for the regular employees or contract employees, separately.

2. It was in such circumstances that we had not vacated the stay as such, as the regular recruitment was not being done by the State for the posts in question, but outsourcing was being resorted to against vacant sanctioned posts.

3. The matter was taken to the Apex Court by the State by way of SLP No. 2982-2983 of 2025 and vide an order dated 07.02.2025, operation of the impugned order dated 08.01.2025 passed by this Court, was stayed.

4. Thereafter, the aforesaid order was confirmed by the Apex Court on 17.03.2025 with the direction to this Court to decide the matter within a period of eight weeks and the interim order passed

by this was ordered to be continued. As such, the SLP was disposed of.

5. As a period of one year has gone by, accordingly, the State is directed to file an affidavit to demonstrate before this Court as to how many regular posts of Staff Nurses have been filled up to show its commitment against better health care in the State.

6. It is also brought to our notice that there is a communication dated 13.10.2022 (Annexure P-22), addressed to all the Administrative Secretaries by the Special Secretary (Finance) to the Government of Himachal Pradesh, Shimla annexed with Civil Writ Petition No. 7474 of 2022, which shows that the services of persons employed in the Department(s) and their Agencies on outsource basis are to be continued, till further orders. The relevant portion of the said letter reads as under:-

*"Subject:- Services of personnel engaged
on outsource basis.*

Sir,

The H. P. Financial Rules, 2009 (Vide Rule-112] provide for outsourcing of services in public interest for effective delivery of services by the departments.

2. It has been approved by the competent authority that the services of persons employed in the Department(s) and

their Agencies on outsource basis may be continued till further order.

3. This may be brought to the notice of all concerned for information and necessary action.

4. Wherever the Department(s) and their Agencies have any difficulty in implementation of this order, they may seek necessary direction of the Government.

4. This instruction may also be www.himachal.nic.in/finance under the link "Expenditure".

7. Accordingly, the State shall also indicate in the affidavit whether the said letter is still in force, and mentioning the number of persons who have been employed by the State department-wise, who are still continuing in service and also from the period they have been inducted in service.

8. The affidavit shall also depict whether there is any Policy as such in vogue to regularize the services of outsource employees and whether any of such employees have been regularized, since it would be imperative as such to have the correct information on this aspect to decide the core issue in question whether against the sanctioned posts, resort can be done to fill up the same by outsourcing, once the Rules do not provide so. The H.P. Financial Rules, 2009 (Rule-112) would be of no help to the State, which apparently is 'the Rule of Exigency' and cannot be resorted to for a large scale employment, which is

de-hors the constitutional provisions as not only there is exploitation of the employees as such who are engaged on outsource basis that they would draw much less salary than the salary of the regular employees, on the basis of the pay scales prescribed under the Rules. Thus, it is a blatant violation of Articles 14 and 16 of the Constitution of India, apart from the violation of Article 21 of the Constitution of India, i.e. right to life of the patients who are admitted in the hospitals and who are to deal with such outsource Staff Nurses employees, without any element of departmental control, in the form of taking any disciplinary action against them which is only limited to the extent of terminating their services on account of the lack of satisfaction at the hands of the alleged Agencies.

9. The affidavit be filed in due course by 05.01.2026 as the proceedings will continue.

10. Arguments partly heard. To come up for further arguments on **01.01.2026.**

(G.S. Sandhawalia)
Chief Justice.

(Jiya Lal Bhardwaj)
Judge

December 31, 2025
(hemlata)

