

Item No. D-1

Bal Krishan Vs. The State of Himachal Pradesh and others a/w connected matters.

CWP No. 7474 of 2022 a/w CWP Nos. 3750 of 2020, 9633 of 2023, 13527 of 2024, 14512 of 2024, 6693 of 2025 and COPC No. 94 of 2025.

16.06.2026

Present:

CWP No. 7474 of 2022

M/s Abhimanyu Rathore and Poonam Gehlot, Advocates, 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. Arun Kumar, Advocate, for Mr. Sanjeev K. Suri, Advocate, for the petitioners.

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

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

CWP No. 9633 of 2023

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

Mr. Anup Rattan, Advocate General with Mr. Pranay Pratap Singh, Additional Advocate General, for respondents No.1 to 5.

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

CWP No. 13527 of 2024

Mr. Hemant Kumar, Advocate, for the petitioner.

Mr. Anup Rattan, Advocate General with Mr. Pranay Pratap Singh, Additional Advocate General, for respondents No.1 to 5.

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

CWP No. 14512 of 2024

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

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

CWP No. 6693 of 2025

Mr. Yogesh Kumar Chandel, Advocate, for the petitioner.

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

COPC No. 94 of 2025

M/s Abhimanyu Rathore and Poonam Gehlot, Advocates, for the petitioner.

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

Dr. Ashwani Kumar Sharma, Special Secretary (Health) and Mr. Devesh Kumar, Principal Secretary (Finance) to the Government of Himachal Pradesh, are present in the Court in person.

CMP No. 14149 of 2026 in CWP No. 7474 of 2022

An application for exemption has been filed on behalf of the Secretary (Health) to the Government of Himachal Pradesh, who is stated to be on tour to Japan from 14.06.2026 to 29.06.2026 regarding JICA Project on behalf of the Health Department, Government of Himachal Pradesh.

2. As per the tour programme filed, it is now clarified that she has to come back from her tour regarding JICA Project in Japan on 21.06.2026 and not on 29.06.2026.

3. We are quite surprised that a senior Officer is going abroad on programme for ten days, whereas the State is cash strapped, but since she had already left, we have no option but to allow the exemption application and direct her appearance on the next date of hearing.

4. Accordingly, the application stands disposed of.
CWP No. 7474 of 2022 a/w CWP Nos. 3750 of 2020, 9633 of 2023, 13527 of 2024, 14512 of 2024, 6693 of 2025 and COPC No. 94 of 2025.
5. The affidavit filed on behalf of the Special Secretary (Health), Dr. Ashwani Kumar Sharma, further confirms the fears which have been raised by us in the earlier order i.e. order dated 18.05.2026 and does not clarify in any manner that how many regular posts of Staff Nurses have been filled up and now, how many are vacant.
6. The affidavit would go on to show that at least 672 posts are vacant in the Department of Health and Family Welfare. Out of 1938 posts, only 1266 posts of Staff Nurses are in position. Similarly, against 2189 posts of Staff Nurses in the cadre of Department of Medical Education & Research, there are 863 vacancies, leaving only 1326 Staff Nurses in position. From 01.01.2025, only 71 posts of Staff Nurses (Trainees) have been filled up in the Department of Health and Family Welfare. Thus, there are 1535 posts of Staff Nurses vacant.
7. A new Policy for engagement of Assistant Staff Nurses (ASN) in the Government Medical Colleges, on a fixed honorarium to be engaged through the recruiting agency/H.P Rajya Chayan Aayog, Hamirpur, vide Notification dated 06.11.2025 has been notified. In terms of the said Policy, Government conveyed approvals to fill up 900 posts of Assistant

Staff Nurses in the Department of Director Medical Education & Research.

8. On an oral query, it has come that the rules have not been amended for making the recruitment to the new posts. It is thus clear that there are no amendments to the Rules for engagement of Assistant Staff Nurses and the appointments are being made *de-hors* the rules.

9. Learned Advocate General has tried to convince this Court that on the basis of a Policy, the recruitment process is going forward. It is submitted that the approval of 900 Assistant Staff Nurses have been conveyed to the Department of Medical Education & Research and appointment orders have been issued to 372 candidates in the said Department on the basis of their selection and the documentation process of 390 more candidates as subsequently has been recommended. The process for filling up 135 posts through Ex-servicemen Cell and further process for filling up 63 posts under Disabled as well as Youth and Sports categories, have been initiated.

10. Similarly, for 150 Assistant Staff Nurses conveyed in the Department of Health and Family Welfare, appointment orders to 117 candidates have been issued and 32 posts have been sent to different other agencies and it has been recently approved by the Council of Ministers to further recruit 200 more Staff Nurses in the Department, for which process shall be initiated.

11. Similarly, the affidavit filed by Mr. Devesh Kumar, Principal Secretary (Finance) to the Government of Himachal

Pradesh, would further go on to show that our view, which we have taken on an earlier occasion on 18.05.2026, is fortified as initially noticed on the earlier documentation that 17,114 employees had been employed without adopting fair selection process by way of resorting to outsourcing agencies. The present affidavit would go on to show that now the said number has swelled to 26,724 on further verification.

12. In the affidavit filed, it has been specifically mentioned that the outsourcing under Rule 112 of the H.P. Financial Rules, 2009 is a temporary, stop-gap and need base arrangement and not a permanent or primary mode of public employment and pending completion of regular recruitment against the sanctioned strength of the establishment, existing outsourced engagements be rationalized so as to remain commensurate with such sanctioned strength and outsourcing is not to be resorted to where sanctioned posts have been filled up through regular recruitment and no new outsourced service shall be engaged without the prior written approval of the Finance Department, failing which such engagement shall be deemed unauthorized.

13. A reference has also been made to a letter dated 11.06.2026 (Annexure A-II), issued to all the Administrative Secretaries to the Government of Himachal Pradesh and all the Heads of Departments. A list of persons deputed in various Departments on outsource basis, has also been given in a

tabulated form, which we had also noticed on 18.05.2026, as mentioned above.

14. As per the earlier affidavit, 630 persons were provided to the Office of Director General of Police, which have now been swelled to 679. In Jal Shakti Department, there were 542 persons, which have now been swelled to 559. In Power Corporation Limited, the figure remains the same at 1473 and in Rural Development, the figure has gone up to 703 from 632.

15. Similarly, in the Directorate of Agriculture, the figure has gone up to 827 from 803. In H.P. Agriculture University, Palampur, the figure remains at 793 and in the Directorate of Medical Education & Research, figure remains the same at 2578. In the Department of Animal Husbandry, the figure has jumped from 188 to 192. In the H.P State Cooperative Milk Produces Federation Limited from 24 to 47 and in the H.P. Livestock and Poultry Development Board, another entry of 83 persons under the heading 'other entities/bodies' which was not mentioned in the earlier affidavit, has come.

16. In the Department of Ayush, 1252 persons have been appointed, which is not mentioned in the earlier affidavit. In the Department of Co-operation, almost 260 people have been added under various headings of HIMFED, HOUSEFED, H.P. State Cooperative Bank, ARDB Bank Ltd. etc.

17. Similarly, under the Digital Technology & Governance, in the Directorate IT, 03 posts have been filled up and more data has been given of employments that were made in

the Directorate of School Education (Elementary) & BEEOs and the State Project Director (Samagra Shiksha). There is also mention of 1289 in the Directorate of Higher Education (including Universities, Commission etc.).

18. Against Director Health Services, the figure has gone up to 842 from 253. In the Department of Horticulture, 253 posts of H.P. Nursery Management Society have been mentioned and against H.P. Horticulture Produce Market Corporation, the figure has gone up to 154 from 144. In the Department of Information & Public Relations, the number has jumped from 38 to 46 and in Language Art & Culture Department, the number has jumped from 18 to 202. For Department of Rural Development, the number has jumped from 632 to 703 and for Revenue Department, the number has jumped from 327 to 335.

19. Regarding Social Justice & Empowerment, in Women & Child Development Department, 700 persons have been added and similarly, under ESOMSA, 112 persons have been added. In Tourism and Civil Aviation Department, there is again substantial increase of 56 persons in the Directorate of Tourism & Civil Aviation, 9 persons in H.P Tourism Development Board, 366 persons in H.P. Tourism Development Corporation, 12 persons in State Institute of Hotel Management, Dharamshala and 30 persons in the Institute of Hotel Management, Hamirpur.

20. It is pertinent to mention that the date of induction is also mentioned in the said table and, therefore, to be fair, some of

the appointments have been made way back in the year 2000 and fresh appointments have also been made till the year 2026.

21. Thus, it is apparent that the State is continuing to engage such persons on outsource basis in spite of the litigation, which is pending before this Court. Unfortunately, our hands are tied in view of the order of the Hon'ble Apex Court dated 17.03.2025 and we cannot further stay the proceedings of the employment on outsource basis as the interim stay orders dated 07.11.2024 and 08.01.2025 were vacated, but for the appointments, the once which have been made *de-hors* the Rules for the posts of Assistant Staff Nurses, there is no such bar.

22. Keeping in view of the fact that there is no amendment in the Rules regarding the creation of engagement of the Assistant Staff Nurses (ASN), we are of the considered opinion that this whole process is *de-hors* of any rules and even the pay scales have not been defined.

23. Accordingly, we direct the State not to issue any further appointment letters of Assistant Staff Nurses and not permit them to join.

24. Learned Advocate General has tried to justify that the same is done on the basis of the Policy. The notification of the requisite Policy is not on record, in spite of the Officer being present in the Court.

25. We are thus of the considered opinion that once this Court was seized of this issue of appointments of employees on outsource basis and the matter had already been taken to the

Hon'ble Apex Court by the State against the interim orders, the State is further deliberately complicating the issue and muddying the same. Thus, we have no other option but to stay the appointment orders which were *de-hors* the statutory Rules and the argument of the learned Advocate General that it is based on a Policy, cannot be accepted.

26. Accordingly, we defer the proceedings for **07.07.2026**, for filing of the proper affidavit as to how many outsource persons have been recruited recently in the last three years across all the Departments and against the said appointments, how many regular vacancies exist.

27. The Secretary (Health) to the Government of Himachal Pradesh, is at liberty to give a clarification in the affidavit whether the process of recruitment without amending the Rules, can be done and a new set of employees under a new designation as Assistant Staff Nurses, can be recruited and whether these set of persons can be termed as legal appointees.

(G.S. Sandhawalia)
Chief Justice

(Bipin C. Negi)
Judge

June 16, 2026
(Shivank Thakur)