

**IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA****CWP No.10730 of 2026****Date of decision: 02.07.2026**

Tripta Devi.

...Petitioner.

Versus

State of Himachal Pradesh & Anr.

...Respondents.

*Coram****Hon'ble Mr. Justice Vivek Singh Thakur, Judge.******Hon'ble Mr. Justice Ranjan Sharma, Judge.****Whether approved for reporting?¹*

For the petitioner : Mr. Dheeraj K. Verma, Advocate.

For the respondent(s) : Mr. Gautam Sood, Deputy Advocate General.

Vivek Singh Thakur, Judge

Petitioner, invoking provisions of Article 226 of the Constitution of India, has filed the present Writ Petition praying for following substantive reliefs:-

- i. That this Hon'ble Court may kindly issue a writ of Certiorari or any other appropriate writ of similar nature, thereby quashing the provision of section 6, 7 and 8 of THE HIMACHAL PRADESH RECRUITMENT AND CONDITIONS OF SERVICE OF GOVERNMENT EMPLOYEES ACT, 2024 being unconstitutional, arbitrary and against the principal of natural justice.
- ii. That this Hon'ble Court may kindly issue a writ of Certiorari or any other appropriate writ of similar nature, thereby quashing the office order No. HFW-H(I)B(6)143/91 (Court Case) dated

¹ Whether the reporters of the local papers may be allowed to see the Judgment? Yes



25-03-2025 ANNEXURE P-12 whereby the representation of the petitioner was rejected.

- iii. That this Hon'ble Court may kindly issue a writ of mandamus or any other appropriate writ of similar nature, directing the respondent department to regularize the service of the petitioner as Staff Nurse from the date petitioner was initially appointed on the said post on contractual basis in the month of January 2006, along with all the consequential and financial benefits.
- iv. That the seniority list, if drawn by the respondent state under the provision of act abid and in contraventions or against the rights of the petitioner may kindly be declared nullity.
- v. That the respondent may kindly be directed to consider the case of the petitioner in terms of the law laid down by this Hon'ble Court in a time bound manner."

2. Claim of the petitioner has been rejected by the respondents on the basis of enactment of Himachal Pradesh Recruitment and Conditions of Service of Government Employees Act, 2024 (Act No. 23 of 2025), vide Order dated 25.03.2025 (Annexure P-12) issued by Director Health Services, Himachal Pradesh.

3. Admittedly, main issue involved in present petition with respect to validity, legality and constitutionality of Himachal Pradesh Recruitment and Conditions of Service of Government Employees Act, 2024 (Act No. 23 of 2025) (in short '**Govt. Employees Act'/the Act/the impugned Act'**) has been adjudicated and decided vide judgment dated 25.04.2026 passed in **CWP No.3361 of 2025** titled as '**Devinder Kumar & others vs State of H.P and others connected matters'**, wherein, it has been observed as under:-

"2. In all these petitions, the petitioners are mainly aggrieved by the enactment of the Himachal Pradesh Recruitment and Conditions



of Service of Government Employees Act, 2024 (Act No. 23 of 2025) (in short '**Govt. Employees Act/the Act/the impugned Act**').

3. In this common judgment, we are adjudicating only the constitutionality, validity, and legality of the Govt. Employee Act. For other reliefs, the consequences shall follow accordingly, and in case any further relief(s) is/are required to be determined after adjudication of additional facts, not discussed or adjudicated or covered in this judgment, the petitioners shall be at liberty to avail appropriate remedies, including the filing of fresh petitions for redressal of grievance based on such other issues raised or not raised in these petitions.

.....

202. Accordingly, in view of above discussion and considering the ratio of law laid down by the Apex Court, the impugned Act is quashed and set aside.

203. In view of quashing of the impugned Act, all consequential action, omission and commission of the respondents-State and its functionaries, based on the impugned Act, are declared illegal, unconstitutional and nullify, and resultantly orders/rejection/directions, withdrawal, denying benefits or proposing recovery of already granted reliefs, based on the impugned Act, in conflict with the mandate of the Court are also quashed and set aside and competent authority(ies) is directed to ensure extension of benefits to the employees in terms of judgments passed by the competent Courts, latest by three months from today by issuing appropriate orders, if so required, in consonance with the Constitutional mandate and verdict of the Court(s)."

4. Finding returned in **CWP No.3361 of 2025** titled '**Devinder Kumar & Ors. vs. State of H.P. & Ors.**' shall be applicable *mutatis mutandis* to present matter to all intents and purposes.

5. Consequently, impugned Order dated 25.03.2025 (Annexure P-12) rejecting the claim/prayer of the petitioner in present petition in view of Government Employees' Act also stands quashed and set aside with direction to the respondents to decide the same afresh by passing speaking and reasoned order, after giving



opportunity of hearing, if so desired, and by taking into consideration following settled principles of law, *inter alia*, amongst others as applicable:-

“1. Where there is adjudication and verdict of the Court in favour of employee(s) or category of employees, benefits to such employee(s) shall be governed and extended in terms of such mandate of the Court notwithstanding anything else.

2. Where there is no specific mandate of Court, such category of employees, appointed on contract in terms of Policy for appointment on contract, but without following the procedure prescribed in Recruitment and Promotion Rules or akin to such provided for regular appointments, followed by regular appointment without interruption, regularization, shall be entitled for counting of contract period of service as qualified service for pensionary/retiral benefits in addition to period of regular service in terms of Rule 17 of CCS (Pension) Rules as well as for mandate of the Courts, and consequently shall be entitled for taking into consideration annual increments for contract period of service by adding the same on notional basis for the purpose of calculation of last pay drawn for determining pension/retiral benefits but not for arrears on account of increment during contract period of service, and such contract period shall not be counted for determining the seniority.

3. Employees initially appointed on contract basis by following procedure prescribed in Recruitment and Promotion Rules/Service Rules framed under Article 309 of the Constitution, after subjecting to rigors of such process as applicable for regular appointments including prescribed essential eligibility, with wide publicity inviting all eligible persons to participate in open competition, similar to competition to be adopted for regular appointments, OR any other prescribed mode of recruitment in terms of/following procedure prescribed in Recruitment and Promotion Rules for recruitment including batch-wise etc., on regularization, shall be entitled for all consequential benefits like counting of contract period of service as qualifying service and financial benefits including increments as well as seniority from the date of their initial appointment.

4. Being a recurring cause of action with respect to claim of pensionary and retiral benefits, but for delay in putting forth claim with Authority or in the Court, financial benefits may be restricted to 3 years prior to putting forth such claim or may be awarded prospectively by taking into consideration the facts and circumstances of each individual case. However, where there is verdict of the Court to extend such benefits without any restriction,



the State or its Officers are not empowered to curtail the same without expressed order of the competent Court.

5. Claim of seniority has to be considered and decided in consonance with settled principle of service jurisprudence, including all relevant factors, such as stage of claiming seniority, accrual of third party right, opportunity of being heard to all stakeholders (claimants as well as persons likely to be affected), legal objections like delay and laches etc. depending upon peculiar facts and circumstances of a given case benefit of seniority may be extended retrospectively or prospectively, particularly keeping in view the timing of claiming seniority."

6. Decision so taken shall be communicated to the petitioner immediately.

7. Needless to say that for redressal of surviving grievance, petitioner shall be at liberty to avail appropriate remedy, including filing fresh petition with respect to issue raised in present petition or not raised in present petition.

8. Accordingly, this petition is also disposed of in aforesaid terms. Pending miscellaneous application(s), if any, also stand disposed of in same terms.

(Vivek Singh Thakur)
Judge

(Ranjan Sharma)
Judge

2nd July, 2026
(Pardeep)